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CODE OF FEDERAL REGULATIONS

Title 47
Telecommunication

Parts 70 to 79

Revised as of October 1, 2017

Containing a codification of documents
of general applicability and future effect

As of October 1, 2017

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To cite the regulations in this volume use title, part and section number. Thus, 47 CFR 73.1 *refers to title 47, part 73, section 1.*

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An index to the text of ''Title 3—The President'' is carried within that volume.

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OLIVER A. POTTS,
Director,
Office of the Federal Register.
October 1, 2017.

THIS TITLE

Title 47—TELECOMMUNICATION is composed of five volumes. The parts in these volumes are arranged in the following order: Parts 0–19, parts 20–39, parts 40–69, parts 70–79, and part 80 to end. All five volumes contain chapter I—Federal Communications Commission. The last volume, part 80 to end, also includes chapter II—Office of Science and Technology Policy and National Security Council, chapter III—National Telecommunications and Information Administration, Department of Commerce, chapter IV—National Telecommunications and Information Administration, Department of Commerce, and National Highway Traffic Safety Administration, Department of Transportation, and chapter V—First Responder Network Authority (FIRSTNET). The contents of these volumes represent all current regulations codified under this title of the CFR as of October 1, 2017.

Part 73 contains a numerical designation of FM broadcast channels (§ 73.201) and a table of FM allotments designated for use in communities in the United States, its territories, and possessions (§ 73.202). Part 73 also contains a numerical designation of television channels (§ 73.603) and a table of allotments which contain channels designated for the listed communities in the United States, its territories, and possessions (§ 73.606).

The OMB control numbers for the Federal Communications Commission appear in § 0.408 of chapter I. For the convenience of the user § 0.408 is reprinted in the Finding Aids section of the second through fifth volumes.

For this volume, Cheryl E. Sirofchuck was Chief Editor. The Code of Federal Regulations publication program is under the direction of John Hyrum Martinez, assisted by Stephen J. Frattini.

Title 47—Telecommunication

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AUTHORITY: 47 U.S.C. 154, 303, 309, 310, 334, 336, and 339.

Subpart A—AM Broadcast Stations

§ 73.1 Scope.

This subpart contains those rules which apply exclusively to the AM broadcast service and are in addition to those rules in Subpart H which are common to all AM, FM and TV broadcast services, commercial and noncommercial.

[47 FR 8587, Mar. 1, 1982]

§ 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 progress in 10 kHz steps 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 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 strengths 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 (Carrier shift). 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 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.

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. (See § 73.1590)

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 predominately 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, competitive 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.

Modulation dependent carrier level (MDCL) control technologies. Transmitter control techniques that vary either the carrier power level or both the carrier and sideband power levels as a function of the modulation level.

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 paragraphs (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, 10 kW, 5 kW, 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.

Percentage modulation (amplitude)

In a positive direction:

$$M = \frac{MAX - C}{c} \times 100$$

In a negative direction:

$$M = \frac{C - MIN}{c} \times 100$$

Where:

M = Modulation level in percent.

MAX = Instantaneous maximum level of the modulated radio frequency envelope.

MIN = Instantaneous minimum level of the modulated radio frequency envelope.

C = (Carrier) level of radio frequency envelope without modulation.

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.

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.

[47 FR 8587, Mar. 1, 1982, as amended at 47 FR 13164, Mar. 29, 1982; 47 FR 13812, Apr. 1, 1982; 50 FR 18821, May 2, 1985; 50 FR 47054, Nov. 14, 1985; 56 FR 64856, Dec. 12, 1991; 62 FR 51058, Sept. 30, 1997; 66 FR 20755, Apr. 25, 2001; 81 FR 2759, Jan. 19, 2016]

§ 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.* 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 107.5 mV/m at 1 kilometer) 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 107.5 mV/m at 1 kilometer. 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.

[56 FR 64856, Dec. 12, 1991, as amended at 81 FR 2759, Jan. 19, 2016]

§ 73.23 AM broadcast station applications affected by international agreements.

(a) Except as provided in paragraph (b) of this section, no application for an AM station will be accepted for filing if authorization of the facilities requested would be inconsistent with international commitments of the United States under treaties and other international agreements, arrangements and understandings. (See list of such international instruments in § 73.1650(b)). Any such application that is inadvertently accepted for filing will be dismissed.

(b) AM applications that involve conflicts only with the North American Regional Broadcasting Agreement (NARBA), but that are in conformity with the remaining treaties and other international agreements listed in § 73.1650(b) and with the other requirements of this part 73, will be granted subject to such modifications as the FCC may subsequently find appropriate, taking international considerations into account.

(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 §§ 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.

[56 FR 64856, Dec. 12, 1991]

§ 73.24 Broadcast facilities; showing required.

An authorization for a new AM 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 of this chapter.

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

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

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

(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 V/m 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 V/m contour is 300 or less the provisions of this paragraph 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 value permitted under the provisions of § 73.187.

(i) That, for all proposals for new stations, applications to modify a construction permit for an unlicensed station, and all applications to change a station's community of license, the daytime 5 mV/m contour encompasses the entire principal community to be served. That, for all other applications for modification of licensed stations, the daytime 5 mV/m contour encompasses either 50 percent of the area, or 50 percent of the population, of the principal community to be served. That, for all proposals for new stations in the 535–1605 kHz band, applications to modify a construction permit for an unlicensed station, or applications to change a station's community of license, either 50 percent of the area, or 50 percent of the population 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 percent of the principal community is encompassed by the nighttime 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.

[28 FR 13574, Dec. 14, 1963, as amended at 38 FR 5874, Mar. 5, 1973; 49 FR 43960, Nov. 1, 1984; 50 FR 40014, Oct. 1, 1985; 52 FR 11654, Apr. 10, 1987; 53 FR 1031, Jan. 15, 1988; 56 FR 64857, Dec. 12, 1991; 81 FR 2759, Jan. 19, 2016]

§ 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 5 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.

[28 FR 13574, Dec. 14, 1963, as amended at 33 FR 4410, Mar. 12, 1968; 35 FR 18052, Nov. 25, 1970; 47 FR 27862, June 28, 1982; 49 FR 43960, Nov. 1, 1984; 50 FR 24520, June 11, 1985; 52 FR 47568, Dec. 15, 1987; 53 FR 1031, Jan. 15, 1988; 54 FR 39736, Sept. 28, 1989; 56 FR 64857, Dec. 12, 1991]

§ 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.

[56 FR 64857, Dec. 12, 1991]

§ 73.27 Local channels; Class C stations.

Within the conterminous 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.

[56 FR 64857, Dec. 12, 1991]

§ 73.28 Assignment 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.

(b) 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:

(i) The service to be rendered by a proposed operation in the United States; or

(ii) the permissible interfering signal from one station in the United States to another United States station.

[28 FR 13574, Dec. 14, 1963, as amended at 29 FR 9499, July 11, 1964; 49 FR 32358, Aug. 14, 1984; 50 FR 18821, May 2, 1985; 54 FR 39736, Sept. 28, 1989; 56 FR 64857, Dec. 12, 1991]

§ 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.

[56 FR 64857, Dec. 12, 1991]

§ 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 of this section, 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 of this section, existing fulltime stations are considered first for selection as described in note 2 of this section. 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.

[58 FR 27949, May 12, 1993]

§ 73.31 Rounding of nominal power specified on applications.

(a) An application filed with the FCC for a new station or for an increase in power of an existing station shall specify nominal power rounded to two significant figures as follows:

Nominal power (kW)	Rounded down to nearest figure (kW)
Below 0.25	0.001
0.25 to 0.99	0.01
1 to 9.9	0.1
10 to 50	1

(b) In rounding the nominal power in accordance with paragraph (a) of this section the RMS shall be adjusted accordingly. If rounding upward to the nearest figure would result in objectionable interference, the nominal power specified on the application is to be rounded downward to the next nearest figure and the RMS adjusted accordingly.

[50 FR 18821, May 2, 1985, as amended at 53 FR 1031, Jan. 15, 1988]

§ 73.33 Antenna systems; showing required.

(a) An application for authority to install a broadcast antenna shall specify a definite site and include full details of the antenna design and expected performance.

(b) All data necessary to show compliance with the terms and conditions of the construction permit must be filed with the license application. If the station is using a directional antenna, a proof of performance must also be filed.

[28 FR 13574, Dec. 14, 1963, as amended at 37 FR 25840, Dec. 5, 1972]

§ 73.35 Calculation of improvement factors.

A petition 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: (a) Service area lost by other stations due to interference caused by the subject station, and (b) 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 area 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 and 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).

[56 FR 64858, Dec. 12, 1991]

§ 73.37 Applications for broadcast facilities, showing required.

(a) No application will be accepted for a new station if the proposed operation would involve overlap of signal strength contours with any other station as set forth below in this paragraph; and no application will be accepted for a change of the facilities of an existing station if the proposed change would involve such overlap where there is not already such overlap between the stations involved:

Frequency separation (kHz)	Contour of proposed station (classes B, C and D) (mV/m)	Contour of any other station (mV/m)
0	0.005	0.100 (Class A).
	0.025	0.500(Other classes).
	0.500	0.025 (All classes).
10	0.250	0.500(All classes).
	0.500	0.250 (All classes).
20	5	5 (All classes).
	5	5 (All classes).
30	25	25 (All classes).

(b) In determining overlap received, an application for a new Class C station with daytime power of 250 watts, or greater, shall be considered on the assumption that both the proposed operation and all existing Class C stations operate with 250 watts and utilize non-directional antennas.

(c) If otherwise consistent with the public interest, an application requesting an increase in the daytime power of an existing Class C station on a local channel from 250 watts to a maximum of 1kW, or from 100 watts to a maximum of 500 watts, may be granted notwithstanding overlap prohibited by paragraph (a) of this section. In the case of a 100 watt Class C station increasing daytime power, the provisions of this paragraph shall not be construed to permit an increase in power to more than 500 watts, if prohibited overlap would be involved, even if successive applications should be tendered.

(d) In addition to demonstrating compliance with paragraphs (a), and, as appropriate, (b), and (c) of this section, an application for a new AM broadcast station, or for a major change (see §73.3571(a)(1)) in an authorized AM broadcast station, as a condition for its acceptance, shall make a satisfactory showing, if new or modified nighttime operation by a Class B station is proposed, that objectionable interference will not result to an authorized station, as determined pursuant to §73.182(1).

(e) An application for an authorization in the 1605–1705 kHz band which has been selected through the petition process (See §73.30) is not required to demonstrate compliance with paragraph (a), (b), (c), or (d) of this section. Instead, the applicant need only comply with the terms of the allotment authorization issued by the Commission in response to the earlier petition for establishment of a station in the 1605–1705 kHz band. Within the allotment authorization, the Commission will specify the assigned frequency and the applicable technical requirements.

(f) Stations on 1580, 1590 and 1600 kHz. In addition to the rules governing the authorization of facilities in the 535–1605 kHz band, stations on these frequencies seeking facilities modifications must protect assignments in the 1610–1700 kHz band. Such protection shall be afforded in a manner which considers the spacings that occur or exist between the subject station and a station within the range 1605–1700 kHz. The spacings are the same as those specified for stations in the frequency band 1610–1700 kHz or the current separation distance, whichever is greater. Modifications that would result in a spacing or spacings that fails to meet any of the separations must include a showing that appropriate adjustment has been made to the radiated signal which effectively results in a site-to-site radiation that is equivalent to the radiation of a station with standard

Model I facilities (10 kW-D, 1 kW-N, non-DA, 90 degree antenna ht. & ground system) operating in compliance with all of the above separation distances. In those cases where that radiation equivalence value is already exceeded, a station may continue to maintain, but not increase beyond that level.

NOTE 1: In the case of applications for changes in the facilities of AM broadcast stations covered by this section, an application will be accepted even though overlap of field strength contours as mentioned in this section would occur with another station in an area where such overlap does not already exist, if:

(1) The total area of overlap with that station would not be increased;

(2) There would be no net increase in the area of overlap with any other station; and

(3) There would be created no area of overlap with any station with which overlap does not now exist.

NOTE 2: The provisions of this section concerning prohibited overlap of field strength contours will not apply where:

(1) The area of overlap lies entirely over sea water: or

(2) The only overlap involved would be that caused to a foreign station, in which case the provisions of the applicable international agreement, as identified in §73.1650, will apply. When overlap would be received from a foreign station, the provisions of this section will apply, except where there would be overlap with a foreign station with a frequency separation of 20 kHz, in which case the provisions of the international agreement will apply in lieu of this section.

NOTE 3: In determining the number of ''authorized'' aural transmission facilities in a given community, applications for that community in hearing or otherwise having protected status under specified ''cut-off'' procedures shall be considered as existing stations. In the event that there are two or more mutually exclusive protected applications seeking authorization for the proposed community it will be assumed that only one is ''authorized.''

NOTE 4: A ''transmission facility'' for a community is a station licensed to the community. Such a station provides a ''transmission service'' for that community.

[56 FR 64858, Dec. 12, 1991; 57 FR 43290, Sept. 18, 1992]

§ 73.44 AM transmission system emission limitations.

(a) The emissions of stations in the AM service shall be attenuated in accordance with the requirements specified in paragraph (b) of this section. Emissions shall be measured using a properly operated and suitable swept-frequency RF spectrum analyzer using a peak hold duration of 10 minutes, no video filtering, and a 300 Hz resolution bandwidth, except that a wider resolution bandwidth may be employed above 11.5 kHz to detect transient emissions. Alternatively, other specialized receivers or monitors with appropriate characteristics may be used to determine compliance with the provisions of this section, provided that any disputes over measurement accuracy are resolved in favor of measurements obtained by using a calibrated spectrum analyzer adjusted as set forth above.

(b) Emissions 10.2 kHz to 20 kHz removed from the carrier must be attenuated at least 25 dB below the unmodulated carrier level, emissions 20 kHz to 30 kHz removed from the carrier must be attenuated at least 35 dB below the unmodulated carrier level, emissions 30 kHz to 60 kHz removed from the carrier must be attenuated at least [5 + 1 dB/kHz] below the unmodulated carrier level, and emissions between 60 kHz and 75 kHz of the carrier frequency must be attenuated at least 65 dB below the unmodulated carrier level. Emissions removed by more than 75 kHz must be attenuated at least 43 + 10 Log (Power in watts) or 80 dB below the unmodulated carrier level, whichever is the lesser attenuation, except for transmitters having power less than 158 watts, where the attenuation must be at least 65 dB below carrier level.

(c) Should harmful interference be caused to the reception of other broadcast or non-broadcast stations by out of band emissions, the licensee may be directed to achieve a greater degree of attentuation than specified in paragraphs (a) and (b) of this section.

(d) Measurements to determine compliance with this section for transmitter type acceptance are to be made using signals sampled at the output terminals of the transmitter when operating into an artificial antenna of substantially zero reactance. Measurements made of the emissions of an operating station are to be made at ground level approximately 1 kilometer from the center of the antenna system. When a directional antenna is

used, the carrier frequency reference field strength to be used in order of preference shall be:

(1) The measure non-directional field strength.

(2) The RMS field strength determined from the measured directional radiation pattern.

(3) The calculated expected field strength that would be radiated by a non-directional antenna at the station authorized power.

(e) Licensees of stations complying with the ANSI/EIA–549–1988, NRSC–1 AM Preemphasis/Deemphasis and Broadcast Transmission Bandwidth Specifications (NRSC–1), prior to June 30, 1990 or from the original commencement of operation will, until June 30, 1994, be considered to comply with paragraphs (a) and (b) of this section, absent any reason for the Commission to believe otherwise. Such stations are waived from having to make the periodic measurements required in §73.1590(a)(6) until June 30, 1994. However, licensees must make measurements to determine compliance with paragraphs (a) and (b) of this section upon receipt of an Official Notice of Violation or a Notice of Apparent Liability alleging noncompliance with those provisions, or upon specific request by the Commission.

[47 FR 8588, Mar. 1, 1982, as amended at 49 FR 3999, Feb. 1, 1984]

§73.45 AM antenna systems.

(a) All applicants for new, additional, or different AM station facilities and all licensees requesting authority to change the transmitting system site of an existing station must specify an antenna system, the efficiency of which complies with the requirements for the class and power of station. (See §§73.186 and 73.189.)

(1) An application for authority to install an AM broadcast antenna must specify a definite site and include full details of the antenna system design and expected performance.

(2) All data necessary to show compliance with the terms and conditions of the construction permit must be filed with the application for the station license to cover the construction. If the station has constructed a directional antenna, a directional proof of performance must be filed. See §§73.150 through 73.157.

(b) The simultaneous use of a common antenna or antenna structure by more than one AM station or by a station of any other type or service may be authorized provided:

(1) Engineering data are submitted showing that satisfactory operation of each station will be obtained without adversely affecting the operation of the other station(s).

(2) The minimum field strength for each AM station complies with §73.189(b).

(c) Should any changes be made or otherwise occur which would possibly alter the resistance of the antenna system, the licensee must commence the determination of the operating power by a method described in §73.51(a)(1) or (d). (If the changes are due to the addition of antennas to the AM tower, see §1.30003.) Upon completion of any necessary repairs or adjustments, or upon completion of authorized construction or modifications, the licensee must make a new determination of the antenna resistance using the procedures described in §73.54. Operating power should then be determined by a direct method as described in §73.51. Notification of the value of resistance of the antenna system must be filed with the FCC in Washington, DC as follows:

(1) Whenever the measurements show that the antenna or common point resistance differs from that shown on the station authorization by more than 2%, FCC Form 302 must be filed with the information and measurement data specified in §73.54(d).

(2) Whenever AM stations use direct reading power meters pursuant to §73.51, a letter notification to the FCC in Washington, DC, Attention: Audio Division, Media Bureau, must be filed in accordance with §73.54(e).

[43 FR 53735, Nov. 17, 1978, as amended at 45 FR 28141, Apr. 28, 1980; 47 FR 8589, Mar. 1, 1982; 50 FR 32416, Aug. 12, 1985; 51 FR 2707; Jan. 21, 1986; 51 FR 26250, July 22, 1986; 63 FR 33875, June 22, 1998; 67 FR 13231, Mar. 21, 2002; 78 FR 66298, Nov. 5, 2013]

§73.49 AM transmission system fencing requirements.

Antenna towers having radio frequency potential at the base (series

fed, folded unipole, and insulated base antennas) must be enclosed within effective locked fences or other enclosures. Ready access must be provided to each antenna tower base for meter reading and maintenance purposes at all times. However, individual tower fences need not be installed if the towers are contained within a protective property fence.

[51 FR 2707, Jan. 21, 1986]

§ 73.51 Determining operating power.

(a) Except in those circumstances described in paragraph (d) of this section, the operating power shall be determined by the direct method. The direct method consists of either:

(1) using a suitable instrument for determining the antenna's input power directly from the RF voltage, RF current, and phase angle; or

(2) calculating the product of the licensed antenna or common point resistance at the operating frequency (see § 73.54), and the square of the indicated unmodulated antenna current at that frequency, measured at the point where the resistance has been determined.

(b) The authorized antenna input power for each station shall be equal to the nominal power for such station, with the following exceptions:

(1) For stations with nominal powers of 5 kW, or less, the authorized antenna input power to directional antennas shall exceed the nominal power by 8 percent.

(2) For stations with nominal powers in excess of 5 kW, the authorized antenna input power to directional antennas shall exceed the nominal power by 5.3 percent.

(3) In specific cases, it may be necessary to limit the radiated field to a level below that which would result if normal power were delivered to the antenna. In such cases, excess power may be dissipated in the antenna feed circuit, the transmitter may be operated with power output at a level which is less than the rated carrier power, or a combination of the two methods may be used, subject to the conditions given in paragraph (c) of this section.

(i) Where a dissipative network is employed, the authorized antenna current and resistance, and the authorized antenna input power shall be determined at the input terminals of the dissipative network.

(ii) Where the authorized antenna input power is less than the nominal power, subject to the conditions set forth in paragraph (c) of this section, the transmitter may be operated at the reduced power level necessary to supply the authorized antenna input power.

(c) Applications for authority to operate with antenna input power which is less than nominal power and/or to employ a dissipative network in the antenna system shall be made on FCC Form 302. The technical information supplied on section II-A of this form shall be that applying to the proposed conditions of operation. In addition, the following information shall be furnished, as pertinent:

(1) Full details of any network employed for the purpose of dissipating radio frequency energy otherwise delivered to the antenna (see § 73.54).

(2) A showing that the transmitter has been type accepted or notified for operation at the proposed power output level, or, in lieu thereof:

(i) A full description of the means by which transmitter output power will be reduced.

(ii) Where the proposed transmitter power output level(s) is less than 90% of the rated power of the transmitter, equipment performance measurements must be made to confirm that the station transmissions conform to the emission limitation specified in § 73.44, under all conditions of program operation.

(iii) A showing that, at the proposed power output level, means are provided for varying the transmitter output within a tolerance of ±10 percent, to compensate for variations in line voltage or other factors which may affect the power output level.

(d) When it is not possible or appropriate to use the direct method of power determination due to technical reasons, the indirect method of determining operating power (see paragraphs (e) and (f) of this section) may be used on a temporary basis. A notation must be made in the station log indicating the dates of commencement and termination of measurement using

the indirect method of power determination.

(e) The antenna input power is determined indirectly by applying an appropriate factor to the input power to the last radio-frequency power amplifier stage of the transmitter, using the following formula:

Where:

$$\text{Antenna input power} = Ep \times Ip \times F$$

Ep = DC input voltage of final radio stage.
Ip = Total DC input current of final radio stage.
F= Efficiency factor.

(1) If the above formula is not appropriate for the design of the transmitter final amplifier, use a formula specified by the transmitter manufacturer with other appropriate operating parameters.

(2) The value of *F* applicable to each mode of operation must be determined and a record kept thereof with a notation as to its derivation. This factor is to be established by one of the methods described in paragraph (f) of this section and retained in the station records.

(f) The value of *F* is to be determined by one of the following procedures listed in order of preference:

(1) If the station had previously been authorized and operating by determining the antenna input power by the direct method, the factor *F* is the ratio of the antenna input power (determined by the direct method) to the corresponding final radio frequency power amplifier input power.

(2) If a station has not been previously in regular operation with the power authorized for the period of indirect power determination, if a new transmitter has been installed, or if, for any other reason, the determination of the factor *F* by the method described in paragraph (f)(1) of this section is impracticable:

(i) The factor *F* as shown in the transmitter manufacturer's test report, if such a test report specifies a unique value of *F* for the power level and frequently used; or

(ii) The value determined by reference to the following table:

Factor(F)	Method of modulation	Maximum rated carrier power	Class of amplifier
0.70	Plate	1 kW or less	
.80	Plate	2.5 kW and over	
.35	Low level	0.25 kW and over	B
.65	Low level	0.25 kW and over	BC[1]
.35	Grid	0.25 kW and over	

[1] All linear amplifier operation where efficiency approaches that of class C operation.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, as amended, 1068, 1082, as amended; 47 U.S.C. 154, 155, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 47 U.S.C. 301, 303, 307)

[37 FR 7516, Apr. 15, 1972, as amended at 42 FR 36827, July 18, 1977; 42 FR 61863, Dec. 7, 1977; 44 FR 36036, June 20, 1979; 47 FR 28387, June 30, 1982; 48 FR 38477, Aug. 24, 1983; 48 FR 44805, Sept. 30, 1983; 49 FR 3999, Feb. 1, 1984; 49 FR 4210, Feb. 3, 1984; 49 FR 49850, Dec. 24, 1984; 50 FR 24521, June 11, 1985; 52 FR 10570, Apr. 2, 1987]

§ 73.53 Requirements for authorization of antenna monitors.

(a) Antenna monitors shall be verified for compliance with the technical requirements in this section. The procedure for verification is specified in subpart J of part 2 of the FCC's rules.

(b) An antenna monitor shall meet the following specifications:

(1) The monitor shall be designed to operate in the 535–1705 kHz band.

(2) The monitor shall be capable of indicating any phase difference between two RF voltages of the same frequency over a range of from 0 to 360°.

(3) The monitor shall be capable of indicating the relative amplitude of two RF voltages.

(4) The device used to indicate phase differences shall indicate in degrees, and shall be graduated in increments of 2°, or less. If a digital indicator is provided, the smallest increment shall be 0.5°, or less.

(5) The device used to indicate relative amplitudes shall be graduated in increments which are 1 percent, or less, of the full scale value. If a digital indicator is provided, the smallest increment shall be 0.1 percent, or less, of the full scale value.

(6) The monitor shall be equipped with means, if necessary, to resolve ambiguities in indication.

(7) If the monitor is provided with more than one RF input terminal in

addition to a reference input terminal, appropriate switching shall be provided in the monitor so that the signal at each of these RF inputs may be selected separately for comparison with the reference input signal.

(8) Each RF input of the monitor shall provide a termination of such characteristics that, when connected to a sampling line of an impedance specified by the manufacturer the voltage reflection coefficient shall be 3 percent or less.

(9) The monitor, if intended for use by stations operating directional antenna systems by remote control, shall be designed so that the switching functions required by paragraph (b)(7) of this section may be performed from a point external to the monitor, and phase and amplitude indications be provided by external meters. The indications of external meters furnished by the manufacturer shall meet the specifications for accuracy and repeatability of the monitor itself, and the connection of these meters to the monitor, or of other indicating instruments with electrical characteristics meeting the specifications of the monitor manufacturer shall not affect adversely the performance of the monitor in any respect.

(10) Complete and correct schematic diagrams and operating instructions shall be retained by the party responsible for verification of the equipment and submitted to the FCC upon request. For the purpose of equipment authorization, these diagrams and instructions shall be considered as part of the monitor.

(11) When an RF signal of an amplitude within a range specified by the manufacturer is applied to the reference RF input terminal of the monitor, and another RF signal of the same frequency and of equal or lower amplitude is applied to any other selected RF input terminal, indications shall be provided meeting the following specifications.

(i) The accuracy with which any difference in the phases of the applied signals is indicated shall be ±1°, or better, for signal amplitude ratios of from 2:1 to 1:1, and ±2°, or better, for signal amplitude ratios in excess of 2:1 and up to 5:1.

(ii) The repeatability of indication of any difference in the phases of the applied signals shall be ±1°, or better.

(iii) The accuracy with which the relative amplitudes of the applied signals is indicated, over a range in which the ratio of these amplitudes is between 2:1 and 1:1, shall be ±2 percent of the amplitude ratio, or better, and for amplitude ratios in excess of 2:1 and up to 5:1, ±5 percent of the ratio, or better.

(iv) The repeatability of indication of the relative amplitudes of the applied signals, over a range where the ratio of these amplitudes is between 5:1 and 1:1, shall be ±2 percent of the amplitude ratio, or better.

(v) The modulation of the RF signals by a sinusoidal wave of any frequency between 100 and 10,000 Hz, at any amplitude up to 90 percent shall cause no deviation in an indicated phase difference from its value, as determined without modulation, greater than ±0.5°.

(12) The performance specifications set forth in paragraph (b)(11) of this section, shall be met when the monitor is operated and tested under the following conditions.

(i) After continuous operation for 1 hour, the monitor shall be calibrated and adjusted in accordance with the manufacturer's instructions.

(ii) The monitor shall be subjected to variations in ambient temperature between the limits of 10 and 40 °C; external meters furnished by the manufacturer will be subjected to variations between 15 and 30 °C.

(iii) Powerline supply voltage shall be varied over a range of from 10 percent below to 10 percent above the rated supply voltage.

(iv) The amplitude of the reference signal shall be varied over the operating range specified by the manufacturer, and in any case over a range of maximum to minimum values of 3 to 1.

(v) The amplitude of the comparison signal shall be varied from a value which is 0.2 of the amplitude of the reference signal to a value which is equal in amplitude to the reference signal.

(vi) Accuracy shall be determined for the most adverse combination of conditions set forth above.

(vii) Repeatability shall be determined as that which may be achieved under the specified test conditions over

a period of 7 days, during which no calibration or adjustment of the instrument, subsequent to the initial calibration, shall be made.

(viii) The effects of modulation of the RF signal shall be separately determined, and shall not be included in establishing values for accuracy and repeatability.

NOTE: In paragraph (b)(1) of this section, the requirement that monitors be capable of operation in the 535–1705 kHz band shall apply only to equipment manufactured after July 1, 1992. Use of a monitor in the 1605–1705 kHz band which is not approved for such operation will be permitted pending the general availability of 535–1705 kHz band monitors if a manufacturer can demonstrate, in the interim, that its monitor performs in accordance with the standards in this section on these 10 channels.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[38 FR 1917, Jan. 19, 1973, as amended at 49 FR 3999, Feb. 1, 1984; 49 FR 29069, July 18, 1984; 50 FR 32416, Aug. 12, 1985; 50 FR 47054, Nov. 14, 1985; 51 FR 2707, Jan. 21, 1986; 56 FR 64859, Dec. 12, 1991; 57 FR 43290, Sept. 18, 1992; 60 FR 55480, Nov. 1, 1995; 63 FR 36604, July 7, 1998; 66 FR 20755, Apr. 25, 2001]

§ 73.54 Antenna resistance and reactance measurements.

(a) The resistance of an omnidirectional series fed antenna is measured at either the base of the antenna without intervening coupling or tuning networks, or at the point the transmission line connects to the output terminals of the transmitter. The resistance of a shunt excited antenna may be measured at the point the radio frequency energy is transferred to the feed wire circuit or at the output terminals of the transmitter.

(b) The resistance and reactance of a directional antenna shall be measured at the point of common radiofrequency input to the directional antenna system after the antenna has been finally adjusted for the required radiation pattern.

(c) A letter of notification must be filed with the FCC in Washington, DC, Attention: Audio Division, Media Bureau, when determining power by the direct method pursuant to § 73.51. The letter must specify the antenna or common point resistance at the operating frequency. The following information must also be kept on file at the station:

(1) A full description of the method used to make measurements.

(2) A schematic diagram showing clearly all components of coupling circuits, the point of resistance measurement, the location of the antenna ammeter, connections to and characteristics of all tower lighting isolation circuits, static drains, and any other fixtures connected to and supported by the antenna, including other antennas and associated networks. Any network or circuit component used to dissipate radio frequency power shall be specifically identified, and the impedances of all components which control the level of power dissipation, and the effective input resistance of the network must be indicated.

(d) AM stations using direct reading power meters in accordance with § 73.51, can either submit the information required by paragraph (c) of this section or submit a statement indicating that such a meter is being used. Subsequent station licenses will indicate the use of a direct reading power meter in lieu of the antenna resistance value in such a situation.

[66 FR 20755, Apr. 25, 2001,as amended at 67 FR 13231, Mar. 21, 2002]

§ 73.57 Remote reading antenna and common point ammeters.

Remote reading antenna and common point ammeters may be used without further authority according to the following conditions:

(a) Remote reading antenna or common point ammeters may be provided by:

(1) Inserting second radio frequency current sensing device directly in the antenna circuit with remote leads to the indicating instruments.

(2) Inductive coupling to radio frequency current sensing device for providing direct current to indicating instrument.

(3) Capacity coupling to radio frequency current sensing device for providing direct current to indicating instrument.

(4) Current transformer connected to radio frequency current sensing device for providing direct current to indicating instrument.

(5) Using transmission line current meter at transmitter as remote reading ammeter. See paragraph (c) of this section.

(6) Using the indications of the antenna (phase) monitor, provided that when the monitor is used to obtain remote reading indication of non-directional antenna base current, the monitor calibration can be independently made and maintained for each mode of operation.

(b) Devices used for obtaining remote reading antenna or common point current indications, except antenna monitor coupling elements, shall be located at the same point as, but below (transmitter side) the associated main ammeter.

(c) In the case of shunt-excited antennas, the transmission line current meter at the transmitter may be considered as the remote antenna ammeter provided the transmission line is terminated directly into the excitation circuit feed line, which shall employ series tuning only (no shunt circuits of any type shall be employed) and insofar as practicable, the type and scale of the transmission line meter should be the same as those of the excitation circuit feed line meter (meter in slant wire feed line or equivalent).

(d) Each remote reading ammeter shall be accurate to within 2 percent of the value read on its corresponding regular ammeter.

(e) All remote reading ammeters shall conform with the specifications for regular antenna ammeters.

(f) Meters with arbitrary scale divisions may be used provided that calibration charts or curves are provided at the transmitter control point showing the relationship between the arbitrary scales and the reading of the main meters.

(g) If a malfunction affects the remote reading indicators of the antenna or common point ammeter, the operating power may be determined by a method using alternative procedures as described in § 73.51.

[41 FR 36817, Sept. 1, 1976, as amended at 48 FR 38477, Aug. 24, 1983; 49 FR 49850, Dec. 24, 1984; 50 FR 32416, Aug. 12, 1985; 60 FR 55480, Nov. 1, 1995]

§ 73.58 Indicating instruments.

(a) Each AM broadcast station must be equipped with indicating instruments which conform with the specifications described in § 73.1215 for determining power by the direct and indirect methods, and with such other instruments as are necessary for the proper adjustment, operation, and maintenance of the transmitting system. However, auxiliary transmitters with a nominal power rating of 100 watts or less are not required to be equipped with instruments to determine power by the indirect method provided that the licensee can determine the antenna input power at all times.

(b) Since it is usually impractical to measure the actual antenna current of a shunt excited antenna system, the current measured at the input of the excitation circuit feed line is accepted as the antenna current.

(c) The function of each instrument shall be clearly and permanently shown on the instrument itself or on the panel immediately adjacent thereto.

(d) In the event that any one of these indicating instruments becomes defective when no substitute which conforms with the required specifications is available, the station may be operated without the defective instrument pending its repair or replacement for a period not in excess of 60 days without further authority of the Commission. If the defective instrument is the antenna current meter of a nondirectional station which does not employ a remote antenna ammeter, or if the defective instrument is the common point meter of a station which employs a directional antenna and does not employ a remote common point meter, the operating power shall be determined by a method described in § 73.51(a)(1) or § 73.51(d) during the entire time the station is operated without the antenna current meter or common point meter. However, if a remote meter is employed and the antenna current ammeter or common point meter becomes defective, the remote meter can be used to determine operating power pending the return to service of the regular meter.

(e) If conditions beyond the control of the licensee prevent the restoration of the meter to service within the above allowed period, information requested in accordance with § 73.3549 may be filed by letter with the FCC in Washington, DC, Attention: Audio Division, Media Bureau, to request additional time as may be required to complete repairs of the defective instrument.

[41 FR 36817, Sept. 1, 1976, as amended at 48 FR 38477, Aug. 24, 1983; 49 FR 49850, Dec. 24, 1984; 50 FR 32416, Aug. 12, 1985; 51 FR 2707, Jan. 21, 1986; 53 FR 2498, Jan. 28, 1988; 63 FR 33876, June 22, 1998; 66 FR 20755, Apr. 25, 2001; 67 FR 13231, Mar. 21, 2002]

§ 73.61 AM directional antenna field strength measurements.

(a) Each AM station using a directional antenna with monitoring point locations specified in the instrument of authorization must make field strength measurements as often as necessary to ensure that the field at each of those points does not exceed the value 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) If the AM license was granted on the basis of field strength measurements performed pursuant to § 73.151(a), 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.

[50 FR 47054, Nov. 14, 1985, as amended at 73 FR 64560, Oct. 30, 2008]

§ 73.62 Directional antenna system operation and tolerances.

(a) Each AM station operating a directional antenna must maintain the relative amplitudes of the antenna currents, as indicated by the antenna monitor, within 5% of the values specified on the instrument of authorization. Directional antenna relative phases must be maintained within 3 degrees of the values specified on the instrument of authorization.

(b) In the event of a failure of system components, improper pattern switching or any other event that results in operation substantially at variance from the radiation pattern specified in the instrument of authorization for the pertinent time of day, operation must be terminated within three minutes unless power can be reduced sufficiently to eliminate any excessive radiation. *See* § 73.1350(e).

(1) Any variation of operating parameters by more than ±15 percent sample current ratio or ±10 degrees in phase, any monitor point that exceeds 125 percent of the licensed limit, or any operation at variance that results in complaints of interference shall be considered operation substantially at variance from the license and will require immediate corrective action.

(2) [Reserved]

(c) In the event of minor variations of directional antenna operating parameters from the tolerances specified in paragraph (a) of this section, the following procedures will apply:

(1) The licensee shall measure and log every monitoring point at least once for each mode of directional operation. Subsequent variations in operating parameters will require the remeasuring and logging of every monitoring point to assure that the authorized monitoring point limits are not being exceeded. The licensee will be permitted 24 hours to accomplish these actions; provided that, the date and time of the failure to maintain proper operating parameters have been recorded in the station log.

(2) Provided each monitoring point is within its specified limit, operation may continue for a period up to 30 days before a request for Special Temporary Authority (STA) must be filed, pursuant to paragraph (c)(4) of this section,

to operate with parameters at variance from the provisions of paragraph (a) of this section.

(3) If any monitoring point exceeds its specified limit, the licensee must either terminate operation within three hours or reduce power in accordance with the applicable provisions of § 73.1350(d), in order to eliminate any possibility of interference or excessive radiation in any direction.

(4) If operation pursuant to paragraph (c)(3) of this section is necessary, or before the 30-day period specified in paragraph (c)(2) of this § expires, the licensee must request a Special Temporary Authority (STA) in accordance with section 73.1635 to continue operation with parameters at variance and/or with reduced power along with a statement certifying that all monitoring points will be continuously maintained within their specified limits.

(d) In any other situation in which it might reasonably be anticipated that the operating parameters might vary out of tolerance (such as planned array repairs or adjustment and proofing procedures), the licensee shall, before such activity is undertaken, obtain a Special Temporary Authority (STA) in accordance with § 73.1635 in order to operate with parameters at variance and/or with reduced power as required to maintain all monitoring points within their specified limits.

[72 FR 44422, Aug. 8, 2007]

§ 73.68 Sampling systems for antenna monitors.

(a) Each AM station permittee authorized to construct a new directional antenna system which will be subject to a proof of performance based on field strength measurements, as described in § 73.151(a) or (b), must install the sampling system in accordance with the following specifications:

(1) Devices used to extract or sample the current and the transmission line connecting the sampling elements to the antenna monitor must provide accurate and stable signals to the monitor (e.g., rigidly mounted and non-rotatable loops and all system components protected from physical and environmental disturbances).

(2) Sampling lines for directional antennas may be of different lengths provided the phase difference of signals at the monitor are less than 0.5 degrees between the shortest and longest cable lengths due to temperature variations to which the system is exposed.

(3) Other configurations of sampling systems may be used upon demonstration of stable operation to the FCC.

(b) An AM station permittee authorized to construct a directional antenna system which will be subject to a proof of performance based on moment method modeling, as described in § 73.151(c), shall install a sampling system conforming to the requirements set forth in that section.

(c) A station having an antenna sampling system constructed according to the specifications given in paragraph (a) of this section may obtain approval of that system by submitting an informal letter request to the FCC in Washington, DC, Attention: Audio Division, Media Bureau. The request for approval, signed by the licensee or authorized representative, must contain sufficient information to show that the sampling system is in compliance with all requirements of paragraph (a) of this section.

NOTE TO PARAGRAPH (c): A public notice dated December 9, 1985 giving additional information on approval of antenna sampling systems is available through the Internet at *http://www.fcc.gov/mb/audio/decdoc/letter/1985-12-09-sample.html*.

(d) In the event that the antenna monitor sampling system is temporarily out of service for repair or replacement, the station may be operated, pending completion of repairs or replacement, for a period not exceeding 120 days without further authority from the FCC if all other operating parameters and the field monitoring point values are within the limits specified on the station authorization.

(e) If the antenna sampling system is modified or components of the sampling system are replaced, the following procedure shall be followed:

(1) Special Temporary Authority (see § 73.1635) shall be requested and obtained from the Commission's Audio Division, Media Bureau in Washington to operate with parameters at variance with licensed values pending issuance

of a modified license specifying parameters subsequent to modification or replacement of components.

(2) Immediately prior to modification or replacement of components of the sampling system, and after a verification that all monitoring point values and operating parameters are within the limits or tolerances specified in the rules, the following indications must be recorded for each radiation pattern: Final plate current and plate voltage, common point current, antenna monitor phase and current indications, and the field strength at each monitoring point. Subsequent to these modifications or changes the procedure must be repeated.

(3) If monitoring point field strengths or antenna monitor parameters exceed allowable limits following the replacement or modification of that portion of the sampling system above the base of the towers, a partial proof of performance shall be executed in accordance with § 73.154 . The partial proof of performance shall be accompanied by common point impedance measurements made in accordance with § 73.54.

(4) Request for modification of license shall be submitted to the FCC in Washington, DC, within 30 days of the date of sampling system modification or replacement. Such request shall specify the transmitter plate voltage and plate current, common point current, base currents and their ratios, antenna monitor phase and current indications, and all other data obtained pursuant to this paragraph.

(f) If an existing sampling system is found to be patently of marginal construction, or where the performance of a directional antenna is found to be unsatisfactory, and this deficiency reasonably may be attributed, in whole or in part, to inadequacies in the antenna monitoring system, the FCC may require the reconstruction of the sampling system in accordance with requirements specified above.

[41 FR 7405, Feb. 18, 1976]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 73.68, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§ 73.69 Antenna monitors.

(a) Each station using a directional antenna must have in operation at the transmitter site an FCC authorized antenna monitor.

(b) In the event that the antenna monitor sampling system is temporarily out of service for repair or replacement, the station may be operated, pending completion of repairs or replacement, for a period not exceeding 120 days without further authority from the FCC if all other operating parameters, and the field monitoring point values are within the limits specified on the station authorization.

(c) If conditions beyond the control of the licensee prevent the restoration of the monitor to service within the allowed period, an informal letter request in accordance with § 73.3549 of the Commission's rules must be filed with the FCC, Attention: Audio Division, Media Bureau in Washington, DC for such additional time as may be required to complete repairs of the defective instrument.

(d) If an authorized antenna monitor is replaced by another antenna monitor, the following procedure shall be followed:

(1) Temporary authority shall be requested and obtained from the Commission in Washington to operate with parameters at variance with licensed values, pending issuance of a modified license specifying new parameters.

(2) Immediately before the replacement of the antenna monitor, after a verification that all monitoring point values and the common point current reading are within the limits or tolerances specified in the rules, the following indications must be recorded for each radiation pattern: Final plate current and plate voltage, common point current, antenna monitor phase and current indications, and the field strength at each monitoring point.

(3) With the new monitor substituted for the old, all indications specified in paragraph (d)(2) of this section, again must be read. If no change has occurred in the indication for any parameter other than the indications of the antenna monitor, the new antenna monitor indications must be deemed to be those reflecting correct array adjustments.

(4) If it cannot be established by the observations required in paragraph (d)(2) of this section that the common point current reading and the monitoring point values are within the tolerances or limits prescribed by the rules and the instrument of authorization, or if the substitution of the new antenna monitor for the old results in changes in these parameters, a partial proof of performance shall be executed and analyzed in accordance with § 73.154.

(5) An informal letter request for modification of license shall be submitted to the FCC, Attention: Audio Division, Media Bureau in Washington, DC within 30 days of the date of monitor replacement. Such request shall specify the make, type, and serial number of the replacement monitor, phase and sample current indications, and other data obtained pursuant to this paragraph (d).

(e) The antenna monitor must be calibrated according to the manufacturer's instructions as often as necessary to ensure its proper operation.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307)

[38 FR 1918, Jan. 19, 1973]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 73.69, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§ 73.72 Operating 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.

[43 FR 32780, July 28, 1978, as amended at 56 FR 64859, Dec. 12, 1991]

§ 73.88 Blanketing interference.

The licensee of each broadcast station is required to satisfy all reasonable complaints of blanketing interference within the 1 V/m contour.

NOTE: For more detailed instructions concerning operational responsibilities of licensees and permittees under this section, see § 73.318 (b), (c) and (d).

[28 FR 13574, Dec. 14, 1963, as amended at 56 FR 64859, Dec. 12, 1991]

§ 73.99 Presunrise service authorization (PSRA) and postsunset 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 presunrise service and postsunset service. The permissible power for presunrise 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) Presunrise 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 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 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 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 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 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 contours 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 presunrise 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 D stations on regional channels 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 notified of permissible power and times of operation. Presunrise 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 μV/m. The location of the 0.1 mV/m contour of the Class A station will be determined by use of Figure M3, *Estimated Ground Conductivity in the United States*. When the 0.1 mV/m contour extends beyond the national boundary, the international boundary shall be considered the 0.1 mV/m contour.

(4) Class 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 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 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;

(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 p.m. local time shall be permitted as follows:

Calculated power	Adjusted minimum power
From 1 to 45 watts	50 watts.
Above 45 to 70 watts	75 watts.
Above 70 to 100 watts	100 watts.

(7) For protection purposes, the nighttime 25% 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, presunrise operation will be considered by the FCC in determining overall compliance with 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 an 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.

[56 FR 64860, Dec. 12, 1991; 57 FR 43290, Sept. 18, 1992, as amended at 58 FR 27950, May 12, 1993]

§ 73.127 Use of multiplex transmission.

The licensee of an AM broadcast station may use its AM carrier to transmit signals not audible on ordinary consumer receivers, for both broadcast and non-broadcast purposes subject to the following requirements:

(a) Such use does not disrupt or degrade the station's own programs or the programs of other broadcast stations.

(b) AM carrier services that are common carrier in nature are subject to common carrier regulation. Licensees operating such services are required to apply to the FCC for the appropriate authorization and to comply with all policies and rules applicable to the service. Responsibility for making the initial determinations of whether a particular activity is common carriage rests with the AM station licensee. Initial determinations by licensees are subject to FCC examination and may be reviewed at the FCC's discretion. AM carrier services that are private carrier in nature must notify the Licensing Division of the Private Radio Bureau at Gettysburg, Pennsylvania 17325, by letter, prior to initiating service certifying compliance with 47 CFR parts 90 and 94.

(c) AM carrier services are of a secondary nature under the authority of the AM station authorization, and the authority to provide such communications services may not be retained or transferred in any manner separate from the station's authorization. The grant or renewal of an AM station permit or license is not furthered or promoted by proposed or past service. The permittee or licensee must establish that the broadcast operation is in the public interest wholly apart from the subsidiary communications services provided.

(d) The station identification, delayed recording, and sponsor identification announcements required by §§ 73.1201, 73.1208, and 73.1212 are not applicable to leased communications services transmitted via services that are not of a general broadcast program nature.

(e) The licensee or permittee must retain control over all material transmitted in a broadcast mode via the station's facilities, with the right to reject any material that it deems inappropriate or undesirable.

(f) Installation of the multiplex transmitting equipment must conform with the requirements of § 73.1690(e).

[47 FR 25345, June 11, 1982, as amended at 49 FR 34015, Aug. 28, 1984; 51 FR 41629, Nov. 18, 1986; 51 FR 44478, Dec. 10, 1986]

§ 73.128 AM stereophonic broadcasting.

(a) An Am broadcast station may, without specific authority from the FCC, transmit stereophonic programs upon installation of type accepted stereophonic transmitting equipment and the necessary measuring equipment to determine that the stereophonic transmissions conform to the modulation characteristics specified in paragraphs (b) and (c) of this section. Stations transmitting stereophonic programs prior to March 21, 1994 may continue to do so until March 21, 1995 as long as they continue to comply with the rules in effect prior to March 21, 1994.

(b) The following limitations on the transmitted wave must be met to insure compliance with the occupied bandwidth limitations, compatibility with AM receivers using envelope detectors, and any applicable international agreements to which the FCC is a party:

(1) The transmitted wave must meet the occupied bandwidth specifications of § 73.44 under all possible conditions of program modulation. Compliance with requirement shall be demonstrated either by the following specific modulation tests or other documented test procedures that are to be fully described in the application for type acceptance and the transmitting equipment instruction manual. (See § 2.983(d)(8) and (j)).

(i) Main channel (L + R) under all conditions of amplitude modulations for the stereophonic system but not exceeding amplitude modulation on negative peaks of 100%.

(ii) Stereophonic (L − R) modulated with audio tones of the same amplitude at the transmitter input terminals as in paragraph (b)(i) of this section but with the phase of either the L or R channel reversed.

(iii) Left and Right Channel only, under all conditions of modulation for the stereophonic system in use but not exceeding amplitude modulation on negative peaks of 100%.

(c) Effective on December 20, 1994, stereophonic transmissions shall conform to the following additional modulation characteristics:

(1) The audio response of the main (L + R) channel shall conform to the requirements of the ANSI/EIA–549–1988, NRSC–1 AM Preemphasis/Deemphasis and Broadcast Transmission Bandwidth Specifications (NRSC–1).

(2) The left and right channel audio signals shall conform to frequency response limitations dictated by ANSI/EIA–549–1988.

(3) The stereophonic difference (L − R) information shall be transmitted by varying the phase of the carrier in accordance with the following relationship:

$$\phi = \tan^{-1}\left(\frac{m(L(t) - R(t))}{1 + m(L(t) + R(t))}\right)$$

where:

L(t) = audio signal left channel,

R(t) = audio signal right channel,

m = modulation factor, and

$m_{peak}(L(t) + R(t)) = 1$ for 100% amplitude modulation,

$m_{peak}(L(t) - R(t)) = 1$ for 100% phase modulation.

(4) The carrier phase shall advance in a positive direction when a left channel signal causes the transmitter envelope to be modulated in a positive direction. The carrier phase shall likewise retard (negative phase change) when a right channel signal causes the transmitter envelope to be modulated in a positive direction. The phase modulation shall be symmetrical for the condition of difference (L − R) channel information

sent without the presence of envelope modulation.

(5) Maximum angular modulation, which occurs on negative peaks of the left or right channel with no signal present on the opposite channel ($L(t)=-0.75$, $R(t)=0$, or $R(t)=-0.75$, $L(t)=0$) shall not exceed 1.25 radians.

(6) A peak phase modulation of ±0.785 radians under the condition of difference (L−R) channel modulation and the absence of envelope (L + R) modulation and pilot signal shall represent 100% modulation of the difference channel.

(7) The composite signal shall contain a pilot tone for indication of the presence of stereophonic information. The pilot tone shall consist of a 25 Hz tone, with 3% or less total harmonic distortion and a frequency tolerance of ±0.1 H_2, which modulates the carrier phase ±0.05 radians peak, corresponding to 5% L−R modulation when no other modulation is present. The injection level shall be 5%, with a tolerance of + 1, −1%.

(8) The composite signal shall be described by the following expression:

$$E_c = A_c\left[1 + m\sum_{n=1}^{\infty} C_{sn}\cos\left(\omega_{sn}\,t + \phi_{sn}\right)\right]\cdot$$

$$\cos\left[\omega_c t + \tan^{-1}\frac{m\sum_{n=1}^{\infty} C_{dn}\cos\left(\omega_{dn}t + \phi_{dn}\right) + .05\sin 50\pi t}{1 + m\sum_{n=1}^{\infty} C_{sn}\cos\left(\omega_{sn}t + \phi_{sn}\right)}\right]$$

where:

A = the unmodulated carrier voltage

m = the modulation index

C_{sn} = the magnitude of the nth term of the sum signal

C_{dn} = the magnitude of the nth term of the difference signal

ω_{sn} = the nth order angular velocity of the sum signal

ω_{dn} = the nth order angular velocity of the difference signal

ω_c = the angular velocity of the carrier

$$\phi_{sn} = \text{the angle of the nth order term} = \tan^{-1}\left[\frac{B_{sn}}{A_{sn}}\right]$$

$$\phi_{dn} = \text{the angle of the nth order term} = \tan^{-1}\left[\frac{B_{dn}}{A_{dn}}\right]$$

A_{sn} and B_{sn} are the nth sine and cosine coefficients of C_{sn}

A_{dn} and B_{dn} are the nth sine and cosine coefficients of C_{dn}

[58 FR 66301, Dec. 20, 1993]

§ 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 or 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, expressed or implied.

[42 FR 16422, Mar. 28, 1977]

§ 73.150 Directional antenna systems.

(a) For each station employing a directional antenna, all determinations of service provided and interference caused shall be based on the inverse distance fields of the standard radiation pattern for that station. (As applied to nighttime operation the term ''standard radiation pattern'' shall include the radiation pattern in the horizontal plane, and radiation patterns at angles above this plane.)

(1) Parties submitting directional antenna patterns pursuant to this section and § 73.152 (Modified standard pattern) must submit patterns which are tabulated and plotted in units of millivolts per meter at 1 kilometer.

NOTE: Applications for new stations and for changes (both minor and major) in existing stations must use a standard pattern.

(b) The following data shall be submitted with an application for authority to install a directional antenna:

(1) The standard radiation pattern for the proposed antenna in the horizontal plane, and where pertinent, tabulated values for the azimuthal radiation patterns for angles of elevation up to and including 60 degrees, with a separate section for each increment of 5 degrees.

(i) The standard radiation pattern shall be based on the theoretical radiation pattern. The theoretical radiation pattern shall be calculated in accordance with the following mathematical expression:

$$E(\phi,\theta)_{th} = \left| k \sum_{i=1}^{n} F_i \, f_i(\theta) \underline{/S_i \cos\theta \cos(\phi_i - \phi) + \psi_i} \right| \qquad \text{(Eq. 1)}$$

where:

$E(\varphi,\theta)_{th}$ Represents the theoretical inverse distance fields at one kilometer for the given azimuth and elevation.

k Represents the multiplying constant which determines the basic pattern size. It shall be chosen so that the effective field (RMS) of the theoretical pattern in the horizontal plane shall be no greater than the value computed on the assumption that nominal station power (see § 73.14) is delivered to the directional array, and that a lumped loss resistance of one ohm exists at the current loop of each element of the array, or at the base of each element of electrical height lower than 0.25 wavelength, and no less than the value required by § 73.189(b)(2) of this part for a station of the class and

nominal power for which the pattern is designed.

n Represents the number of elements (towers) in the directional array.

i Represents the ith element in the array.

F_i Represents the field ratio of the ith element in the array.

θ Represents the vertical elevation angle measured from the horizontal plane.

$f_i(\theta)$ represents the vertical plane radiation characteristic of the ith antenna. This value depends on the tower height, as well as whether the tower is top-loaded or sectionalized. The various formulas for computing $f_i(\theta)$ are given in §73.160.

S_i Represents the electrical spacing of the ith tower from the reference point.

φ_i Represents the orientation (with respect to true north) of the ith tower.

φ Represents the azimuth (with respect to true north).

ψ_i Represents the electrical phase angle of the current in the ith tower.

The standard radiation pattern shall be constructed in accordance with the following mathematical expression:

$$E(\phi,\theta)_{std} = 1.05\sqrt{\left[E(\phi,\theta)_{th}\right]^2 + Q^2}$$

(Eq. 2)

where:

$E(\varphi,\theta)_{std}$ represents the inverse distance fields at one kilometer which are produced by the directional antenna in the horizontal and vertical planes. $E(\varphi,\theta)_{th}$ represents the theoretical inverse distance fields at one kilometer as computed in accordance with Eq. 1, above.

Q is the greater of the following two quantities: $0.025g(\theta)\ E_{rss}$ or $10.0g(\theta)\ \sqrt{P_{kw}}$

where:

g(θ) is the vertical plane distribution factor, f(θ), for the shortest element in the array (see Eq. 2, above; also see §73.190, Figure 5). If the shortest element has an electrical height in excess of 0.5 wavelength, g(θ) shall be computed as follows:

$$g(\theta) = \frac{\sqrt{\left\{f(\theta)\right\}^2 + 0.0625}}{1.030776}$$

E_{rss} is the root sum square of the amplitudes of the inverse fields of the elements of the array in the horizontal plane, as used in the expression for $E(\varphi,\theta)_{th}$ (see Eq. 1, above), and is computed as follows:

$$E_{rss} = k\sqrt{\sum_{i=1}^{n} F_i^2}$$

P_{kw} is the nominal station power expressed in kilowatts, see §73.14. If the nominal power is less than one kilowatt, $P_{kw} = 1$.

(ii) Where the orthogonal addition of the factor Q to $E(\varphi,\theta)_{th}$ results in a standard pattern whose minimum fields are lower than those found necessary or desirable, these fields may be increased by appropriate adjustment of the parameters of $E(\varphi,\theta)_{th}$.

(2) All patterns shall be computed for integral multiples of five degrees, beginning with zero degrees representing true north, and, shall be plotted to the largest scale possible on unglazed letter-size paper (main engraving approximately 7′ × 10′) using only scale divisions and subdivisions of 1,2,2.5, or 5 times 10^{nth}. The horizontal plane pattern shall be plotted on polar coordinate paper, with the zero degree point corresponding to true north. Patterns for elevation angles above the horizontal plane may be plotted in polar or rectangular coordinates, with the pattern for each angle of elevation on a separate page. Rectangular plots shall begin and end at true north, with all azimuths labelled in increments of not less than 20 degrees. If a rectangular plot is used, the ordinate showing the scale for radiation may be logarithmic. Such patterns for elevation angles above the horizontal plane need be submitted only upon specific request by Commission staff. Minor lobe and null detail occurring between successive patterns for specific angles of elevation need not be submitted. Values of field strength on any pattern less than ten percent of the maximum field strength plotted on that pattern shall be shown on an enlarged scale. Rectangular plots with a logarithmic ordinate need not utilize an expanded scale unless necessary to show clearly the minor lobe and null detail.

(3) The effective (RMS) field strength in the horizontal plane of $E(\varphi,\theta)_{std}$, $E(\varphi,\theta)_{th}$ and the root-sum-square (RSS) value of the inverse distance fields of the array elements at 1 kilometer, derived from the equation for $E(\varphi,\theta)_{th}$. These values shall be tabulated on the page on which the horizontal plane pattern is plotted, which shall be specifically labelled as the Standard Horizontal Plane Pattern.

(4) Physical description of the array, showing:

(i) Number of elements.

(ii) Type of each element (*i.e.*, guyed or self-supporting, uniform cross section or tapered (specifying base dimensions), grounded or insulated, etc.)

(iii) Details of top loading, or sectionalizing, if any.

(iv) Height of radiating portion of each element in feet (height above base insulator, or base, if grounded).

(v) Overall height of each element above ground.

(vi) Sketch of antenna site, indicating its dimensions, the location of the antenna elements, thereon, their spacing from each other, and their orientation with respect to each other and to true north, the number and length of the radials in the ground system about each element, the dimensions of ground screens, if any, and bonding between towers and between radial systems.

(5) Electrical description of the array, showing:

(i) Relative amplitudes of the fields of the array elements.

(ii) Relative time phasing of the fields of the array elements in degrees leading [+] or lagging [−].

(iii) Space phasing between elements in degrees.

(iv) Where waiver of the content of this section is requested or upon request of the Commission staff, all assumptions made and the basis therefor, particularly with respect to the electrical height of the elements, current distribution along elements, efficiency of each element, and ground conductivity.

(v) Where waiver of the content of this section is requested, or upon request of the Commission staff, those formulas used for computing $E(\varphi,\theta)_{th}$ and $E(\varphi,\theta)_{std}$. Complete tabulation of final computed data used in plotting patterns, including data for the determination of the RMS value of the pattern, and the RSS field of the array.

(6) The values used in specifying the parameters which describe the array must be specified to no greater precision than can be achieved with available monitoring equipment. Use of greater precision raises a rebuttable presumption of instability of the array. Following are acceptable values of precision; greater precision may be used only upon showing that the monitoring equipment to be installed gives accurate readings with the specified precision.

(i) Field Ratio: 3 significant figures.

(ii) Phasing: to the nearest 0.1 degree.

(iii) Orientation (with respect to a common point in the array, or with respect to another tower): to the nearest 0.1 degree.

(iv) Spacing (with respect to a common point in the array, or with respect to another tower): to the nearest 0.1 degree.

(v) Electrical Height (for all parameters listed in Section 73.160): to the nearest 0.1 degree.

(vi) Theoretical RMS (to determine pattern size): 4 significant figures.

(vii) Additional requirements relating to modified standard patterns appear in § 73.152(c)(3) and (c)(4).

(7) Any additional information required by the application form.

(c) Sample calculations for the theoretical and standard radiation follow. Assume a five kilowatt (nominal power) station with a theoretical RMS of 685 mV/m at one kilometer. Assume that it is an in-line array consisting of three towers. Assume the following parameters for the towers:

Tower	Field ratio	Relative phasing	Relative spacing	Relative orientation
1	1.0	−128.5	0.0	0.0
2	1.89	0.0	110.0	285.0
3	1.0	128.5	220.0	285.0

Assume that tower 1 is a typical tower with an electrical height of 120 degrees. Assume that tower 2 is top-loaded in accordance with the method described in § 73.160(b)(2) where A is 120 electrical degrees and B is 20 electrical degrees. Assume that tower 3 is sectionalized in accordance with the method described in § 73.160(b)(3) where A is 120 electrical degrees, B is 20 electrical degrees, C is 220 electrical degrees, and D is 15 electrical degrees.

The multiplying constant will be 323.6.

Following is a tabulation of part of the theoretical pattern:

Azimuth	0	30	60	Vertical angle
0	15.98	62.49	68.20	
105	1225.30	819.79	234.54	
235	0.43	18.46	34.56	
247	82.62	51.52	26.38	

If we further assume that the station has a standard pattern, we find that Q, for $\theta = 0$, is 22.36.

Following is a tabulation of part of the standard pattern:

Azimuth	0	30	60	Vertical angle
0	28.86	68.05	72.06	
105	1286.78	860.97	246.41	
235	23.48	26.50	37.18	
247	89.87	57.03	28.87	

The RMS of the standard pattern in the horizontal plane is 719.63 mV/m at one kilometer.

[36 FR 919, Jan. 20, 1971, as amended at 37 FR 529, Jan. 13, 1972; 41 FR 24134, June 15, 1976; 46 FR 11991, Feb. 12, 1981; 48 FR 24384, June 1, 1983; 51 FR 2707, Jan. 21, 1986; 52 FR 36877, Oct. 1, 1987; 56 FR 64861, Dec. 12, 1991; 57 FR 43290, Sept. 18, 1992]

§ 73.151 Field strength measurements to establish performance of directional antennas.

The performance of a directional antenna may be verified either by field strength measurement or by computer modeling and sampling system verification.

(a) In addition to the information required by the license application form, the following showing must be submitted to establish, for each mode of directional operation, that the effective measured field strength (RMS) at 1 kilometer (km) is not less than 85 percent of the effective measured field strength (RMS) specified for the standard radiation pattern, or less than that specified in §73.189(b) for the class of station involved, whichever is the higher value, and that the measured field strength at 1 km in any direction does not exceed the field shown in that direction on the standard radiation pattern for that mode of directional operation:

(1) A tabulation of inverse field strengths in the horizontal plane at 1 km, as determined from field strength measurements taken and analyzed in accordance with §73.186, and a statement of the effective measured field strength (RMS). Measurements shall be made in the following directions:

(i) Those specified in the instrument of authorization.

(ii) In major lobes. Generally, one radial is sufficient to establish a major lobe; however, additional radials may be required.

(iii) Along additional radials to establish the shape of the pattern. In the case of a relatively simple directional antenna pattern, a total of six radials is sufficient. If two radials would be more than 90° apart, then an additional radial must be specified within that arc. When more complicated patterns are involved, that is, patterns having several or sharp lobes or nulls, measurements shall be taken along as many as 12 radials to definitely establish the pattern(s). Pattern symmetry may be assumed for complex patterns which might otherwise require measurements on more than 12 radials.

(2) A tabulation of:

(i) The phase difference of the current in each element with respect to the reference element, and whether the current leads (+) or lags (−) the current in the reference element, as indicated by the station's antenna monitor.

(ii) The ratio of the amplitude of the radio frequency current in each element to the current in the reference element, as indicated on the station's antenna monitor.

(3) A monitoring point shall be established on each radial for which the construction permit specifies a limit. The following information shall be supplied for each monitoring point:

(i) Measured field strength.

(ii) An accurate and detailed description of each monitoring point. The description may include, but shall not be limited to, geographic coordinates determined with a Global Positioning System receiver.

(iii) Clear photographs taken with the field strength meter in its measuring position and with the camera so located that its field of view takes in as many pertinent landmarks as possible.

(b) For stations authorized to operate with simple directional antenna systems (e.g., two towers) in the 1605–1705

kHz band, the measurements to support pattern RMS compliance referred to in paragraphs (a)(1)(ii) and (a)(1)(iii) of this section are not required. In such cases, measured radials are required only in the direction of short-spaced allotments, or in directions specifically identified by the Commission.

(c) *Computer modeling and sample system verification of modeled parameters to establish operation of a directional antenna consistent with the theoretical pattern.* Each element of the directional array shall be modeled by use of a method of moments computer program, using the physical characteristics of each element to establish a model that does not violate any of the internal constraints of the computer program. Only arrays consisting of series-fed elements may have their performance verified by computer modeling and sample system verification.

(1) A matrix of impedance measurements at the base and/or feed point of each element in the array, with all other elements shorted and/or open circuited at their respective measurement locations, shall be made. The physical model of the individual antenna elements used in the computer program may be varied to match the measured impedance matrix, but the actual spacings and orientations of the array elements must be used. Towers may be modeled using individual vertical wires to represent them, or with multiple wires representing their leg and cross-member sections. The resulting model description (consisting of the length, radius, and number of segments of each wire for arrays using vertical wire sections to represent the towers, or the length, end-point coordinates, and radius of each wire used to represent leg and cross-member sections for arrays using detailed tower structure representations) as well as the assumed input feed and base region stray reactances shall be used to generate the drive impedances and sample system parameter values for the operating directional antenna pattern parameters.

(i) For arrays using vertical wires to represent each tower, the radii of cylinders shall be no less than 80 percent and no more than 150 percent of the radius of a circle with a circumference equal to the sum of the widths of the tower sides.

(ii) For arrays using multiple wires to represent leg and cross-member sections, the individual legs of the tower may be modeled at their actual diameters with appropriate interconnecting segments representing cross-members at regular intervals.

(iii) No less than one segment for each 10 electrical degrees of the tower's physical height shall be used for each element in the array.

(iv) Base calculations shall be made for a reference point at ground level or within one electrical degree elevation of the actual feed point.

(v) For uniform cross-section towers represented by vertical wires, each wire used for a given tower shall be between 75 to 125 percent of the physical length represented.

(vi) For self-supporting towers, stepped-radius wire sections may be employed to simulate the physical tower's taper, or the tower may be modeled with individual wire sections representing the legs and cross members.

(vii) The lumped series inductance of the feed system between the output port of each antenna tuning unit and the associated tower shall be no greater than 10 μH unless a measured value from the measurement point to the tower base with its insulator short circuited is used.

(viii) The shunt capacitance used to model base region effects shall be no greater than 250 pF unless the measured or manufacturer's stated capacitance for each device other than the base insulator is used. The total capacitance of such devices shall be limited such that in no case will their total capacitive reactance be less than five times the magnitude of the tower base operating impedance without their effects being considered.

(ix) The orientation and distances among the individual antenna towers in the array shall be confirmed by a post-construction certification by a land surveyor (or, where permitted by local regulation, by an engineer) licensed or registered in the state or territory where the antenna system is located.

(2)(i) The computer model, once verified by comparison with the measured base impedance matrix data, shall be used to determine the appropriate antenna monitor parameters. The moment method modeled parameters shall be established by using the verified moment method model to produce tower current distributions that, when numerically integrated and normalized to the reference tower, are identical to the specified field parameters of the theoretical directional antenna pattern. The samples used to drive the antenna monitor may be current transformers or voltage sampling devices at the outputs of the antenna matching networks or sampling loops located on the towers. If sample loops are used, they shall be located at the elevation where the current in the tower would be at a minimum if the tower were detuned in the horizontal plane, as determined by the moment method model parameters used to determine the antenna monitor parameters. Sample loops may be employed only when the towers are identical in cross-sectional structure, including both leg and cross member characteristics; if the towers are of unequal height, the sample loops shall be mounted identically with respect to tower cross members at the appropriate elevations above the base insulator. If the tower height used in the model is other than the physical height of the tower, the sampling loop shall be located at a height that is the same fraction of the total tower height as the minimum in tower current with the tower detuned in the model. Sample lines from the sensing element to the antenna monitor must be equal in both length (within one electrical degree) and characteristic impedance (within two ohms), as established by impedance measurements, including at the open-circuit resonant frequency closest to carrier frequency to establish length, at frequencies corresponding to odd multiples of ⅛ wavelength immediately above and below the open circuit resonant frequency closest to carrier frequency, while open circuited, to establish characteristic impedance, and at carrier frequency or, if necessary, at nearby frequencies where the magnitude of the measured impedance is no greater than 200 ohms with the sampling devices connected. Samples may be obtained from current transformers at the output of the antenna coupling and matching equipment for base-fed towers whose actual electrical height is 120 degrees or less, or greater than 190 electrical degrees. Samples may be obtained from base voltage sampling devices at the output of the antenna coupling and matching equipment for base-fed towers whose actual electrical height is greater than 105 degrees. Samples obtained from sample loops located as described above can be used for any height of tower. For towers using base current or base voltage sampling derived at the output of the antenna coupling and matching equipment, the sampling devices shall be disconnected and calibrated by measuring their outputs with a common reference signal (a current through them or a voltage across them, as appropriate) and the calibration must agree within the manufacturer's specifications. A complete description of the sampling system, including the results of the measurements described in this paragraph, shall be submitted with the application for license.

(ii) Proper adjustment of an antenna pattern shall be determined by correlation between the measured antenna monitor sample indications and the parameters calculated by the method of moments program, and by correlation between the measured matrix impedances for each tower and those calculated by the method of moments program. The antenna monitor sample indications must be initially adjusted to agree with the moment method model within ±5 percent for the field ratio and ±3 degrees in phase. The measured matrix impedances must agree with the moment method model within ±2 ohms and ±4 percent for resistance and reactance.

(3) Reference field strength measurement locations shall be established in directions of pattern minima and maxima. On each radial corresponding to a pattern minimum or maximum, there shall be at least three measurement locations. The field strength shall be measured at each reference location at the time of the proof of performance. The license application shall include the measured field strength values at

each reference point, along with a description of each measurement location, including GPS coordinates and datum reference.

[36 FR 919, Jan. 20, 1971, as amended at 42 FR 36828, July 18, 1977; 49 FR 23348, June 6, 1984; 50 FR 32416, Aug. 12, 1985; 56 FR 64862, Dec. 12, 1991; 63 FR 33876, June 22, 1998; 66 FR 20756, Apr. 25, 2001; 73 FR 64561, Oct. 30, 2008]

§ 73.152 Modification of directional antenna data.

(a) If, after construction and final adjustment of a directional antenna, a measured inverse distance field in any direction exceeds the field shown on the standard radiation pattern for the pertinent mode of directional operation, an application shall be filed, specifying a modified standard radiation pattern and/or such changes as may be required in operating parameters so that all measured effective fields will be contained within the modified standard radiation pattern. Permittees may also file an application specifying a modified standard radiation pattern, even when measured radiation has not exceeded the standard pattern, in order to allow additional tolerance for monitoring point limits.

(b) If, following a partial proof of performance, a licensee discovers that radiation exceeds the standard pattern on one or more radials because of circumstances beyond the licensee's control, a modified standard pattern may be requested. The licensee shall submit, concurrently, Forms 301–AM and 302–AM. Form 301–AM shall include an exhibit demonstrating that no interference would result from the augmentation. Form 302–AM shall include the results of the partial proof, along with full directional and nondirectional measurements on the radial(s) to be augmented, including close-in points and a determination of the inverse distance field in accordance with § 73.186.

(c) Normally, a modified standard pattern is not acceptable at the initial construction permit stage, before a proof-of-performance has been completed. However, in certain cases, where it can be shown that modification is necessary, a modified standard pattern will be acceptable at the initial construction permit stage. Following is a non-inclusive list of items to be considered in determining whether a modification is acceptable at the initial construction permit stage:

(1) When the proposed pattern is essentially the same as an existing pattern at the same antenna site. (e.g., A DA-D station proposing to become a DA–1 station.)

(2) Excessive reradiating structures, which should be shown on a plat of the antenna site and surrounding area.

(3) Other environmental factors; they should be fully described.

(4) Judgment and experience of the engineer preparing the engineering portion of the application. This must be supported with a full discussion of the pertinent factors.

(d) The following general principles shall govern the situations in paragraphs (a), (b), and (c) in this section:

(1) Where a measured field in any direction will exceed the authorized standard pattern, the license application may specify the level at which the input power to the antenna shall be limited to maintain the measured field at a value not in excess of that shown on the standard pattern, and shall specify the common point current corresponding to this power level. This value of common point current will be specified on the license for that station.

(2) Where any excessive field does not result in objectionable interference to another station, a modification of construction permit application may be submitted with a modified standard pattern encompassing all augmented fields. The modified standard pattern shall supersede the previously submitted standard radiation pattern for that station in the pertinent mode of directional operation. Following are the possible methods of creating a modified standard pattern:

(i) The modified pattern may be computed by making the entire pattern larger than the original pattern (*i.e.*, have a higher RMS value) if the measured fields systematically exceed the confines of the original pattern. The larger pattern shall be computed by using a larger multiplying constant, k, in the theoretical pattern equation (Eq. 1) in § 73.150(b)(1).

(ii) Where the measured field exceeds the pattern in discrete directions, but objectionable interference does not result, the pattern may be expanded over sectors including these directions. When this ''augmentation'' is desired, it shall be achieved by application of the following equation:

$$E(\varphi,\theta)_{aug} = \sqrt{\{ E(\varphi,\theta)_{std} \}^2 + A\{g(\theta) \cos (180 D_A/S \}^2}$$

where:

$E(\varphi,\theta)_{std}$ is the standard pattern field at some particular azimuth and elevation angle, before augmentation, computed pursuant to Eq. 2, §73.150(b)(1)(i).

$E(\varphi,\theta)_{aug.}$ is the field in the direction specified above, after augmentation.

$A = E(\varphi, O)^2_{aug} - E(\varphi, O)^2_{std}$ in which φ is the central azimuth of augmentation. $E(\varphi, O)_{aug}$ and $E(\varphi, O)_{std}$ are the fields in the horizontal plane at the central azimuth of augmentation.

NOTE: ''A'' must be positive, except during the process of converting non-standard patterns to standard patterns pursuant to the *Report and Order in Docket No. 21473,* and in making minor changes to stations with patterns developed during the conversion. However, even when ''A'' is negative, ''A'' cannot be so negative that $E(\varphi,\alpha)_{aug}$ is less than $E(\varphi,\theta)_{th}$ at any azimuth or vertical elevation angle.

g(θ) is defined in §73.150(b)(1)(i).

S is the angular range, or ''span'', over which augmentation is applied. The span is centered on the central azimuth of augmentation. At the limits of the span, the augmented pattern merges into the unaugmented pattern. Spans may overlap.

D_A is the absolute horizontal angle between the azimuth at which the augmented pattern value is being computed and the central azimuth of augmentation. (D_A cannot exceed 1/2 S.)

In the case where there are spans which overlap, the above formula shall be applied repeatedly, once for each augmentation, in ascending order of central azimuth of augmentation, beginning with zero degrees representing true North. Note that, when spans overlap, there will be, in effect, an augmentation of an augmentation. And, if the span of an earlier augmentation overlaps the central azimuth of a later augmentation, the value of ''A'' for the later augmentation will be different than the value of ''A'' without the overlap of the earlier span.

(iii) A combination of paragraphs (d)(2)(i) and (d)(2)(ii), of this section, with (d)(2)(i) being applied before (d)(2)(ii) is applied.

(iv) Where augmentation is allowable under the terms of this section, the requested amount of augmentation shall be centered upon the measured radial and shall not exceed the following:

(A) The actual measured inverse distance field value, where the radial does not involve a required monitoring point.

(B) 120% of the actual measured inverse field value, where the radial has a monitoring point required by the instrument of authorization.

Whereas some pattern smoothing can be accommodated, the extent of the requested span(s) shall be minimized and in no case shall a requested augmentation span extend to a radial azimuth for which the analyzed measurement data does not show a need for augmentation.

(3) A Modified Standard Pattern shall be specifically labeled as such, and shall be plotted in accordance with the requirements of paragraph (b)(2) of §73.150. The effective (RMS) field strength in the horizontal plane of $E(\varphi,\alpha)_{std,}$ $E(\varphi,\alpha)_{th,}$ and the root sum square (RSS) value of the inverse fields of the array elements (derived from the equation for $E(\varphi,\alpha)_{th}$), shall be tabulated on the page on which the horizontal plane pattern is plotted. Where sector augmentation has been employed in designing the modified pattern, the direction of maximum augmentation (*i.e.*, the central azimuth of augmentation) shall be indicated on the horizontal plane pattern for each augmented sector, and the limits of each sector shall also be shown. Field values within an augmented sector, computed prior to augmentation, shall be depicted by a broken line.

(4) There shall be submitted, for each modified standard pattern, complete tabulations of final computed data used in plotting the pattern. In addition, for each augmented sector, the central azimuth of augmentation, span, and radiation at the central azimuth of augmentation ($E(\varphi,\alpha)_{aug}$) shall be tabulated.

(5) The parameters used in computing the modified standard pattern shall be

specified with realistic precision. Following is a list of the maximum acceptable precision:

(i) Central Azimuth of Augmentation: to the nearest 0.1 degree.

(ii) Span: to the nearest 0.1 degree.

(iii) Radiation at Central Azimuth of Augmentation: 4 significant figures.

(e) Sample calculations for a modified standard pattern follow. First, assume the existing standard pattern in §73.150(c). Then, assume the following augmentation parameters:

Augmentation number	Central azimuth	Span	Radiation at central azimuth
1	110	40	1,300
2	240	50	52
3	250	10	130

Following is a tabulation of part of the modified standard pattern:

Azimuth	0	30	60	Vertical angle
0	28.86	68.05	72.06	
105	1,299.42	872.14	254.21	
235	39.00	35.74	38.71	
247	100.47	66.69	32.78	

[46 FR 11992, Feb. 12, 1981, as amended at 56 FR 64862, Dec. 12, 1991; 66 FR 20756, Apr. 25, 2001]

§ 73.153 Field strength measurements in support of applications or evidence at hearings.

In the determination of interference, groundwave field strength measurements will take precedence over theoretical values, provided such measurements are properly taken and presented. When measurements of groundwave signal strength are presented, they shall be sufficiently complete in accordance with §73.186 to determine the field strength at 1 mile in the pertinent directions for that station. The antenna resistance measurements required by §73.186 need not be taken or submitted.

[44 FR 36037, June 20, 1979, as amended at 56 FR 64862, Dec. 12, 1991]

§ 73.154 AM directional antenna partial proof of performance measurements.

(a) A partial proof of performance consists of at least 8 field strength measurements made on each of the radials that includes a monitoring point. If the directional pattern has fewer than 4 monitored radials, the partial proof shall include measurements on those radials from the latest complete proof of performance which are adjacent to the monitored radials.

(b) The measurements are to be made within 3 to 15 kilometers from the center of the antenna array. When a monitoring point as designated on the station authorization lies on a particular radial, one of the measurements must be made at that point. One of the following methods shall be used for the partial proof:

(1) Measurement points shall be selected from the points measured in latest full proof of performance provided that the points can be identified with reasonable certainty, and that land development or other factors have not significantly altered propagation characteristics since the last full proof. At each point, the licensee shall measure directional field strength for comparison to either the directional or the nondirectional field strength measured at that point in the last full proof.

(2) In the event that a meaningful comparison to full proof measurements cannot be made, the licensee shall measure both directional and nondirectional field strength at eight points on each radial. The points need not be limited to those measured in the last full proof of performance.

(c) The results of the measurements are to be analyzed as follows. Either the arithmetic average or the logarithmic average of the ratios of the field strength at each measurement point to the corresponding field strength in the most recent complete proof of performance shall be used to establish the inverse distance fields. (The logarithmic average for each radial is the antilogarithm of the mean of the logarithms of the ratios of field strength (new to old) for each measurement location along a given radial). When new nondirectional measurements are used as the reference, as described in paragraph (b)(2) of this section, either the arithmetic or logarithmic averages of directional to nondirectional field strength on each radial shall be used in conjunction with the measured nondirectional field from

the last proof to establish the inverse distance field.

(d) The result of the most recent partial proof of performance measurements and analysis is to be retained in the station records available to the FCC upon request. Maps showing new measurement points, *i.e.*, points not measured in the last full proof, shall be associated with the partial proof in the station's records, and shall be provided to the FCC upon request.

[66 FR 20756, Apr. 25, 2001]

§ 73.155 Periodic directional antenna performance recertification.

A station licensed with a directional antenna pattern pursuant to a proof of performance using moment method modeling and internal array parameters as described in § 73.151(c) shall recertify the performance of that directional antenna pattern at least once within every 24 month period.

(a) Measurements shall be made to verify the continuing integrity of the antenna monitor sampling system.

(1) For towers using base current or base voltage sampling derived at the output of the antenna coupling and matching equipment, the sampling devices shall be disconnected and calibrated by measuring their outputs with a common reference signal (a current through them or a voltage across them, as appropriate) and the calibration must agree with the manufacturer's specifications.

(2) For towers using base current or base voltage sampling derived at the output of the antenna coupling and matching equipment, sampling line measurements shall be made to verify the open-circuit resonant frequency closest to carrier frequency, to establish length, and also at frequencies corresponding to odd multiples of ⅛ wavelength immediately above and below the open-circuit resonant frequency closest to carrier frequency, while open circuited, to verify their characteristic impedance. The frequencies measured must be the same as were measured in the most recent proof of performance and must demonstrate that the sampling lines continue to meet the requirements of § 73.151(c) with regard to their length and characteristic impedance.

(3) For towers having sampling loops, measurements shall be made at carrier frequency or, if necessary, at nearby frequencies where the magnitude of the measured impedance is no greater than 200 ohms with the sampling loops connected. The frequencies measured must be the same as were measured in the most recent proof of performance and the measured impedances must agree within ±2 ohms and ±4 percent resistance and reactance of the proof values.

(b) Field strength measurements shall be made at the reference field strength measurement locations that were established by the most recent proof of performance. If locations have become inaccessible or their readings contaminated by localized electromagnetic environmental changes, new locations that meet the requirements of the moment method proof of performance rules in § 73.151(c)(3) shall be established to replace them.

(c) The results of the periodic directional antenna performance recertification measurements shall be retained in the station's public inspection file.

[73 FR 64562, Oct. 30, 2008]

§ 73.157 Antenna testing during daytime.

(a) The licensee of a station using a directional antenna during daytime or nighttime hours may, without further authority, operate during daytime hours with the licensed nighttime directional facilities or with a nondirectional antenna when conducting monitoring point field strength measurements or antenna proof of performance measurements.

(b) Operation pursuant to this section is subject to the following conditions:

(1) No harmful interference will be caused to any other station.

(2) The FCC may notify the licensee to modify or cease such operation to resolve interference complaints or when such action may appear to be in the public interest, convenience and necessity.

(3) Such operation shall be undertaken only for the purpose of taking

monitoring point field strength measurements or antenna proof of performance measurements, and shall be restricted to the minimum time required to accomplish the measurements.

(4) Operating power in the nondirectional mode shall be adjusted to the same power as was utilized for the most recent nondirectional proof of performance covering the licensed facilities.

[50 FR 30947, July 31, 1985]

§ 73.158 Directional antenna monitoring points.

(a) When a licensee of a station using a directional antenna system finds that a field monitoring point, as specified on the station authorization, is no longer accessible or is unsuitable because of nearby construction or other disturbances to the measured field, an application to change the monitoring point location, including FCC Form 302–AM, is to be promptly submitted to the FCC in Washington, DC.

(1) If the monitoring point has become inaccessible or otherwise unsuitable, but there has been no significant construction or other change in the vicinity of the monitoring point which may affect field strength readings, the licensee shall select a new monitoring point from the points measured in the last full proof of performance. A recent field strength measurement at the new monitoring point shall also be provided.

(2) Alternatively, if changes in the electromagnetic environment have affected field strength readings at the monitoring point, the licensee shall submit the results of a partial proof of performance, analyzed in accordance with § 73.154, on the affected radial.

(3) The licensee shall submit an accurate, written description of the new monitoring point in relation to nearby permanent landmarks.

(4) The licensee shall submit a photograph showing the new monitoring point in relation to nearby permanent landmarks that can be used in locating the point accurately at all times throughout the year. Do not use seasonal or temporary features in either the written descriptions or photographs as landmarks for locating field points.

(b) When the description of the monitoring point as shown on the station license is no longer correct due to road or building construction or other changes, the licensee must prepare and file with the FCC, in Washington, DC, a request for a corrected station license showing the new monitoring point description. The request shall include the information specified in paragraphs (a)(3) and (a)(4) of this section, and a copy of the station's current license. A copy of the description is to be posted with the existing station license.

[66 FR 20757, Apr. 25, 2001]

§ 73.160 Vertical plane radiation characteristics, f(θ).

(a) The vertical plane radiation characteristics show the relative field being radiated at a given vertical angle, with respect to the horizontal plane. The vertical angle, represented as θ, is 0 degrees in the horizontal plane, and 90 degrees when perpendicular to the horizontal plane. The vertical plane radiation characteristic is referred to as f(θ). The generic formula for f(θ) is:

$f(\theta) = E(\theta)/E(O)$

where:

E(θ) is the radiation from the tower at angle θ.

E(O) is the radiation from the tower in the horizontal plane.

(b) Listed below are formulas for f(θ) for several common towers.

(1) For a typical tower, which is not top-loaded or sectionalized, the following formula shall be used:

$$f(\theta) = \frac{\cos(G \sin\theta) - \cos G}{(1 - \cos G)\cos\theta}$$

where:

G is the electrical height of the tower, not including the base insulator and pier. (In the case of a folded unipole tower, the entire radiating structure's electrical height is used.)

(2) For a top-loaded tower, the following formula shall be used:

$$f(\theta) = \frac{\cos B \cos (A \sin \theta) - \sin \theta \sin B \sin (A \sin \theta) - \cos (A + B)}{\cos \theta (\cos B - \cos (A + B))}$$

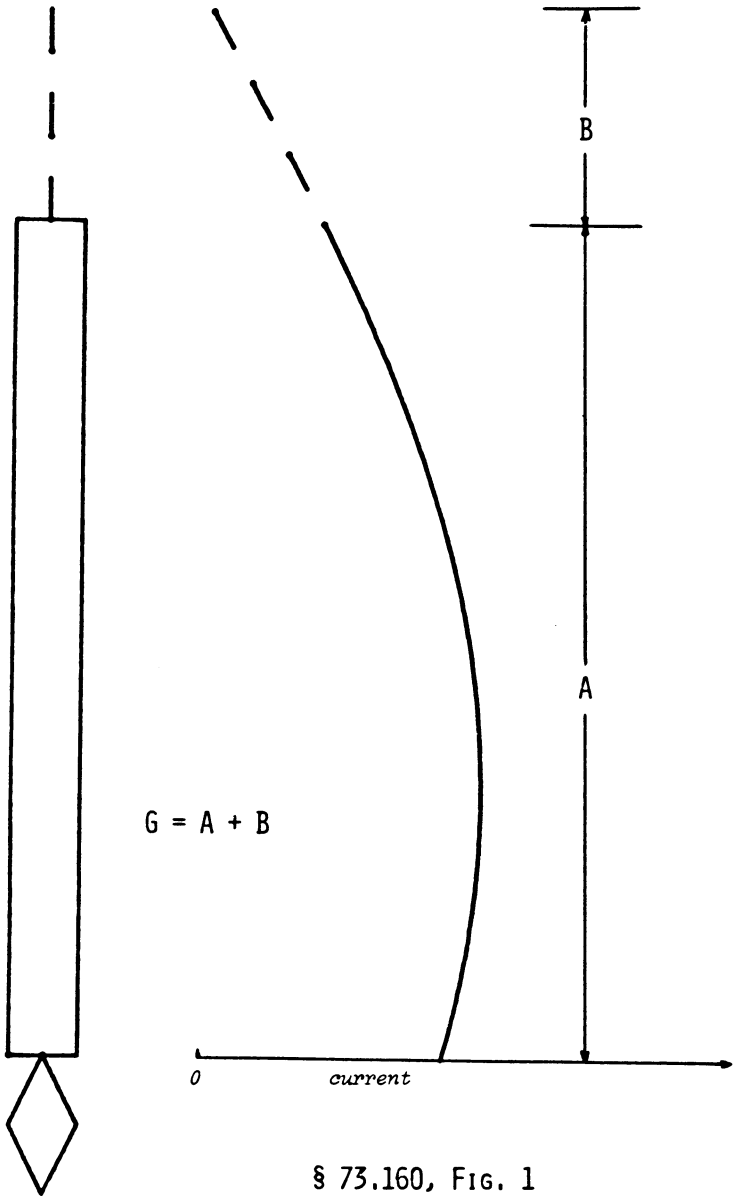
where:

A is the physical height of the tower, in electrical degrees, and

B is the difference, in electrical degrees, between the apparent electrical height (G, based on current distribution) and the actual physical height.

G is the apparent electrical height: the sum of A and B; A + B.

See Figure 1 of this section.



§ 73.160, FIG. 1

(3) For a sectionalized tower, the following formula shall be used:

$$f(\theta) = \frac{\{\sin \Delta [\cos B \cos (A \sin \theta) - \cos G] + \sin B [\cos D \cos (C \sin \theta) - \sin \theta \sin D \sin (C \sin \theta) - \cos \Delta \cos (A \sin \theta)]\}}{\cos \theta [\sin \Delta (\cos B - \cos G) + \sin B (\cos D - \cos \Delta)]}$$

where:

A is the physical height, in electrical degrees, of the lower section of the tower.

B is the difference between the apparent electrical height (based on current distribution) of the lower section of the tower and the physical height of the lower section of the tower.

C is the physical height of the entire tower, in electrical degrees.

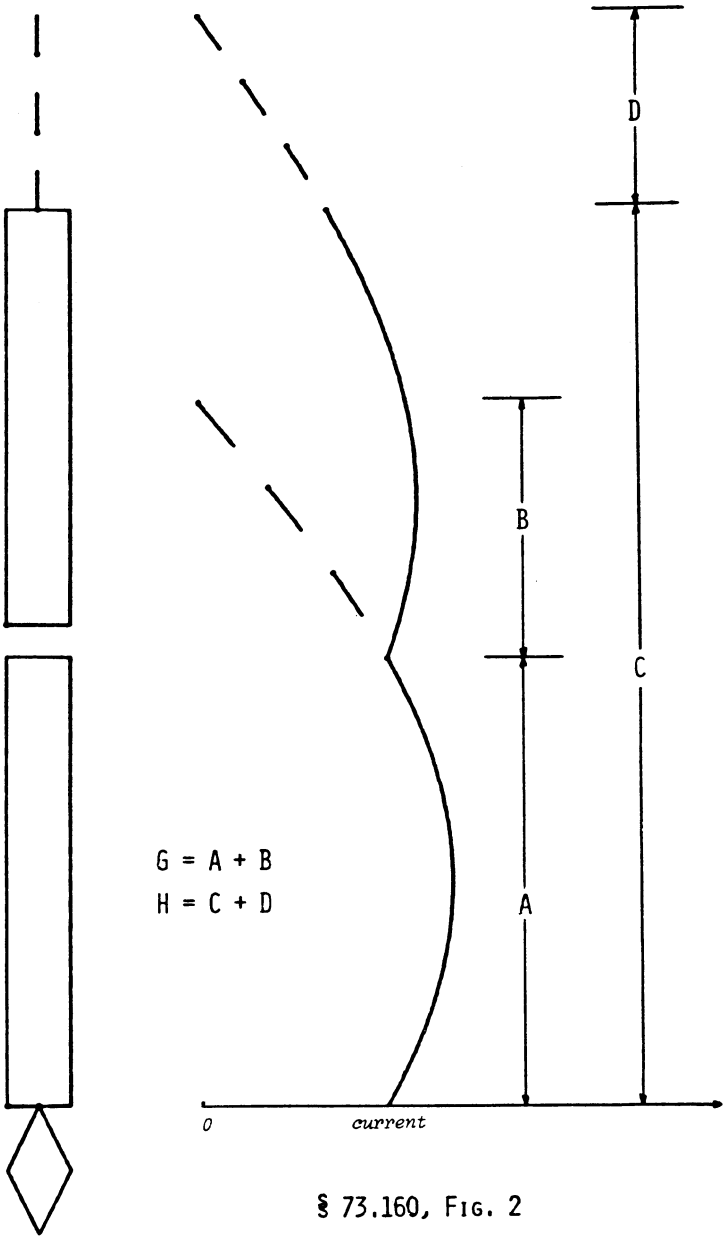
D is the difference between the apparent electrical height of the tower (based on current distribution of the upper section) and the physical height of the entire tower. D will be zero if the sectionalized tower is not top-loaded.

G is the sum of A and B; A + B.

H is the sum of C and D; C + D.

Δ is the difference between H and A; H − A.

See Figure 2 of this section.



§ 73.160, FIG. 2

(c) One of the above f(θ) formulas *must* be used in computing radiation in the vertical plane, unless the applicant submits a special formula for a particular type of antenna. If a special formula is submitted, it must be accompanied by a complete derivation and

sample calculations. Submission of values for f(θ) only in a tabular or graphical format (*i.e.*, without a formula) is not acceptable.

(d) Following are sample calculations. (The number of significant figures shown here should *not* be interpreted as a limitation on the number of significant figures used in actual calculations.)

(1) For a typical tower, as described in paragraph (b)(1) of this section, assume that G = 120 electrical degrees:

θ	f(θ)
0	1.0000
30	0.7698
60	0.3458

(2) For a top-loaded tower, as described in paragraph (b)(2) of this section, assume A = 120 electrical degrees, B = 20 electrical degrees, and G = 140 electrical degrees, (120 + 20):

θ	f(θ)
0	1.0000
30	0.7364
60	0.2960

(3) For a sectionalized tower, as described in paragraph (b)(3) of this section, assume A = 120 electrical degrees, B = 20 electrical degrees, C = 220 electrical degrees, D = 15 electrical degrees, G = 140 electrical degrees (120 + 20), H = 235 electrical degrees (220 + 15), and Δ = 115 electrical degrees (235 − 120):

θ	f(θ)
0	1.0000
30	0.5930
60	0.1423

[46 FR 11993, Feb. 12, 1981]

§ 73.182 Engineering standards of allocation.

(a) Sections 73.21 to 73.37, inclusive, govern allocation of facilities in the AM broadcast band 535–1705 kHz. § 73.21 establishes three classes of channels in this band, namely, clear, regional and local. The classes and power of AM broadcast stations which will be assigned to the various channels are set forth in § 73.21. The classifications of the AM broadcast stations are as follows:

(1) Class A stations operate on clear channels with powers no less than 10kW nor greater than 50 kW. These stations are designed to render primary and secondary service over an extended area, with their primary services areas protected from objectionable interference from other stations on the same and adjacent channels. Their secondary service areas are protected from objectionable interference from co-channel stations. For purposes of protection, Class A stations may be divided into two groups, those located in any of the contiguous 48 States and those located in Alaska in accordance with § 73.25.

(i) The mainland U.S. Class A stations are those assigned to the channels allocated by § 73.25. The power of these stations shall be 50 kW. The Class A stations in this group are afforded protection as follows:

(A) Daytime. To the 0.1 mV/m groundwave contour from stations on the same channel, and to the 0.5 mV/m groundwave contour from stations on adjacent channels.

(B) Nighttime. To the 0.5 mV/m-50% skywave contour from stations on the same channels.

(ii) Class A stations in Alaska operate on the channels allocated by § 73.25 with a minimum power of 10 kW, a maximum power of 50 kW and an antenna efficiency of 215 mV/m/kW at 1 kilometer. Stations operating on these channels in Alaska which have not been designated as Class A stations in response to licensee request will continue to be considered as Class B stations. During daytime hours a Class A station in Alaska is protected to the 100 μV/m groundwave contour from co-channel stations. During nighttime hours, a Class A station in Alaska is protected to the 100 μV/m-50 percent skywave contour from co-channel stations. The 0.5 mV/m groundwave contour is protected both daytime and nighttime from stations on adjacent channels.

NOTE: In the Report and Order in MM Docket No. 83–807, the Commission designated 15 stations operating on U.S. clear channels as Alaskan Class A stations. Eleven of these stations already have Alaskan Class A facilities and are to be protected accordingly. Permanent designation of the other

four stations as Alaskan Class A is conditioned on their constructing minimum Alaskan Class A facilities no later than December 31, 1989. Until that date or until such facilities are obtained, these four stations shall be temporarily designated as Alaskan Class A stations, and calculations involving these stations should be based on existing facilities but with an assumed power of 10 kW. Thereafter, these stations are to be protected based on their actual Alaskan Class A facilities. If any of these stations does not obtain Alaskan Class A facilities in the period specified, it is to be protected as a Class B station based on its actual facilities. These four stations may increase power to 10 kW without regard to the impact on co-channel Class B stations. However, power increases by these stations above 10 kW (or by existing Alaskan Class A stations beyond their current power level) are subject to applicable protection requirements for co-channel Class B stations. Other stations not on the original list but which meet applicable requirements may obtain Alaskan Class A status by seeking such designation from the Commission. If a power increase or other change in facilities by a station not on the original list is required to obtain minimum Alaskan Class A facilities, any such application shall meet the interference protection requirements applicable to an Alaskan Class A proposal on the channel.

(2) Class B stations are stations which operate on clear and regional channels with powers not less than 0.25 kW nor more than 50 kW. These stations render primary service only, the area of which depends on their geographical location, power, and frequency. It is recommended that Class B stations be located so that the interference received from other stations will not limit the service area to a groundwave contour value greater than 2.0 mV/m nighttime and to the 0.5 mV/m groundwave contour daytime, which are the values for the mutual protection between this class of stations and other stations of the same class.

NOTE: See §§ 73.21(b)(1) and 73.26(b) concerning power restrictions and classifications relative to Class B, Class C, and Class D stations in Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands. Stations in the above-named places that are reclassified from Class C to Class B stations under § 73.26(b) shall not be authorized to increase power to levels that would increase the nighttime interference-free limit of co-channel Class C stations in the conterminous United States.

(3) Class C stations operate on local channels, normally rendering primary service to a community and the suburban or rural areas immediately contiguous thereto, with powers not less than 0.25 kW, nor more than 1 kW, except as provided in § 73.21(c)(1). Such stations are normally protected to the daytime 0.5 mV/m contour. On local channels the separation required for the daytime protection shall also determine the nighttime separation. Where directional antennas are employed daytime by Class C stations operating with more than 0.25 kW power, the separations required shall in no case be less than those necessary to afford protection, assuming nondirectional operation with 0.25 kW. In no case will 0.25 kW or greater nighttime power be authorized to a station unable to operate nondirectionally with a power of 0.25 kW during daytime hours. The actual nighttime limitation will be calculated. For nighttime protection purposes, Class C stations in the 48 contiguous United States may assume that stations in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands operating on 1230, 1240, 1340, 1400, 1450, and 1490 kHz are Class C stations.

(4) Class D stations operate on clear and regional channels with daytime powers of not less than 0.25 kW (or equivalent RMS field of 107.5 mV/m at 1 kilometer if less than 0.25 kW) and not more than 50 kW. Class D stations that have previously received nighttime authority to operate with powers of less 0.25 kW (or equivalent RMS fields of less than 107.5 mV/m at 1 kilometer) are not required to provide nighttime coverage in accordance with § 73.24(i) and are not protected from interference during nighttime hours. Such nighttime authority is permitted on the basis of full nighttime protection being afforded to all Class A and Class B stations.

(b) When a station is already limited by interference from other stations to a contour value greater than that normally protected for its class, the individual received limits shall be the established standard for such station with respect to interference from each other station.

(c) The four classes of AM broadcast stations have in general three types of

service areas, *i.e.*, primary, secondary and intermittent. (See § 73.14 for the definitions of primary, secondary, and intermittent service areas.) Class A stations render service to all three areas. Class B stations render service to a primary area but the secondary and intermittent service areas may be materially limited or destroyed due to interference from other stations, depending on the station assignments involved. Class C and Class D stations usually have only primary service areas. Interference from other stations may limit intermittent service areas and generally prevents any secondary service to those stations which operate at night. Complete intermittent service may still be obtained in many cases depending on the station assignments involved.

(d) The groundwave signal strength required to render primary service is 2 mV/m for communities with populations of 2,500 or more and 0.5 mV/m for communities with populations of less than 2,500. See § 73.184 for curves showing distance to various groundwave field strength contours for different frequencies and ground conductivities, and also see § 73.183, ''Groundwave signals.''

(e) A Class C station may be authorized to operate with a directional antenna during daytime hours providing the power is at least 0.25 kW. In computing the degrees of protection which such antenna will afford, the radiation produced by the directional antenna system will be assumed to be no less, in any direction, than that which would result from non-directional operation using a single element of the directional array, with 0.25 kW.

(f) All classes of broadcast stations have primary service areas subject to limitation by fading and noise, and interference from other stations to the contours set out for each class of station.

(g) Secondary service is provided during nighttime hours in areas where the skywave field strength, 50% or more of the time, is 0.5 mV/m or greater (0.1 mV/m in Alaska). Satisfactory secondary service to cities is not considered possible unless the field strength of the skywave signal approaches or exceeds the value of the groundwave field strength that is required for primary service. Secondary service is subject to some interference and extensive fading whereas the primary service area of a station is subject to no objectionable interference or fading. Only Class A stations are assigned on the basis of rendering secondary service.

NOTE: Standards have not been established for objectionable fading because of the relationship to receiver characteristics. Selective fading causes audio distortion and signal strength reduction below the noise level, objectionable characteristics inherent in many modern receivers. The AVC circuits in the better designed receivers generally maintain the audio output at a sufficiently constant level to permit satisfactory reception during most fading conditions.

(h) Intermittent service is rendered by the groundwave and begins at the outer boundary of the primary service area and extends to a distance where the signal strength decreases to a value that is too low to provide any service. This may be as low as a few μV/m in certain areas and as high as several millivolts per meter in other areas of high noise level, interference from other stations, or objectionable fading at night. The intermittent service area may vary widely from day to night and generally varies over shorter intervals of time. Only Class A stations are protected from interference from other stations to the intermittent service area.

(i) Broadcast stations are licensed to operate unlimited time, limited time, daytime, share time, and specified hours. (See §§ 73.1710, 73.1725, 73.1720, 73.1715, and 73.1730.) Applications for new stations shall specify unlimited time operation only.

(j) Section 73.24 sets out the general requirements for modifying the facilities of a licensed station and for establishing a new station. Sections 73.24(b) and 73.37 include interference related provisions that be considered in connection with an application to modify the facilities of an existing station or to establish a new station. Section 73.30 describes the procedural steps required to receive an authorization to operate in the 1605–1705 kHz band.

(k) Objectionable nighttime interference from a broadcast station occurs

when, at a specified field strength contour with respect to the desired station, the field strength of an undesired station (co-channel or first adjacent channel, after application of proper protection ratio) exceeds for 10% or more of the time the values set forth in these standards. The value derived from the root-sum-square of all interference contributions represents the extent of a station's interference-free coverage.

(1) With respect to the root-sum-square (RSS) values of interfering field strengths referred to in this section, calculation of nighttime interference-free service is accomplished by considering the signals on the three channels of concern (co- and first adjacencies) in order of decreasing magnitude, adding the squares of the values and extracting the square root of the sum, excluding those signals which are less than 50% of the RSS values of the higher signals already included.

(2) With respect to the root-sum-square values of interfering field strengths referred to in this section, calculation of nighttime interference for non-coverage purposes is accomplished by considering the signals on the three channels of concern (co- and first adjacencies) in order of decreasing magnitude, adding the squares of the values and extracting the square root of the sum, excluding those signals which are less than 25% of the RSS values of the higher signals already included.

(3) With respect to the root-sum-square values of interfering field strengths referred to in this section, calculation is accomplished by considering the signals on the three channels of concern (co- and first adjacencies) in order of decreasing magnitude, adding the squares of the values and extracting the square root of the sum. The 0% exclusion method applies only to the determination of an improvement factor value for evaluating a station's eligibility for migration to the band 1605–1705 kHz.

(4) The RSS value will not be considered to be increased when a new interfering signal is added which is less than the appropriate exclusion percentage as applied to the RSS value of the interference from existing stations, and which at the same time is not greater than the smallest signal included in the RSS value of interference from existing stations.

(5) It is recognized that application of the above ''50% exclusion'' method (or any exclusion method using a per cent value greater than zero) of calculating the RSS interference may result in some cases in anomalies wherein the addition of a new interfering signal or the increase in value of an existing interfering signal will cause the exclusion of a previously included signal and may cause a decrease in the calculated RSS value of interference. In order to provide the Commission with more realistic information regarding gains and losses in service (as a basis for determination of the relative merits of a proposed operation) the following alternate method for calculating the proposed RSS values of interference will be employed wherever applicable.

(6) In the cases where it is proposed to add a new interfering signal which is not less than 50% (or 25%, depending on which study is being performed) of the RSS value of interference from existing stations or which is greater that the smallest signal already included to obtain this RSS value, the RSS limitation after addition of the new signal shall be calculated without excluding any signal previously included. Similarly, in cases where it is proposed to increase the value of one of the existing interfering signals which has been included in the RSS value, the RSS limitation after the increase shall be calculated without excluding the interference from any source previously included.

(7) If the new or increased signal proposed in such cases is ultimately authorized, the RSS values of interference to other stations affected will thereafter be calculated by the ''50% exclusion'' (or 25% exclusion, depending on which study is being performed) method without regard to this alternate method of calculation.

(8) Examples of RSS interference calculations:

(i) Existing interferences:

Station No. 1—1.00 mV/m.
Station No. 2—0.60 mV/m.
Station No. 3—0.59 mV/m.
Station No. 4—0.58 mV/m.

The RSS value from Nos. 1, 2 and 3 is 1.31 mV/m; therefore interference from No. 4 is excluded for it is less than 50% of 1.31 mV/m.

(ii) Station A receives interferences from:

Station No. 1—1.00 mV/m.
Station No. 2—0.60 mV/m.
Station No. 3—0.59 mV/m.

It is proposed to add a new limitation, 0.68 mV/m. This is more than 50% of 1.31 mV/m, the RSS value from Nos. 1, 2 and 3. The RSS value of Station No. 1 and of the proposed station would be 1.21 m/Vm which is more than twice as large as the limitation from Station No. 2 or No. 3. However, under the above provision the new signal and the three existing interferences are nevertheless calculated for purposes of comparative studies, resulting in an RSS value of 1.47 mV/m. However, if the proposed station is ultimately authorized, only No. 1 and the new signal are included in all subsequent calculations for the reason that Nos. 2 and 3 are less than 50% of 1.21 mV/m, the RSS value of the new signal and No. 1.

(iii) Station A receives interferences from:

Station No. 1—1.00 mV/m.
Station No. 2—0.60 mV/m.
Station No. 3—0.59 mV/m.

No. 1 proposes to increase the limitation it imposes on Station A to 1.21 mV/m. Although the limitations from stations Nos. 2 and 3 are less than 50% of the 1.21 mV/m limitation, under the above provision they are nevertheless included for comparative studies, and the RSS limitation is calculated to be 1.47 mV/m. However, if the increase proposed by Station No. 1 is authorized, the RSS value then calculated is 1.21 mV/m because Stations Nos. 2 and 3 are excluded in view of the fact that the limitations they impose are less than 50% of 1.21 mV/m.

NOTE: The principles demonstrated in the previous examples for the calculation of the 50% exclusion method also apply to calculations using the 25% exclusion method after appropriate adjustment.

(l) Objectionable nighttime interference from a station shall be considered to exist to a station when, at the field strength contour specified in paragraph (q) of this section with respect to the class to which the station belongs, the field strength of an interfering station operating on the same channel or on a first adjacent channel after signal adjustment using the proper protection ratio, exceeds for 10% or more of the time the value of the permissible interfering signal set forth opposite such class in paragraph (q) of this section.

(m) For the purpose of estimating the coverage and the interfering effects of stations in the absence of field strength measurements, use shall be made of Figure 8 of §73.190, which describes the estimated effective field (for 1 kW power input) of simple vertical omnidirectional antennas of various heights with ground systems having at least 120 quarter-wavelength radials. Certain approximations, based on the curve or other appropriate theory, may be made when other than such antennas and ground systems are employed, but in any event the effective field to be employed shall not be less than the following:

Class of station	Effective field (at 1 km)
All Class A (except Alaskan)	275 mV/m.
Class A (Alaskan), B and D	215 mV/m.
Class C	180 mV/m.

Note (1): When a directional antenna is employed, the radiated signal of a broadcasting station will vary in strength in different directions, possibly being greater than the above values in certain directions and less in other directions depending upon the design and adjustment of the directional antenna system. To determine the interference in any direction, the measured or calculated radiated field (unattenuated field strength at 1 kilometer from the array) must be used in conjunction with the appropriate propagation curves. (See §73.185 for further discussion and solution of a typical directional antenna case.)

Note (2): For Class B stations in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands, 180 mV/m shall be used.

(n) The existence or absence of objectionable groundwave interference from stations on the same or adjacent channels shall be determined by actual measurements made in accordance with the method described in §73.186, or in the absence of such measurements, by reference to the propagation curves of §73.184. The existence or absence of objectionable interference due to skywave propagation shall be determined by reference to Formula 2 in §73.190.

(o) *Computation of skywave field strength values:*—(1) *Fifty percent skywave field strength values (clear channel).* In computing the fifty percent skywave field strength values of a Class A clear channel station, use shall be made of Formula 1 of §73.190, entitled ''Skywave Field Strength'' for 50 percent of the time.

(2) *Ten percent skywave field strength values.* In computing the 10% skywave field strength for stations on a single

signal or an RSS basis, Formula 2 in §73.190 shall be used.

(3) *Determination of angles of departure.* In calculating skywave field strength for stations on all channels, the pertinent vertical angle shall be determined by use of the formula in §73.190(d).

(p) The distance to any specified groundwave field strength contour for any frequency may be determined from the appropriate curves in §73.184 entitled ''Ground Wave Field Strength vs. Distance.''

(q) Normally protected service contours and permissible interference signals for broadcast stations are as follows (for Class A stations, see also paragraph (a) of this section):

Class of station	Class of channel used	Signal strength contour of area protected from objectionable interference [remove footnote reference] (μV/m)		Permissible interfering signal (μV/m)	
		Day [1]	Night	Day [1]	Night [2]
A	Clear	SC 100	SC 500 50% SW	SC 5	SC 25.
		AC 500	AC 500 GW	AC 250	AC 250.
A (Alaskan)	....do	SC 100	SC 100 50% SW	SC 5	SC 5.
		AC 500	AC 500 GW	AC 250	AC 250.
B	Clear	500	2000 [1]	25	25.
	Regional			AC 250	250.
C	Local	500	No presc.[3]	SC 25	Not presc.
D	Clear	500	Not presc.	SC 25	Not presc.
	Regional			AC 250.	

[1] Groundwave.
[2] Skywave field strength for 10 percent or more of the time.
[3] During nighttime hours, Class C stations in the contiguous 48 States may treat all Class B stations assigned to 1230, 1240, 1340, 1400, 1450, and 1490 kHz in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands as if they were Class C stations.

NOTE: SC = Same channel; AC = Adjacent channel; SW = Skywave; GW = Groundwave

(r) The following table of logarithmic expressions is to be used as required for determining the minimum permissible ratio of the field strength of a desired to an undesired signal. This table shall be used in conjunction with the protected contours specified in paragraph (q) of this section.

Frequency separation of desired to undesired signals (kHz)	Desired Groundwave to:		Desired 50% Skywave to Undesired 10% Skywave (dB)
	Undesired groundwave (dB)	Undesired 10% Skywave (dB)	
0	26	26	26
10	6	6	not presc.

(s) Two stations, one with a frequency twice of the other, should not be assigned in the same groundwave service area unless special precautions are taken to avoid interference from the second harmonic of the station operating on the lower frequency. Additionally, in selecting a frequency, consideration should be given to the fact that occasionally the frequency assignment of two stations in the same area may bear such a relation to the intermediate frequency of some broadcast receivers as to cause ''image'' interference, However, since this can usually be rectified by readjustment of the intermediate frequency of such receivers, the Commission, in general, will not take this kind of interference into consideration when authorizing stations.

(t) The groundwave service of two stations operating with synchronized carriers and broadcasting identical programs will be subject to some distortion in areas where the signals from the two stations are of comparable strength. For the purpose of estimating coverage of such stations, areas in which the signal ratio is between 1:2 and 2:1 will not be considered as receiving satisfactory service.

NOTE: Two stations are considered to be operated synchronously when the carriers

are maintained within 0.2 Hz of each other and they transmit identical program s.

[56 FR 64862, Dec. 12, 1991; 57 FR 43290, Sept. 18, 1992, as amended at 58 FR 27950, May 12, 1993; 81 FR 2759, Jan. 19, 2016]

§ 73.183 Groundwave signals.

(a) Interference that may be caused by a proposed assignment or an existing assignment during daytime hours should be determined, when possible, by measurements on the frequency involved or on another frequency over the same terrain and by means for the curves in § 73.184 entitled ''Ground Wave Field Strength versus Distance.''

NOTE: Groundwave field strength measurements will not be accepted or considered for the purpose of establishing that interference to a station in a foreign country other than Canada, or that the field strength at the border thereof, would be less than indicated by the use of the ground conductivity maps and engineering standards contained in this part and applicable international agreements. Satisfactory groundwave measurements offered for the purpose of demonstrating values of conductivity other than those shown by Figure M3 in problems involving protection of Canadian stations will be considered only if, after review thereof, the appropriate agency of the Canadian government notifies the Commission that they are acceptable for such purpose.

(b)(1) In all cases where measurements taken in accordance with the requirements are not available, the groundwave strength must be determined by means of the pertinent map of ground conductivity and the groundwave curves of field strength versus distance. The conductivity of a given terrain may be determined by measurements of any broadcast signal traversing the terrain involved. Figure M3 (See Note 1) shows the conductivity throughout the United States by general areas of reasonably uniform conductivity. When it is clear that only one conductivity value is involved, Figure R3 of § 73.190, may be used. It is a replica of Figure M3, and is contained in these standards. In all other situations Figure M3 must be employed. It is recognized that in areas of limited size or over a particular path, the conductivity may vary widely from the values given; therefore, these maps are to be used only when accurate and acceptable measurements have not been made.

(2) For determinations of interference and service requiring a knowledge of ground conductivities in other countries, the ground conductivity maps comprising Appendix 1 to Annex 2 of each of the following international agreements may be used:

(i) For Canada, the U.S.-Canada AM Agreement, 1984;

(ii) For Mexico, the U.S.-Mexico AM Agreement, 1986; and

(iii) For other Western Hemisphere countries, the Regional Agreement for the Medium Frequency Broadcasting Service in Region 2.

Where different conductivities appear in the maps of two countries on opposite sides of the border, such differences are to be considered as real, even if they are not explained by geophysical cleavages.

(c) Example of determining interference by the graphs in § 73.184:

It is desired to determine whether objectionable interference exists between a proposed 5 kW Class B station on 990 kHz and an existing 1 kW Class B station on first adjacent channel, 1000 kHz. The distance between the two stations is 260 kilometers and both stations operate nondirectionally with antenna systems that produce a horizontal effective field of 282 in mV/m at one kilometer. (See § 73.185 regarding use of directional antennas.) The ground conductivity at the site of each station and along the intervening terrain is 6 mS/m. The protection to Class B stations during daytime is to the 500 μV/m (0.5 Vm) contour using a 6 dB protection factor. The distance to the 500 μV/m groundwave contour of the 1 kW station is determined by the use of the appropriate curve in § 73.184. Since the curve is plotted for 100 mV/m at a 1 kilometer, to find the distance of the 0.5 mV/m contour of the 1 kw station, it is necessary to determine the distance to the 0.1773 m/Vm contour.

$(100 \times 0.5 / 282 = 0.1773)$

Using the 6 mS/m curve, the estimated radius of the 0.5 mV/m contour is 62.5 kilometers. Subtracting this distance from the distance between the two stations leaves 197.5 kilometers. Using the same propagation curve, the signal from the 5 kW station at this distance is seen to be 0.059 mV/m. Since a protection ratio of 6 dB, desired to undesired signal, applies to stations separated by 10 kHz, the undesired signal could have had a value of up to 0.25 mV/m without causing objectionable interference. For cochannel studies, a desired to undesired signal

ratio of no less than 20:1 (26 dB) is required to avoid causing objectionable interference.

(d) Where a signal traverses a path over which different conductivities exist, the distance to a particular groundwave field strength contour shall be determined by the use of the equivalent distance method. Reasonably accurate results may be expected in determining field strengths at a distance from the antenna by application of the equivalent distance method when the unattenuated field of the antenna, the various ground conductivities and the location of discontinuities are known. This method considers a wave to be propagated across a given conductivity according to the curve for a homogeneous earth of that conductivity. When the wave crosses from a region of one conductivity into a region of a second conductivity, the equivalent distance of the receiving point from the transmitter changes abruptly but the field strength does not. From a point just inside the second region the transmitter appears to be at that distance where, on the curve for a homogeneous earth of the second conductivity, the field strength equals the value that occurred just across the boundary in the first region. Thus the equivalent distance from the receiving point to the transmitter may be either greater or less than the actual distance. An imaginary transmitter is considered to exist at that equivalent distance. This technique is not intended to be used as a means of evaluating unattenuated field or ground conductivity by the analysis of measured data. The method to be employed for such determinations is set out in § 73.186.

(e) Example of the use of the equivalent distance method;

It is desired to determine the distance to the 0.5 mV/m and 0.025 mV/m contours of a station on a frequency of 1000 kHz with an inverse distance field of 100 mV/m at one kilometer being radiated over a path having a conductivity of 10 mS/m for a distance of 20 kilometers, 5 mS/m for the next 30 kilometers and 15 mS/m thereafter. Using the appropriate curve in § 73.184, Graph 12, at a distance of 20 kilometers on the curve for 10 mS/m, the field strength is found to be 2.84 mV/m. On the 5mS/m curve, the equivalent distance to this field strength is 14.92 kilometers, which is 5.08 (20 − 14.92 kilometers nearer to the transmitter. Continuing on the propagation curve, the distance to a field strength of 0.5 mV/m is found to be 36.11 kilometers.

The actual length of the path travelled, however, is 41.19 (36.11 + 5.08) kilometers. Continuing on this propagation curve to the conductivity change at 44.92 (50.00 − 5.08) kilometers, the field strength is found to be 0.304 mV/m. On the 15 mS/m propagation curve, the equivalent distance to this field strength is 82.94 kilometers, which changes the effective path length by 38.02 (82.94 − 44.92) kilometers. Continuing on this propagation curve, the distance to a field strength of 0.025 mV/m is seen to be 224.4 kilometers. The actual length of the path travelled, however, is 191.46 (224.4 + 5.08 − 38.02) kilometers.

[28 FR 13574, Dec. 14, 1963, as amended at 44 FR 36037, June 20, 1979; 48 FR 9011, Mar. 3, 1983; 50 FR 18822, May 2, 1985; 50 FR 24522, June 11, 1985; 51 FR 9965, Mar. 24, 1986; 54 FR 39736, Sept. 28, 1989; 56 FR 64866, Dec. 12, 1991; 57 FR 43290, Sept. 18, 1992]

§ 73.184 Groundwave field strength graphs.

(a) Graphs 1 to 20 show, for each of 20 frequencies, the computed values of groundwave field strength as a function of groundwave conductivity and distance from the source of radiation. The groundwave field strength is considered to be that part of the vertical component of the electric field which has not been reflected from the ionosphere nor from the troposphere. These 20 families of curves are plotted on log-log graph paper and each is to be used for the range of frequencies shown thereon. Computations are based on a dielectric constant of the ground (referred to air as unity) equal to 15 for land and 80 for sea water and for the ground conductivities (expressed in mS/m) given on the curves. The curves show the variation of the groundwave field strength with distance to be expected for transmission from a vertical antenna at the surface of a uniformly conducting spherical earth with the groundwave constants shown on the curves. The curves are for an antenna power of such efficiency and current distribution that the inverse distance (unattenuated) field is 100 mV/m at 1 kilometer. The curves are valid for distances that are large compared to the dimensions of the antenna for other than short vertical antennas.

(b) The inverse distance field (100 mV/m divided by the distance in kilometers) corresponds to the groundwave field intensity to be expected from an antenna with the same radiation efficiency when it is located over a perfectly conducting earth. To determine the value of the groundwave field intensity corresponding to a value of inverse distance field other than 100 mV/m at 1 kilometer, multiply the field strength as given on these graphs by the desired value of inverse distance field at 1 kilometer divided by 100; for example, to determine the groundwave field strength for a station with an inverse distance field of 2700 mV/m at 1 kilometer, simply multiply the values given on the charts by 27. The value of the inverse distance field to be used for a particular antenna depends upon the power input to the antenna, the nature of the ground in the neighborhood of the antenna, and the geometry of the antenna. For methods of calculating the interrelations between these variables and the inverse distance field, see ''The Propagation of Radio Waves Over the Surface of the Earth and in the Upper Atmosphere,'' Part II, by Mr. K.A. Norton, Proc. I.R.E., Vol. 25, September 1937, pp. 1203–1237.

NOTE: The computed values of field strength versus distance used to plot Graphs 1 to 20 are available in tabular form. For information on obtaining copies of these tabulations call or write the Consumer Affairs Office, Federal Communications Commission, Washington, DC 20554, (202) 632–7000.

(c) Provided the value of the dielectric constant is near 15, the ground conductivity curves of Graphs 1 to 20 may be compared with actual field strength measurement data to determine the appropriate values of the ground conductivity and the inverse distance field strength at 1 kilometer. This is accomplished by plotting the measured field strengths on transparent log-log graph paper similar to that used for Graphs 1 to 20 and superimposing the plotted graph over the Graph corresponding to the frequency of the station measured. The plotted graph is then shifted vertically until the plotted measurement data is best aligned with one of the conductivity curves on the Graph; the intersection of the inverse distance line on the Graph with the 1 kilometer abscissa on the plotted graph determines the inverse distance field strength at 1 kilometer. For other values of dielectric constant, the following procedure may be used to determine the dielectric constant of the ground, the ground conductivity and the inverse distance field strength at 1 kilometer. Graph 21 gives the relative values of groundwave field strength over a plane earth as a function of the numerical distance p and phase angle b. On graph paper with coordinates similar to those of Graph 21, plot the measured values of field strength as ordinates versus the corresponding distances from the antenna in kilometers as abscissae. The data should be plotted only for distances greater than one wavelength (or, when this is greater, five times the vertical height of the antenna in the case of a nondirectional antenna or 10 times the spacing between the elements of a directional antenna) and for distances less than $80f^{1/3}$ MHz kilometers (*i.e.*, 80 kilometers at 1 MHz). Then, using a light box, place the plotted graph over Graph 21 and shift the plotted graph vertically and horizontally (making sure that the vertical lines on both sheets are parallel) until the best fit with the data is obtained with one of the curves on Graph 21. When the two sheets are properly lined up, the value of the field strength corresponding to the intersection of the inverse distance line of Graph 21 with the 1 kilometer abscissa on the data sheet is the inverse distance field strength at 1 kilometer, and the values of the numerical distance at 1 kilometer, p_1, and of b are also determined. Knowing the values of b and p_1 (the numerical distance at one kilometer), we may substitute in the following approximate values of the ground conductivity and dielectric constant.

$$x \cong \frac{\pi}{p} \cdot \left(\frac{R}{\lambda}\right)_1 \cdot \cos b \qquad \text{(Eq. 1)}$$

$(R/\lambda)_1$ = Number of wavelengths in 1 kilometer,

* * * * *

f_{MHz} = frequency expressed in megahertz,

$$\varepsilon \cong \chi \tan b - 1 \qquad \text{(Eq. 3)}$$

ε = dielectric constant on the ground referred to air as unity.

First solve for χ by substituting the known values of p_1, $(R/\lambda)_1$, and cos *b* in equation (1). Equation (2) may then be solved for δ and equation (3) for ε. At distances greater than 80/f⅓ MHz kilometers the curves of Graph 21 do not give the correct relative values of field strength since the curvature of the earth weakens the field more rapidly than these plane earth curves would indicate. Thus, no attempt should be made to fit experimental data to these curves at the larger distances.

NOTE: For other values of dielectric constant, use can be made of the computer program which was employed by the FCC in generating the curves in Graphs 1 to 20. For information on obtaining a printout of this program, call or write the Consumer Affairs Office, Federal Communications Commission, Washington, DC 200554, (202) 632–7000.

(d) At sufficiently short distances (less than 55 kilometers at AM broadcast frequencies), such that the curvature of the earth does not introduce an additional attenuation of the waves, the curves of Graph 21 may be used to determine the groundwave field strength of transmitting and receiving antennas at the surface of the earth for any radiated power, frequency, or set of ground constants. First, trace the straight inverse distance line corresponding to the power radiated on transparent log-log graph paper similar to that of Graph 21, labelling the ordinates of the chart in terms of field strength, and the abscissae in terms of distance. Next, using the formulas given on Graph 21, calculate the value of the numerical distance, *p*, at 1 kilometer, and the value of *b*. Then superimpose the log-log graph paper over Graph 21, shifting it vertically until both inverse distance lines coincide and shifting it horizontally until the numerical distance at 1 kilometer on Graph 21 coincides with 1 kilometer on the log-log graph paper. The curve of Graph 21 corresponding to the calculated value of *b* is then traced on the log-log graph paper giving the field strength versus distance in kilometers.

(e) This paragraph consists of the following Graphs 1 to 20 and 21.

NOTE: The referenced graphs are not published in the CFR, nor will they be included in the Commission's automated rules system. For information on obtaining copies of the graphs call or write the Consumer Affairs Office, Federal Communications Commission, Washington, DC 20554, Telephone: (202) 632–7000.

[28 FR 13574, Dec. 14, 1963, as amended at 50 FR 18823, May 2, 1985; 51 FR 45891, Dec. 23, 1986; 52 FR 36878, Oct. 1, 1987; 56 FR 64866, Dec. 12, 1991; 57 FR 43290, Sept. 18, 1992]

§ 73.185 Computation of interfering signal.

(a) Measured values of radiation are not to be used in calculating overlap, interference, and coverage.

(1) In the case of an antenna which is intended to be non-directional in the horizontal plane, an ideal non-directional radiation pattern shall be used in determining interference, overlap, and coverage, even if the antenna is not actually non-directional.

(2) In the case of an antenna which is directional in the horizontal plane, the radiation which shall be used in determining interference, overlap, and coverage is that calculated pursuant to § 73.150 or § 73.152, depending on whether the station has a standard or modified standard pattern.

(3) In the case of calculation of interference or overlap to (not from) a foreign station, the notified radiation shall be used, even if the notified radiation differs from that in paragraphs (a) (1) or (2) of this section.

(b) For skywave signals from stations operating on all channels, interference shall be determined from the appropriate formulas and Figure 6a contained in § 73.190.

(c) The formulas in § 73.190(d) depicted in Figure 6a of § 73.190, entitled ''Angles of Departure versus Transmission Range'' are to be used in determining the angles in the vertical pattern of the antenna of an interfering station to be considered as pertinent to transmission by one reflection. To provide for variation in the pertinent vertical angle due to variations of ionosphere height and ionosphere scattering, the curves 2 and 3 indicate the upper and lower angles within which the radiated field is to be considered. The maximum value of field strength occurring between these angles shall be

used to determine the multiplying factor to apply to the 10 percent skywave field intensity value determined from Formula 2 in §73.190. The multiplying factor is found by dividing the maximum radiation between the pertinent angles by 100 mV/m.

(d) Example of the use of skywave curves and formulas: Assume a proposed new Class B station from which interference may be expected is located at a distance of 724 kilometers from a licensed Class B station. The proposed station specifies geographic coordinates of 40°00′00″ N and 100°00′00″ W and the station to be protected is located at an azimuth of 45° true at geographic coordinates of 44°26′05″ N and 93°32′54″ W. The critical angles of radiation as determined from Figure 6a of §73.190 for use with Class B stations are 9.6° and 16.6°. If the vertical pattern of the antenna of the proposed station in the direction of the existing station is such that, between the angles of 9.6° and 16.6° above the horizon the maximum radiation is 260 mV/m at one kilometer, the value of the 50% field, as derived from Formula 1 of §73.190, is 0.06217 mV/m at the location of the existing station. To obtain the value of the 10% field, the 50% value must be adjusted by a factor derived from Formula 2 of §73.190. The value in this case is 8.42 dB. Thus, the 10% field is 0.1616 mV/m. Using this in conjunction with the co-channel protection ratio of 26 dB, the resultant nighttime limit from the proposed station to the licensed station is 3.232 mV/m.

(e) In the case of an antenna which is non-directional in the horizontal plane, the vertical distribution of the relative fields should be computed pursuant to §73.160. In the case of an antenna which is directional in the horizontal plane, the vertical pattern in the great circle direction toward the point of reception in question must first be calculated. In cases where the radiation in the vertical plane, at the pertinent azimuth, contains a large lobe at a higher angle than the pertinent angle for one reflection, the method of calculating interference will not be restricted to that just described; each such case will be considered on the basis of the best knowledge available.

(f) In performing calculations to determine permissible radiation from stations operating presunrise or postsunset in accordance with §73.99, calculated diurnal factors will be multiplied by the values of skywave field strength for such stations obtained from Formula 1 or 2 of §73.190.

(1) The diurnal factor is determined using the time of day at the mid-point of path between the site of the interfering station and the point at which interference is being calculated. Diurnal factors are computed using the formula $D_f = a + bF + cF^2 + dF^3$ where:

D_f represents the diurnal factor,
F is the frequency in MHz,
a,b,c, and d are constants obtained from the tables in paragraph (k)(2)

A diurnal factor greater than one will not be used in calculations and interpolation is to be used between calculated values where necessary. For reference purposes, curves for presunrise and postsunset diurnal factors are contained in Figures 13 and 14 of §73.190.

(2) Constants used in calculating diurnal factors for the presunrise and postsunset periods are contained in paragraphs (f)(2) (i) and (ii) of this section respectively. The columns labeled T_{mp} represent the number of hours before and after sunrise and sunset at the path midpoint.

(i) PRESUNRISE CONSTANTS

T_{mp}	a	b	c	d
−2	1.3084	.0083	−.0155	.0144
−1.75	1.3165	−.4919	.6011	−.1884
−1.5	1.0079	.0296	.1488	−.0452
−1.25	.7773	.3751	−.1911	.0736
−1	.6230	.1547	.2654	−.1006
−.75	.3718	.1178	.3632	−.1172
−.5	.2151	.0737	.4167	−.1413
−.25	.2027	−.2560	.7269	−.2577
SR	.1504	−.2325	.5374	−.1729
+ .25	.1057	−.2092	.4148	−.1239
+ 5.	.0642	−.1295	.2583	−.0699
+ .75	.0446	−.1002	.1754	−.0405
+ 1	.0148	.0135	.0462	.0010

(ii) POSTSUNSET CONSTANTS

T_{mp}	a	b	c	d
1.75	.9495	−.0187	.0720	−.0290
1.5	.7196	.3583	−.2280	.0611
1.25	.6756	.1518	.0279	−.0163
1.0	.5486	.1401	.0952	−.0288
.75	.3003	.4050	−.0961	.0256
.5	.1186	.4281	−.0799	.0197
.25	.0382	.3706	−.0673	.0171

T_{mp}	a	b	c	d
SS	.0002	.3024	−.0540	.0086
−.25	.0278	.0458	.1473	−.0486
−.5	.0203	.0132	.1166	−.0340
−.75	.0152	−.0002	.0786	−.0185
−1.0	−.0043	.0452	−.0040	.0103
−1.25	.0010	.0135	.0103	.0047
−1.5	.0018	.0052	.0069	.0042
−1.75	−.0012	.0122	−.0076	.0076
−2.0	−.0024	.0141	−.0141	.0091

EDITORIAL NOTE: At 56 FR 64867, Dec. 12, 1991, §73.185 was amended by redesignating paragraphs (d), (e), (h), and (k) as (c), (d), (e), and (f), resulting in two consecutive paragraph (f)'s. These paragraphs will be correctly designated by a Federal Communication Commission document published in the FEDERAL REGISTER at a later date.

(f) For stations operating on regional and local channels, interfering skywave field intensities shall be determined in accordance with the procedure specified in (d) of this section and illustrated in (e) of this section, except that Figure 2 of §73.190 is used in place of Figure 1a and 1b and the formulas of §73.190. In using Figure 2 of §73.190, one additional parameter must be considered, *i.e.*, the variation of received field with the latitude of the path.

(g) Figure 2 of §73.190, ''10 percent Skywave Signal Range Chart,'' shows the signal as a function of the latitude of the transmission path, which is defined as the geographic latitude of the midpoint between the transmitter and receiver. When using Figure 2 of §73.190, latitude 35° should be used in case the mid-point of the path lies below 35° North and latitude 50° should be used in case the mid-point of the path lies above 50° North.

[30 FR 13783, Oct. 29, 1965, as amended at 33 FR 15420, Oct. 17, 1968; 46 FR 11995, Feb. 12, 1981; 48 FR 42958, Sept. 20, 1983; 50 FR 18843, May 2, 1985; 56 FR 64867, Dec. 12, 1991]

§73.186 Establishment of effective field at one kilometer.

(a) Section 73.189 provides that certain minimum field strengths are acceptable in lieu of the required minimum physical heights of the antennas proper. Also, in other situations, it may be necessary to determine the effective field. The following requirements shall govern the taking and submission of data on the field strength produced:

(1) Beginning as near to the antenna as possible without including the induction field and to provide for the fact that a broadcast antenna is not a point source of radiation (not less than one wave length or 5 times the vertical height in the case of a single element, *i.e.*, nondirectional antenna or 10 times the spacing between the elements of a directional antenna), measurements shall be made on six or more radials, at intervals of approximately 0.2 kilometer up to 3 kilometers from the antenna, at intervals of approximately one kilometer from 3 kilometers to 5 kilometers from the antenna, at intervals of approximately 2 kilometers from 5 kilometers to 15 kilometers from the antenna, and a few additional measurements if needed at greater distances from the antenna. Where the antenna is rurally located and unobstructed measurements can be made, there shall be at least 15 measurements on each radial. These shall include at least 7 measurements within 3 kilometers of the antenna. However, where the antenna is located in a city where unobstructed measurements are difficult to make, measurements shall be made on each radial at as many unobstructed locations as possible, even though the intervals are considerably less than stated above, particularly within 3 kilometers of the antenna. In cases where it is not possible to obtain accurate measurements at the closer distances (even out to 8 or 10 kilometers due to the character of the intervening terrain), the measurements at greater distances should be made at closer intervals.

(2) The data required by paragraph (a)(1) of this section should be plotted for each radial in accordance with either of the two methods set forth below:

(i) Using log-log coordinate paper, plot field strengths as ordinate and distance as abscissa.

(ii) Using semi-log coordinate paper, plot field strength times distance as ordinate on the log scale and distance as abscissa on the linear scale.

(3) However, regardless of which of the methods in paragraph (a)(2) of this section is employed, the proper curve to be drawn through the points plotted shall be determined by comparison

with the curves in §73.184 as follows: Place the sheet on which the actual points have been plotted over the appropriate Graph in §73.184, hold to the light if necessary and adjust until the curve most closely matching the points is found. This curve should then be drawn on the sheet on which the points were plotted, together with the inverse distance curve corresponding to that curve. The field at 1 kilometer for the radial concerned shall be the ordinate on the inverse distance curve at 1 kilometer.

(4) When all radials have been analyzed in accordance with paragraph (a)(3) of this section, a curve shall be plotted on polar coordinate paper from the fields obtained, which gives the inverse distance field pattern at 1 kilometer. The radius of a circle, the area of which is equal to the area bounded by this pattern, is the effective field. (See §73.14.)

(5) The antenna power of the station shall be maintained at the authorized level during all field measurements. The power determination will be made using the direct method as described in §73.51(a) with instruments of acceptable accuracy specified in §73.1215.

(b) Complete data taken in conjunction with the field strength measurements shall be submitted to the Commission in affidavit form including the following:

(1) Tabulation by number of each point of measurement to agree with the maps required in paragraph (c) of this section, the date and time of each measurement, the field strength (E), the distance from the antenna (D) and the product of the field strength and distance (ED) (if data for each radial are plotted on semilogarithmic paper, see paragraph (a)(2)(ii) of this section) for each point of measurement.

(2) Description of method used to take field strength measurements.

(3) The family of theoretical curves used in determining the curve for each radial properly identified by conductivity and dielectric constants.

(4) The curves drawn for each radial and the field strength pattern.

(5) The antenna resistance at the operating frequency.

(6) Antenna current or currents maintained during field strength measurements.

(c) Maps showing each measurement point numbered to agree with the required tabulation shall be retained in the station records and shall be available to the FCC upon request.

[28 FR 13574, Dec. 14, 1963, as amended at 41 FR 44178, Oct. 7, 1976; 46 FR 11995, Feb. 12, 1981; 49 FR 49851, Dec. 24, 1984; 50 FR 18843, May 2, 1985; 50 FR 47055, Nov. 14, 1985; 51 FR 2707, Jan. 21, 1986; 52 FR 10570, Apr. 2, 1987; 66 FR 20757, Apr. 25, 2001]

§73.187 Limitation on daytime radiation.

(a)(1) Except as otherwise provided in paragraphs (a)(2) and (3) of this section, no authorization will be granted for a Class B or Class D station on a frequency specified in §73.25 if the proposed operation would radiate during the period of critical hours (the two hours after local sunrise and the two hours before local sunset) toward any point on the 0.1 mV/m contour of a co-channel U.S. Class A station, at or below the pertinent vertical angle determined from Curve 2 of Figure 6a of §73.190, values in excess of those obtained as provided in paragraph (b) of this section.

(2) The limitation set forth in paragraph (a)(1) of this section shall not apply in the following cases:

(i) Any Class B or Class D operation authorized before November 30, 1959; or

(ii) For Class B and Class D stations authorized before November 30, 1959, subsequent changes of facilities which do not involve a change in frequency, an increase in radiation toward any point on the 0.1 mV/m contour of a co-channel U.S. Class A station, or the move of transmitter site materially closer to the 0.1 mV/m contour of such Class A station.

(3) A Class B or Class D station authorized before November 30, 1959, and subsequently authorized to increase daytime radiation in any direction toward the 0.1 mV/m contour of a co-channel U.S. Class A station (without a change in frequency or a move of transmitter site materially closer to such contour), may not, during the two hours after local sunrise or the two hours before local sunset, radiate in

such directions a value exceeding the higher of:

(i) The value radiated in such directions with facilities last authorized before November 30, 1959, or

(ii) The limitation specified in paragraph (a)(1) of this section.

(b) To obtain the maximum permissible radiation for a Class B or Class D station on a given frequency from 640 through 990 kHz, multiply the radiation value obtained for the given distance and azimuth from the 500 kHz chart (Figure 9 of § 73.190) by the appropriate interpolation factor shown in the K_{500} column of paragraph (c) of this section; and multiply the radiation value obtained for the given distance and azimuth from the 1000 kHz chart (Figure 10 of § 73.190) by the appropriate interpolation factor shown in the K_{1000} column of paragraph (c) of this section. Add the two products thus obtained; the result is the maximum radiation value applicable to the Class B or Class D station in the pertinent directions. For frequencies from 1010 to 1580 kHz, obtain in a similar manner the proper radiation values from the 1000 and 1600 kHz charts (Figures 10 and 11 of § 73.190), multiply each of these values by the appropriate interpolation factors in the K'_{1000} and K'_{1600} columns in paragraph (c) of this section, and add the products.

(c) *Interpolation factors.* (1) Frequencies below 1000 kHz.

fkHz	K^{500}	K^{1000}
640	0.720	0.280
650	0.700	0.300
660	0.680	0.320
670	0.660	0.340
680	0.640	0.360
690	0.620	0.380
700	0.600	0.400
710	0.580	0.420
720	0.560	0.440
730	0.540	0.460
740	0.520	0.480
750	0.500	0.500
760	0.480	0.520
770	0.460	0.540
780	0.440	0.560
800	0.400	0.600
810	0.380	0.620
820	0.360	0.640
830	0.340	0.660
840	0.320	0.680
850	0.300	0.700
860	0.280	0.720
870	0.260	0.740
880	0.240	0.760
890	0.220	0.780
900	0.200	0.800
940	0.120	0.880
990	0.020	0.980

(2) Frequencies above 1000 kHz.

f′kHz	K'^{1000}	K'^{1600}
1010	0.983	0.017
1020	0.967	0.033
1030	0.950	0.050
1040	0.933	0.067
1050	0.917	0.083
1060	0.900	0.100
1070	0.883	0.117
1080	0.867	0.133
1090	0.850	0.150
1100	0.833	0.167
1110	0.817	0.183
1120	0.800	0.200
1130	0.783	0.217
1140	0.767	0.233
1160	0.733	0.267
1170	0.717	0.283
1180	0.700	0.300
1190	0.683	0.317
1200	0.667	0.333
1210	0.650	0.350
1220	0.633	0.367
1500	0.167	0.833
1510	0.150	0.850
1520	0.133	0.867
1530	0.117	0.883
1540	0.100	0.900
1550	0.083	0.917
1560	0.067	0.933
1570	0.050	0.950
1580	0.033	0.967

[28 FR 13574, Dec. 14, 1963, as amended at 49 FR 43962, Nov. 1, 1984; 56 FR 64868, Dec. 12, 1991]

§ 73.189 Minimum antenna heights or field strength requirements.

(a) Section 73.45 requires that all applicants for new, additional, or different broadcast facilities and all licensees requesting authority to move 0the transmitter of an existing station, shall specify a radiating system, the efficiency of which complies with the requirements of good engineering practice for the class and power of the station.

(b) The specifications deemed necessary to meet the requirements of good engineering practice at the present state of the art are set out in detail below.

(1) The licensee of a AM broadcast station requesting a change in power, time of operation, frequency, or transmitter location must also request authority to install a new antenna system or to make changes in the existing antenna system which will meet the

minimum height requirements, or submit evidence that the present antenna system meets the minimum requirements with respect to field strength, before favorable consideration will be given thereto. (See §73.186.) In the event it is proposed to make substantial changes in an existing antenna system, the changes shall be such as to meet the minimum height requirements or will be permitted subject to the submission of field strength measurements showing that it meets the minimum requirements with respect to effective field strength.

(2) These minimum actual physical vertical heights of antennas permitted to be installed are shown by curves A, B, and C of Figure 7 of §73.190 as follows:

(i) Class C stations, and stations in Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands on 1230, 1240, 1340, 1400, 1450 and 1490 kHz that were formerly Class C and were redesignated as Class B pursuant to §73.26(b), 45 meters or a minimum effective field strength of 180 mV/m for 1 kW at 1 kilometer (90 mV/m for 0.25 kW at 1 kilometer). (This height applies to a Class C station on a local channel only. Curve A shall apply to any Class C stations in the 48 conterminous States that are assigned to Regional channels.)

(ii) Class A (Alaska), Class B and Class D stations other than those covered in §73.189(b)(2)(i), a minimum effective field strength of 215 mV/m for 1 kW at 1 kilometer.

(iii) Class A stations, a minimum effective field strength of 275 mV/m for 1 kW at 1 kilometer.

(3) The heights given on the graph for the antenna apply regardless of whether the antenna is located on the ground or on a building. Except for the reduction of shadows, locating the antenna on a building does not necessarily increase the efficiency and where the height of the building is in the order of a quarter wave the efficiency may be materially reduced.

(4) At the present development of the art, it is considered that where a vertical radiator is employed with its base on the ground, the ground system should consist of buried radial wires at least one-fourth wave length long. There should be as many of these radials evenly spaced as practicable and in no event less than 90. (120 radials of 0.35 to 0.4 of a wave length in length and spaced 3° is considered an excellent ground system and in case of high base voltage, a base screen of suitable dimensions should be employed.)

(5) In case it is contended that the required antenna efficiency can be obtained with an antenna of height or ground system less than the minimum specified, a complete field strength survey must be supplied to the Commission showing that the field strength at a mile without absorption fulfills the minimum requirements. (See §73.186.) This field survey must be made by a qualified engineer using equipment of acceptable accuracy.

(6) The main element or elements of a directional antenna system shall meet the above minimum requirements with respect to height or effective field strength. No directional antenna system will be approved which is so designed that the effective field of the array is less than the minimum prescribed for the class of station concerned, or in case of a Class A station less than 90 percent of the ground wave field which would be obtained from a perfect antenna of the height specified by Figure 7 of §73.190 for operation on frequencies below 1000 kHz, and in the case of a Class B or Class D station less than 90 percent of the ground wave field which would be obtained from a perfect antenna of the height specified by Figure 7 of §73.190 for operation on frequencies below 750 kHz.

[28 FR 13574, Dec. 14, 1963, as amended at 31 FR 8069, June 8, 1966; 33 FR 15420, Oct. 17, 1968; 44 FR 36038, June 20, 1979; 50 FR 18844, May 2, 1985; 51 FR 2707, Jan. 21, 1986; 51 FR 4753, Feb. 7, 1986; 52 FR 10570, Apr. 2, 1987; 56 FR 64868, Dec. 12, 1991; 81 FR 2760, Jan. 19, 2016]

§73.190 Engineering charts and related formulas.

(a) This section consists of the following Figures: 2, r3, 5, 6a, 7, 8, 9, 10, 11, 12, and 13. Additionally, formulas that are directly related to graphs are included.

(b) Formula 1 is used for calculation of 50% skywave field strength values.

FORMULA 1. Skywave field strength, 50% of the time (at SS + 6):

The skywave field strength, $F_c(50)$, for a characteristic field strength of 100 mV/m at 1 km is given by:

$$F_c(50) = (97.5 - 20\log D) - \left(2\pi + 4.95\tan^2\phi_M\right)\sqrt{\left(\frac{D}{1000}\right)} \quad dB(\mu V/m) \qquad \text{(Eq. 1)}$$

The slant distance, D, is given by:

$$D = \sqrt{40{,}000 + d^2} \quad km \qquad \text{(Eq. 2)}$$

The geomagnetic latitude of the midpoint of the path, Φ_M, is given by:

Φ_M = arcsin[sin a_M sin 78.5° + cos a_M cos 78.5° cos(69 + b_M)]degrees (Eq. 3)

The short great-circle path distance, d, is given by:

$$d = 111.18d^\circ \; km \qquad \text{(Eq. 4)}$$

Where:

d° = arccos[sin a_T sin a_R + cos a_T cos a_R cos(b_R − b_T)]degrees (Eq.5)

Where:

a_T is the geographic latitude of the transmitting terminal (degrees)

a_R is the geographic latitude of the receiving terminal (degrees)

b_T is the geographic longitude of the transmitting terminal (degrees)

b_R is the geographic longitude of the receiving terminal (degrees)

a_M is the geographic latitude of the midpoint of the great-circle path (degrees) and is given by:

b_M is the geographic longitude of the midpoint of the great-circle path (degrees) and is given by:

$$a_M = 90 - \arccos\left[\sin a_R \cos\left(\frac{d^\circ}{2}\right) + \cos a_R \sin\left(\frac{d^\circ}{2}\right)\left(\frac{\sin a_T - \sin a_R \cos d^\circ}{\cos a_R \sin d^\circ}\right)\right] \qquad \text{(Eq. 6)}$$

$$b_M = b_R + k\left[\arccos\left(\frac{\cos\left(\frac{d^\circ}{2}\right) - \sin a_R \sin a_M}{\cos a_R \cos a_M}\right)\right] \qquad \text{(Eq. 7)}$$

Note (1): If $|F_M|$ is greater than 60 degrees, equation (1) is evaluated for $|F_M|$ = 60 degrees.

Note (2): North and east are considered positive; south and west negative.

Note (3): In equation (7), $k = -1$ for west to east paths (*i.e.*, $b_R > b_T$), otherwise $k = 1$.

(c) Formula 2 is used for calculation of 10% skywave field strength values.

FORMULA 2. Skywave field strength, 10% of the time (at SS + 6):

The skywave field strength, $F_c(10)$, is given by:

$F_c(10) = F_c(50) + \Delta$ dB(μV/m)

Where:

$\Delta = 6$ when $|F_M| < 40$

$\Delta = 0.2\,|F_M| - 2$ when $40 \leq |F_M| \leq 60$

$\Delta = 10$ when $|F_M| > 60$

(d) Figure 6a depicts angles of departure versus transmission range. These angles may also be computed using the following formulas:

$$\theta^\circ = \tan^{-1}\left(k_n \cot\frac{d}{444.54}\right) - \frac{d}{444.54}$$

Where:

d = distance in kilometers
n = 1 for 50% field strength values
n = 2 or 3 for 10% field strength values
and where
$K_1 = 0.00752$
$K_2 = 0.00938$
$K_3 = 0.00565$

NOTE: Computations using these formulas should not be carried beyond 0.1 degree.

(e) In the event of disagreement between computed values using the formulas shown above and values obtained directly from the figures, the computed values will control.

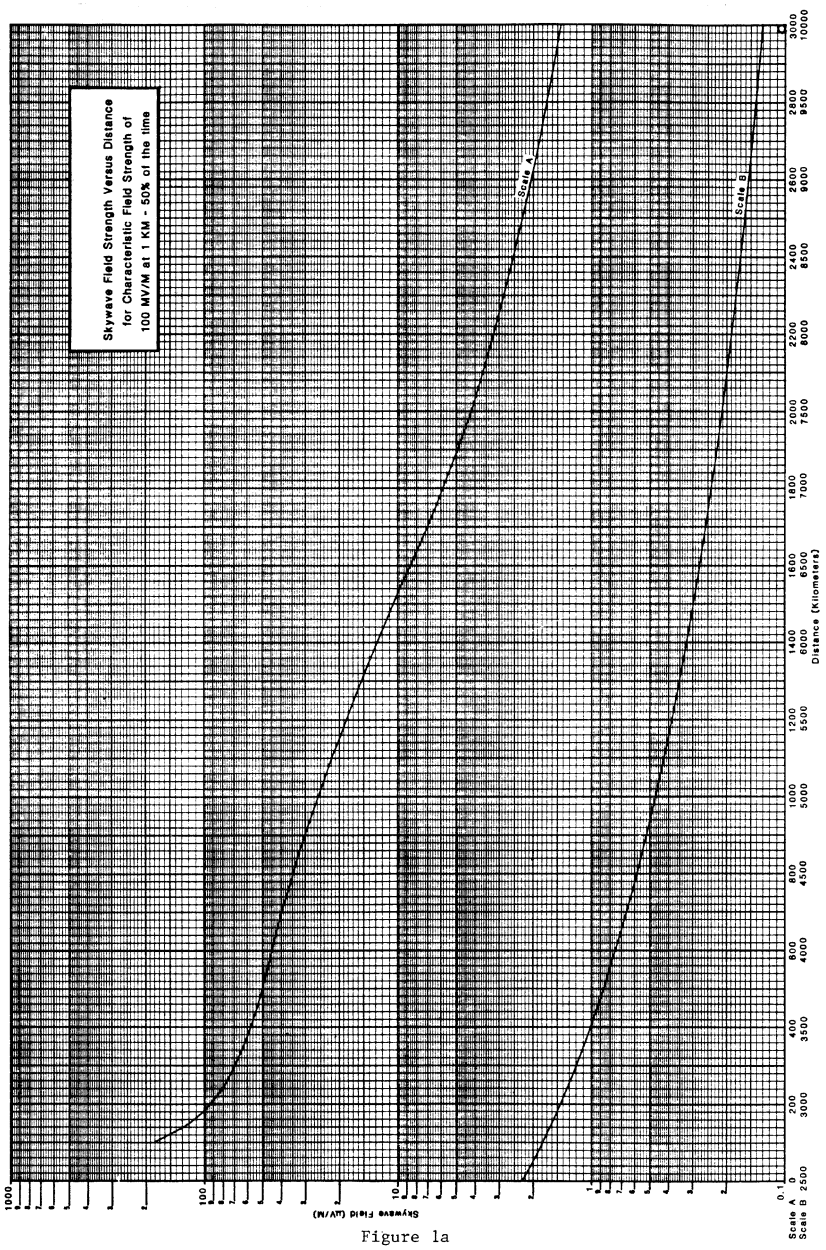
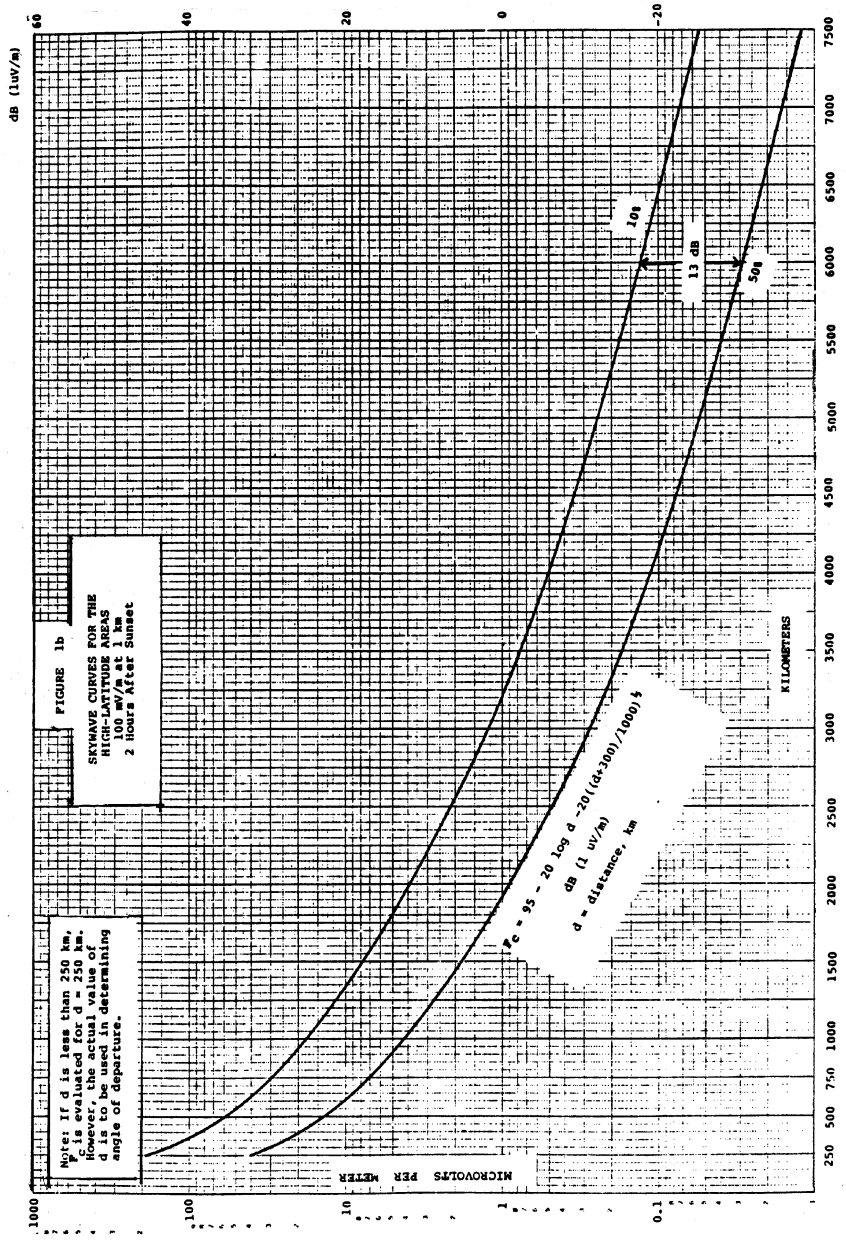
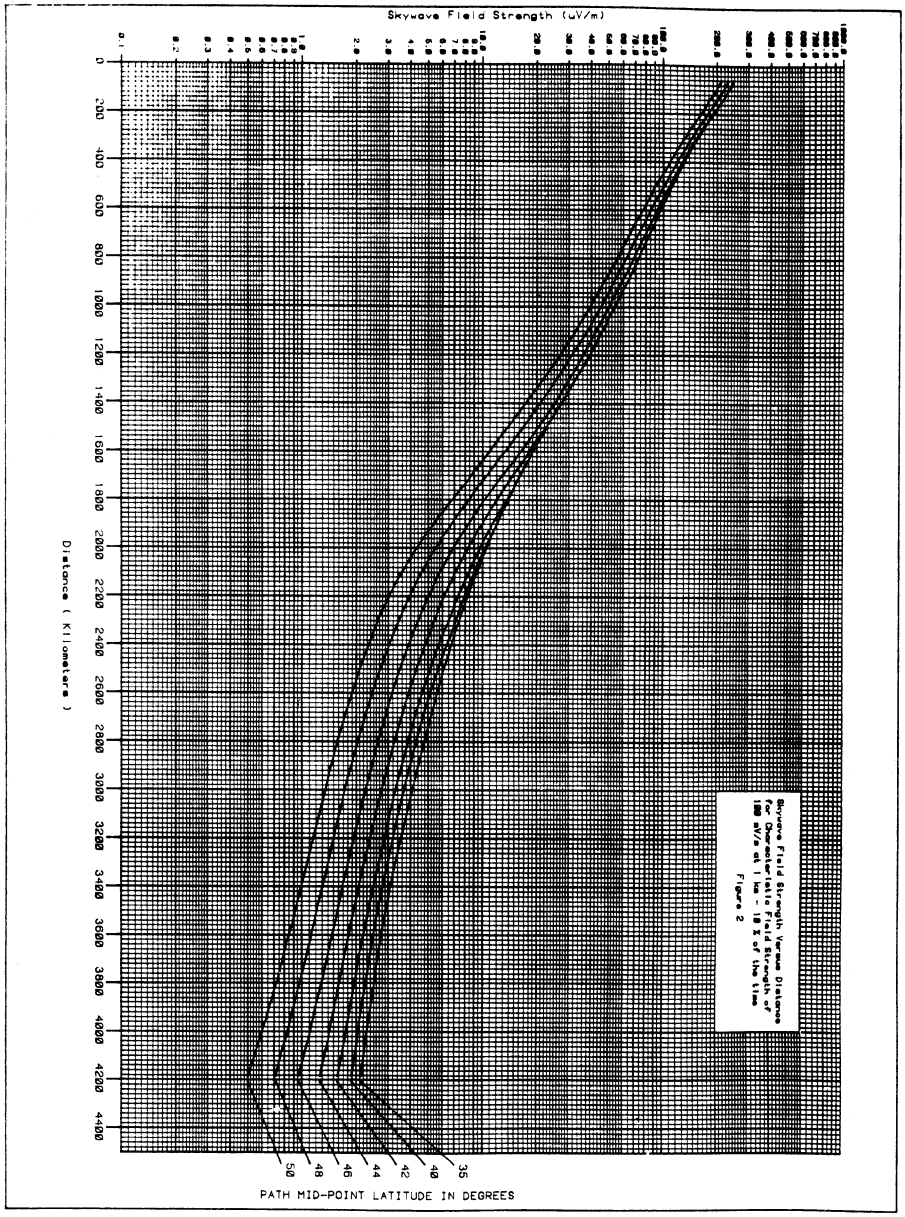

Skywave Field Strength Versus Distance
for Characteristic Field Strength of
100 MV/M at 1 KM - 50% of the time
Scale A
Scale B
Skywave Field (uV/M)
Distance (Kilometers)
Scale A
Scale B

Figure 1a


dB (1uV/m)
60
40
20
0
-20
7500
7000
6500
6000
5500
5000
4500
4000
3500
3000
2500
2000
1500
1000
750
500
250
KILOMETERS
MICROVOLTS PER METER
1000
100
10
1
0.1
10%
50%
13 dB
Fc = 95 - 20 log d -20((d+300)/1000)
dB (1 uV/m)
d = distance, km
FIGURE 1b
SKYWAVE CURVES FOR THE HIGH-LATITUDE AREAS 100 mV/m at 1 km 2 Hours After Sunset
Note: If d is less than 250 km, Fc is evaluated for d = 250 km. However, the actual value of d is to be used in determining angle of departure.


Skywave Field Strength (uV/m)
Distance (Kilometers)
PATH MID-POINT LATITUDE IN DEGREES
50
48
46
44
42
40
35
Skywave Field Strength Versus Distance for Characteristic Field Strength of 100 mV/m at 1 km - 10 % of the time
Figure 2

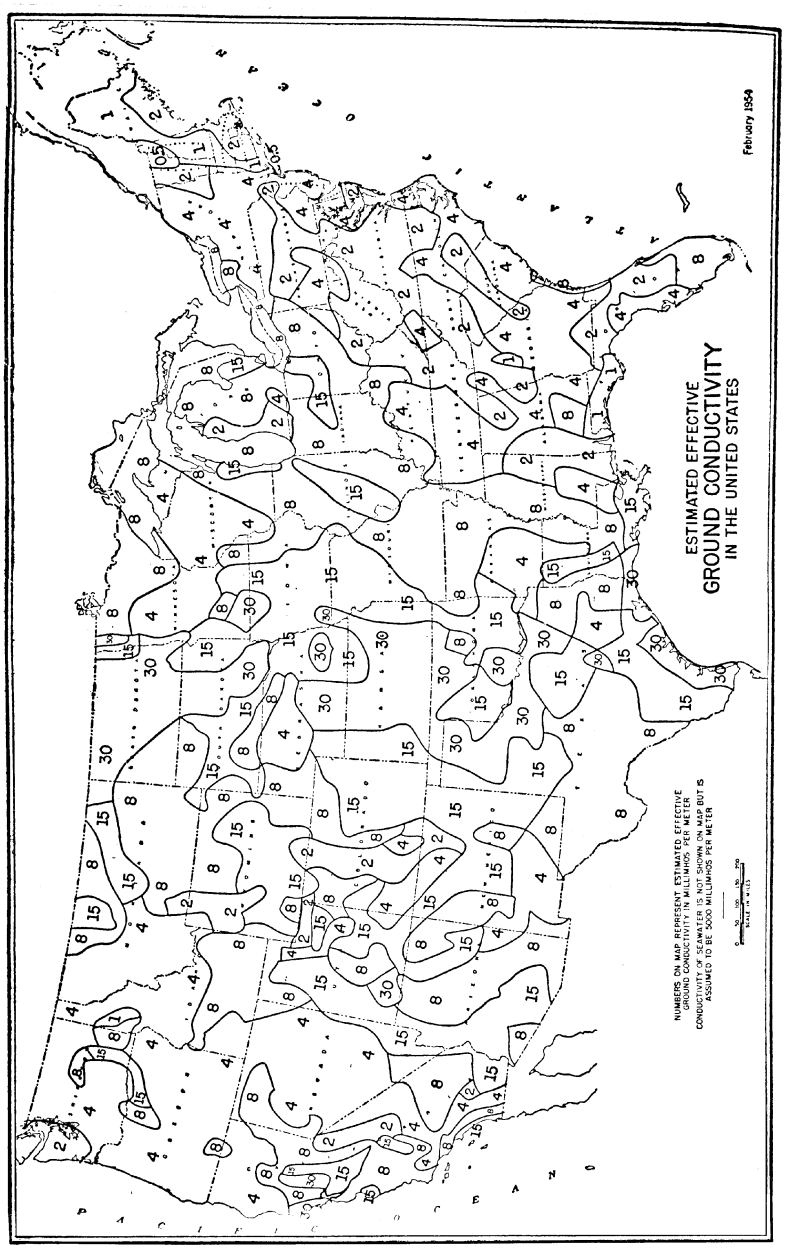

ESTIMATED EFFECTIVE
GROUND CONDUCTIVITY
IN THE UNITED STATES
February 1954
NUMBERS ON MAP REPRESENT ESTIMATED EFFECTIVE GROUND CONDUCTIVITY IN MILLIMHOS PER METER
CONDUCTIVITY OF SEAWATER IS NOT SHOWN ON MAP BUT IS ASSUMED TO BE 5000 MILLIMHOS PER METER

FIGURE B3.

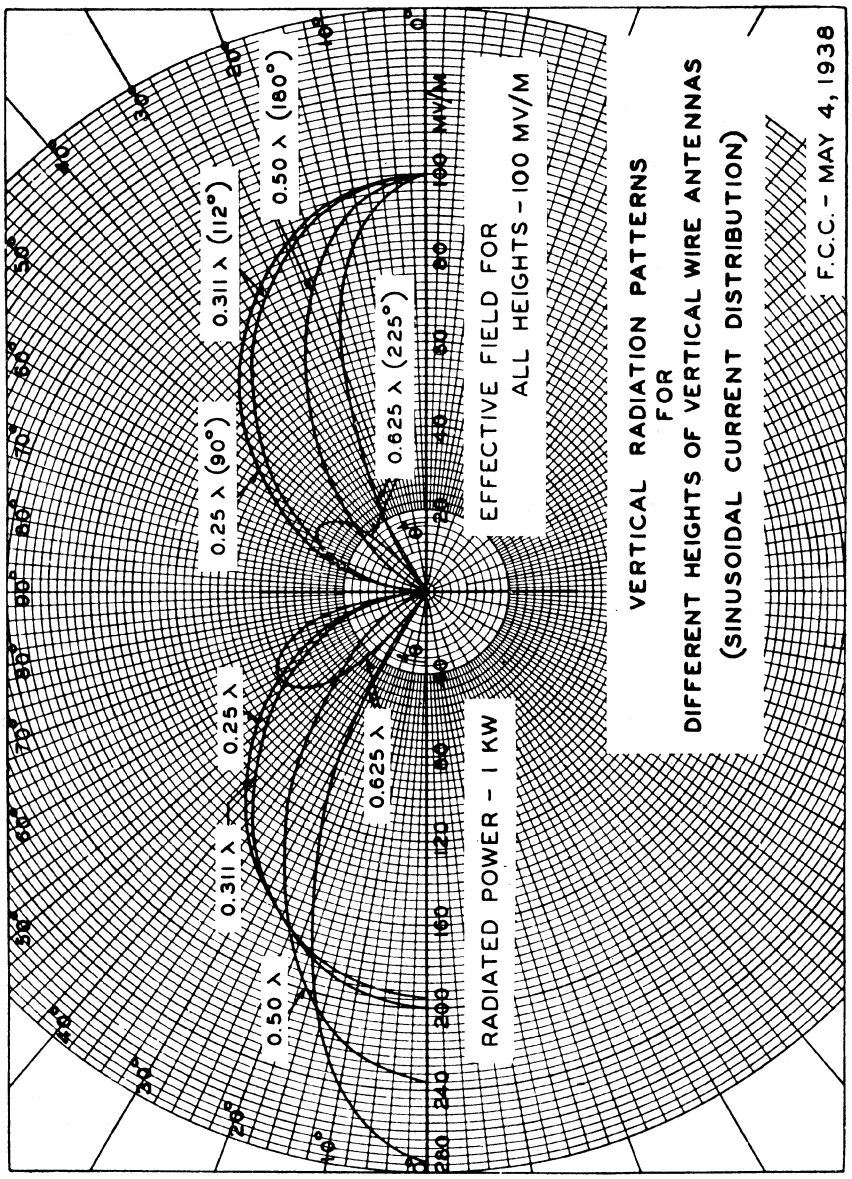
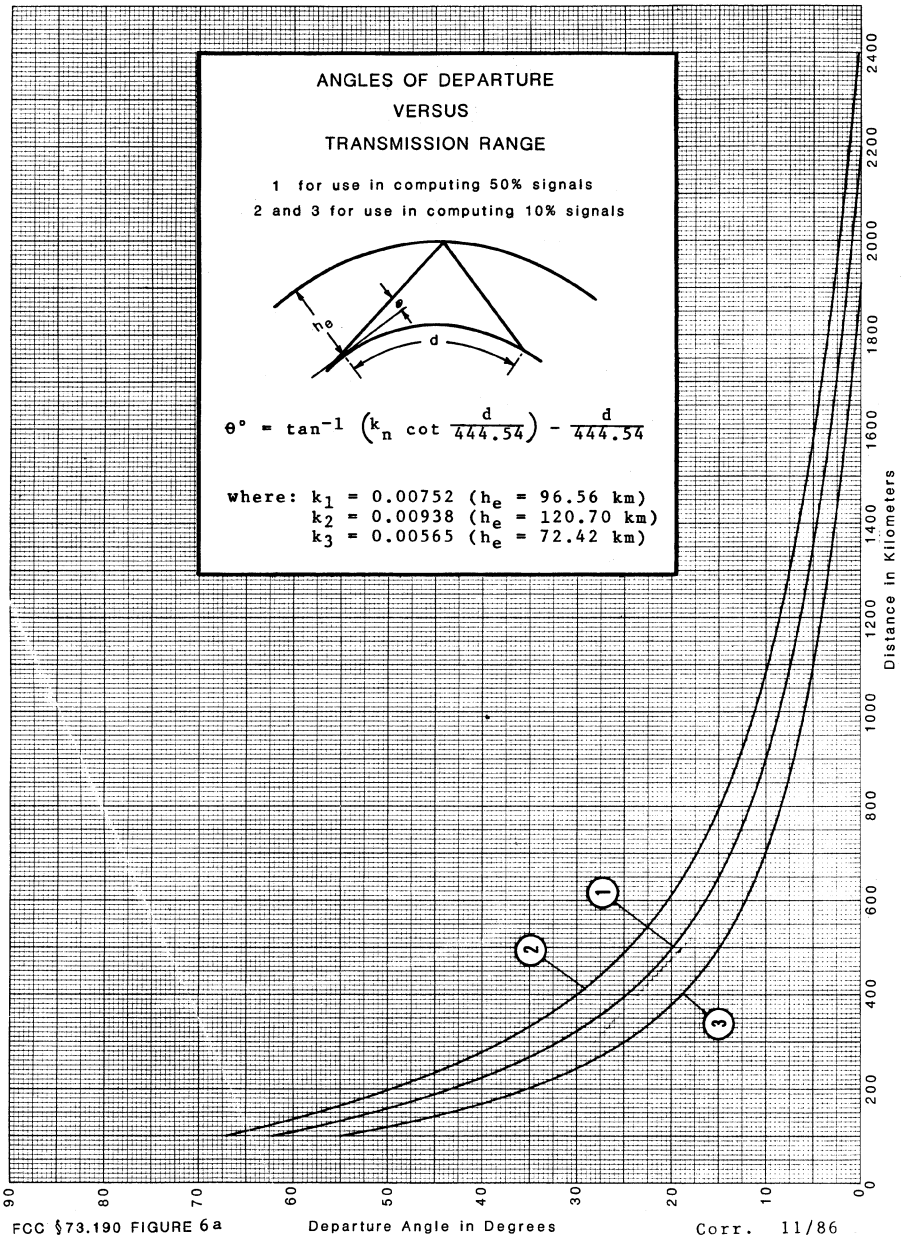

VERTICAL RADIATION PATTERNS
FOR
DIFFERENT HEIGHTS OF VERTICAL WIRE ANTENNAS
(SINUSOIDAL CURRENT DISTRIBUTION)
F.C.C. - MAY 4, 1938
EFFECTIVE FIELD FOR
ALL HEIGHTS - 100 MV/M
RADIATED POWER - 1 KW
0.25 λ
0.311 λ
0.50 λ
0.625 λ
0.25 λ (90°)
0.311 λ (112°)
0.50 λ (180°)
0.625 λ (225°)
MV/M

Figure 5



FCC §73.190 FIGURE 6a Corr. 11/86

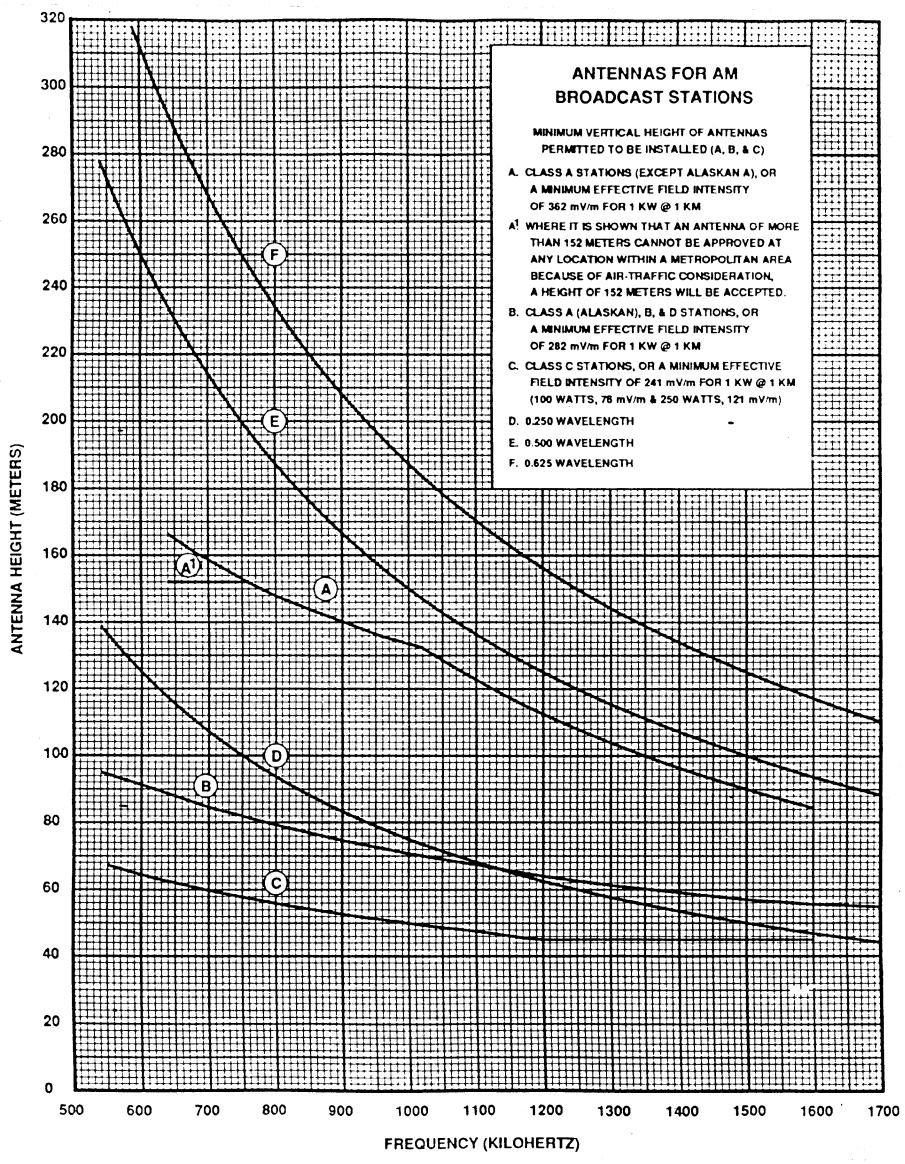

ANTENNAS FOR AM
BROADCAST STATIONS
MINIMUM VERTICAL HEIGHT OF ANTENNAS PERMITTED TO BE INSTALLED (A, B, & C)
A. CLASS A STATIONS (EXCEPT ALASKAN A), OR A MINIMUM EFFECTIVE FIELD INTENSITY OF 362 mV/m FOR 1 KW @ 1 KM
A1 WHERE IT IS SHOWN THAT AN ANTENNA OF MORE THAN 152 METERS CANNOT BE APPROVED AT ANY LOCATION WITHIN A METROPOLITAN AREA BECAUSE OF AIR-TRAFFIC CONSIDERATION, A HEIGHT OF 152 METERS WILL BE ACCEPTED.
B. CLASS A (ALASKAN), B, & D STATIONS, OR A MINIMUM EFFECTIVE FIELD INTENSITY OF 282 mV/m FOR 1 KW @ 1 KM
C. CLASS C STATIONS, OR A MINIMUM EFFECTIVE FIELD INTENSITY OF 241 mV/m FOR 1 KW @ 1 KM (100 WATTS, 76 mV/m & 250 WATTS, 121 mV/m)
D. 0.250 WAVELENGTH
E. 0.500 WAVELENGTH
F. 0.625 WAVELENGTH
ANTENNA HEIGHT (METERS)
320
300
280
260
240
220
200
180
160
140
120
100
80
60
40
20
0
500
600
700
800
900
1000
1100
1200
1300
1400
1500
1600
1700
FREQUENCY (KILOHERTZ)
F
E
A1
A
D
B
C

Figure 7

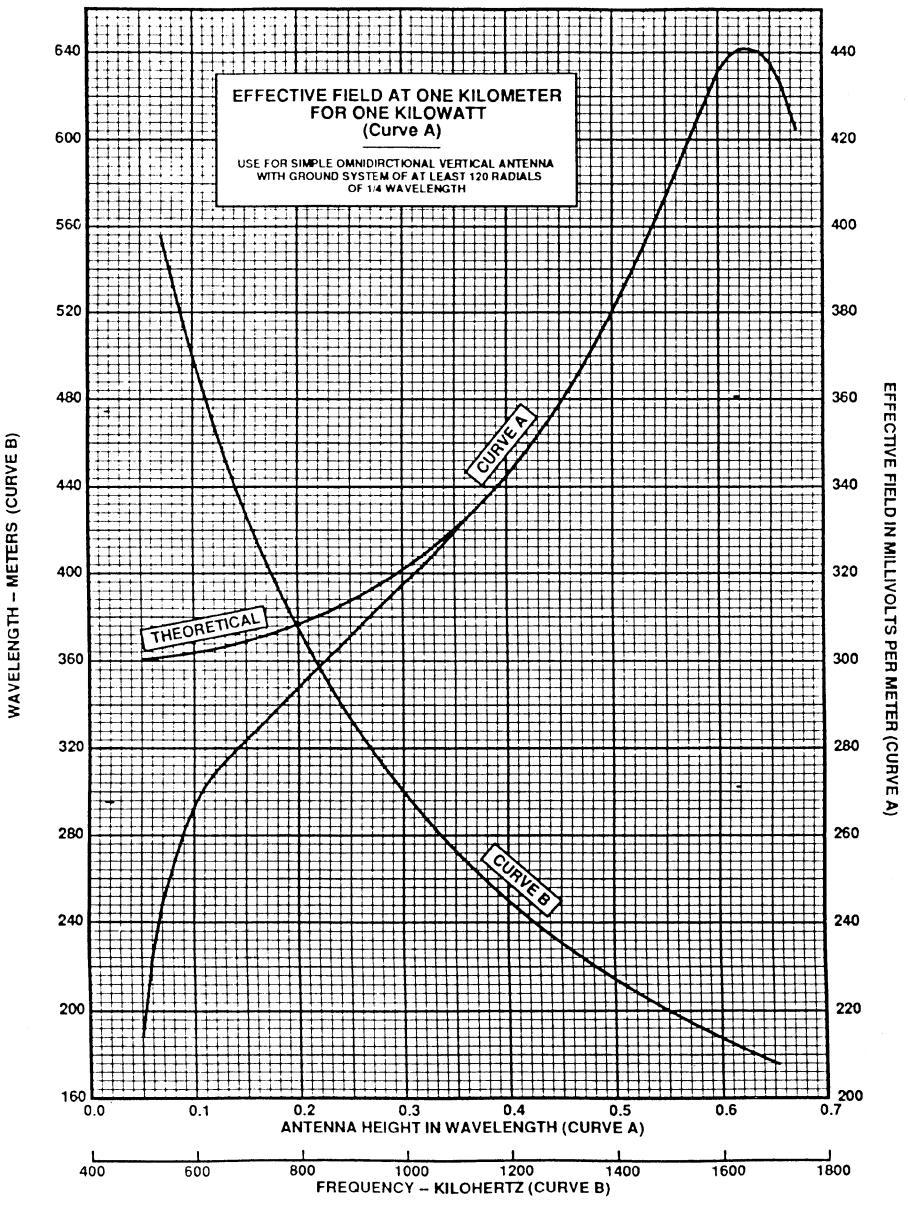

EFFECTIVE FIELD AT ONE KILOMETER
FOR ONE KILOWATT
(Curve A)
USE FOR SIMPLE OMNIDIRCTIONAL VERTICAL ANTENNA
WITH GROUND SYSTEM OF AT LEAST 120 RADIALS
OF 1/4 WAVELENGTH
CURVE A
THEORETICAL
CURVE B
WAVELENGTH – METERS (CURVE B)
EFFECTIVE FIELD IN MILLIVOLTS PER METER (CURVE A)
640
600
560
520
480
440
400
360
320
280
240
200
160
440
420
400
380
360
340
320
300
280
260
240
220
200
0.0
0.1
0.2
0.3
0.4
0.5
0.6
0.7
ANTENNA HEIGHT IN WAVELENGTH (CURVE A)
400
600
800
1000
1200
1400
1600
1800
FREQUENCY – KILOHERTZ (CURVE B)

Figure 8

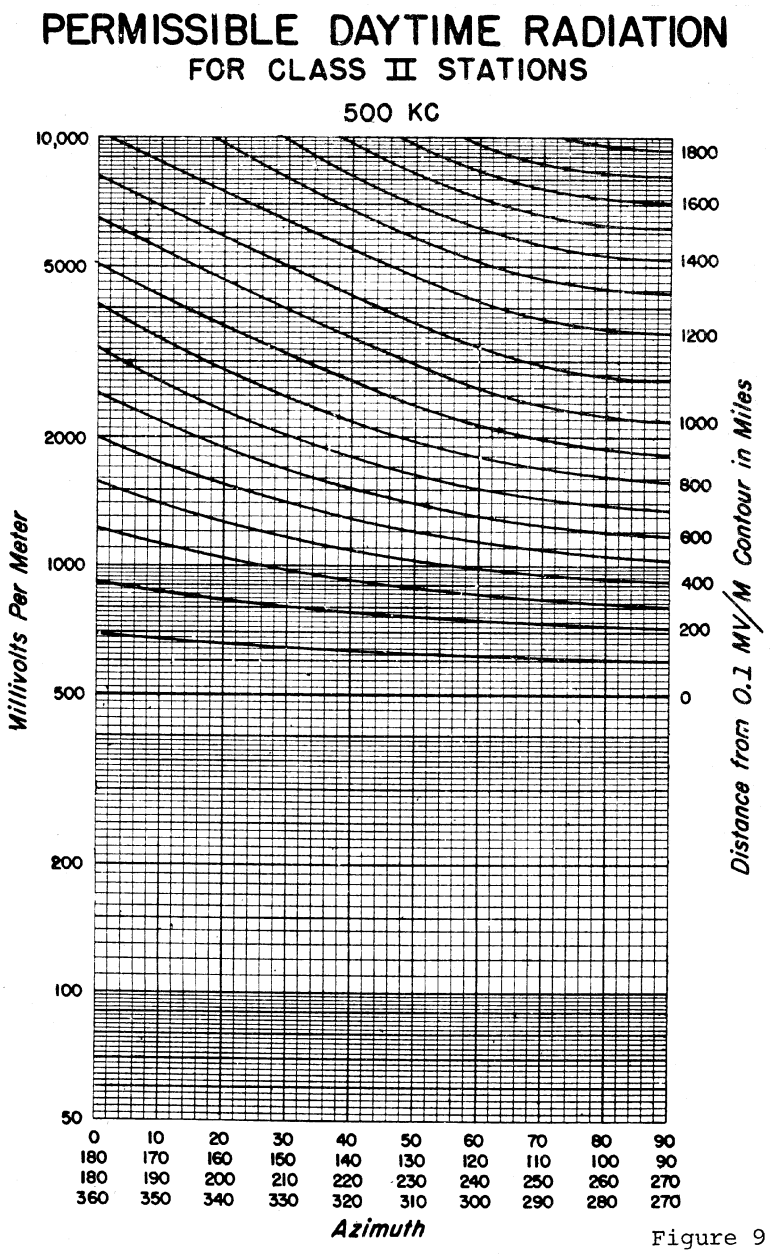

PERMISSIBLE DAYTIME RADIATION
FOR CLASS II STATIONS
500 KC
Millivolts Per Meter
10,000
5000
2000
1000
500
200
100
50
Distance from 0.1 MV/M Contour in Miles
1800
1600
1400
1200
1000
800
600
400
200
0
0 10 20 30 40 50 60 70 80 90
180 170 160 150 140 130 120 110 100 90
180 190 200 210 220 230 240 250 260 270
360 350 340 330 320 310 300 290 280 270
Azimuth

Figure 9

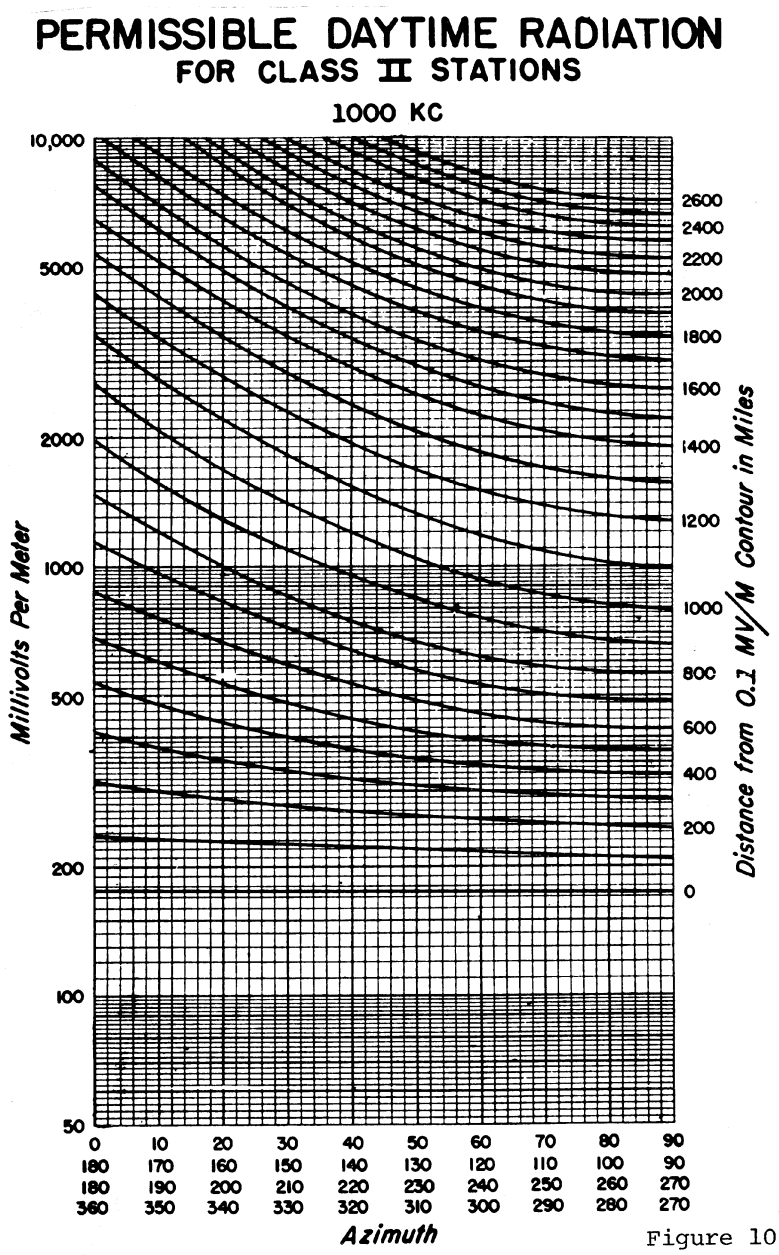

PERMISSIBLE DAYTIME RADIATION
FOR CLASS II STATIONS
1000 KC
Millivolts Per Meter
10,000
5000
2000
1000
500
200
100
50
Distance from 0.1 MV/M Contour in Miles
2600
2400
2200
2000
1800
1600
1400
1200
1000
800
600
400
200
0
0 10 20 30 40 50 60 70 80 90
180 170 160 150 140 130 120 110 100 90
180 190 200 210 220 230 240 250 260 270
360 350 340 330 320 310 300 290 280 270
Azimuth

Figure 10

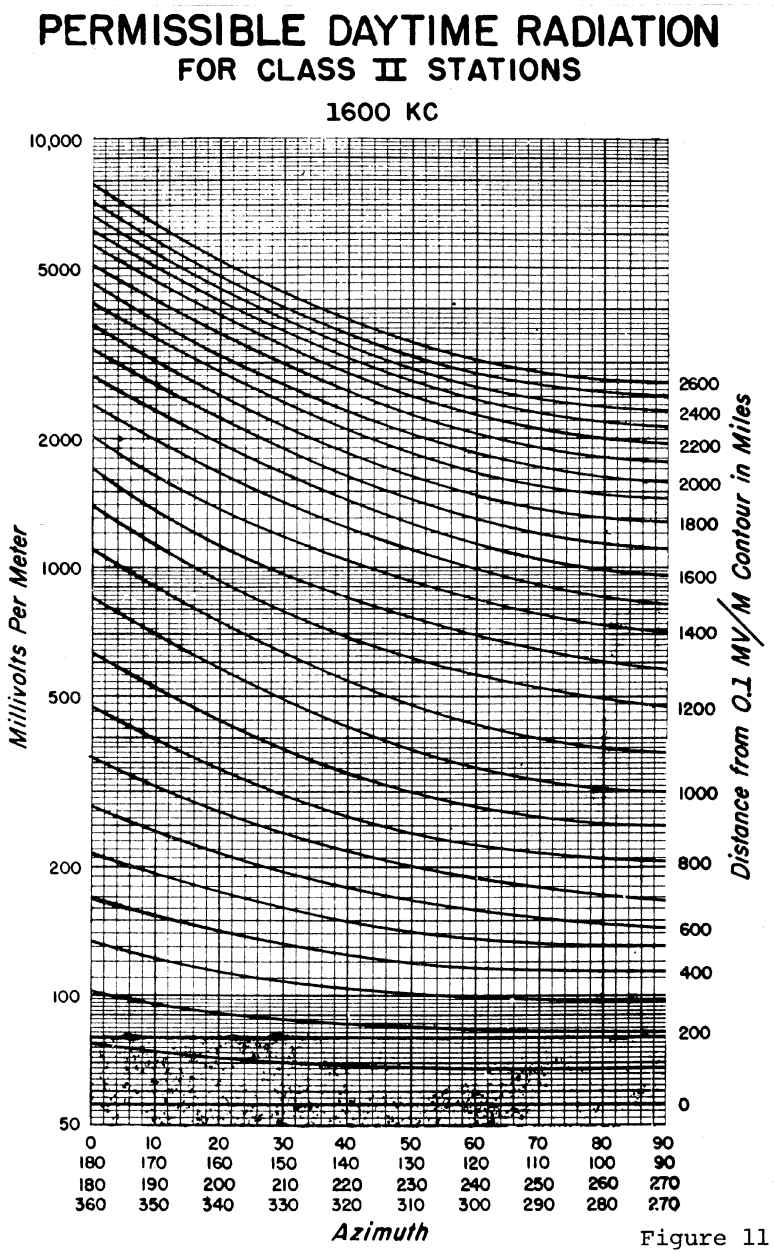
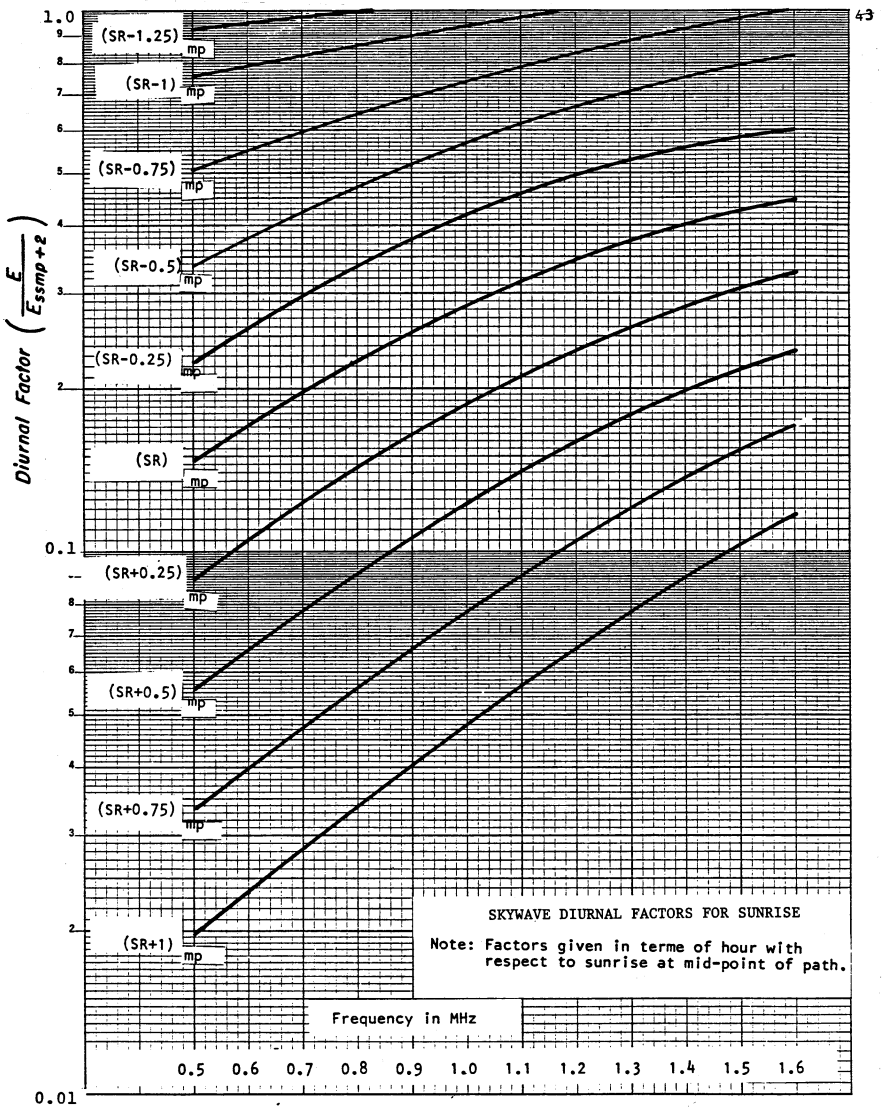
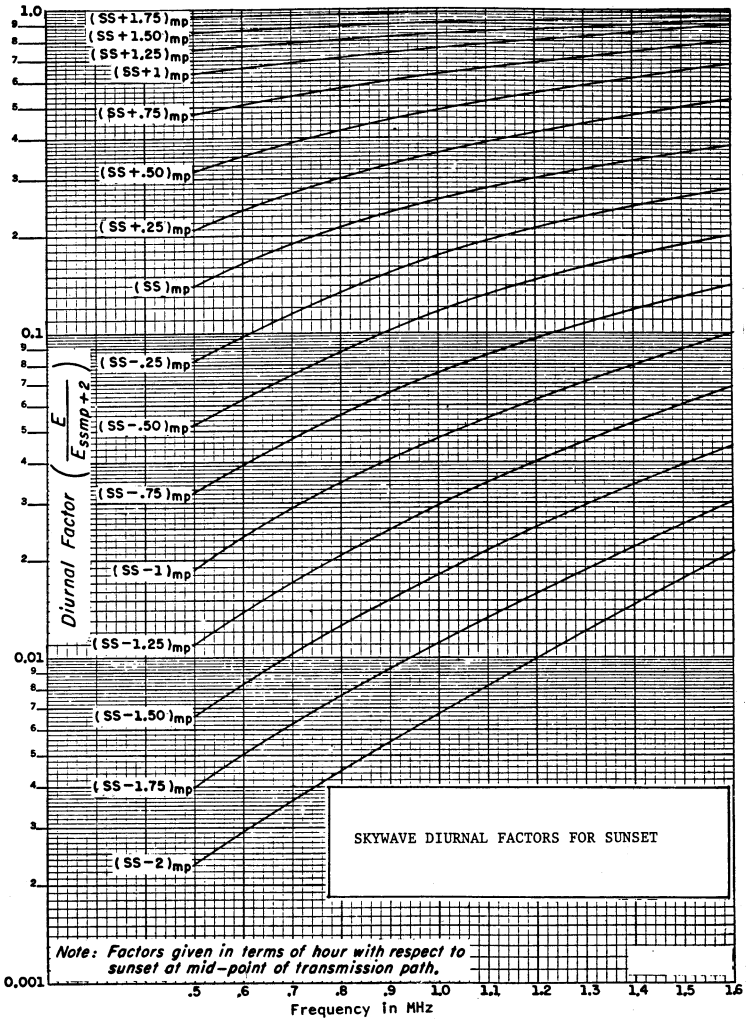

PERMISSIBLE DAYTIME RADIATION
FOR CLASS II STATIONS
1600 KC
10,000
5000
2000
1000
500
200
100
50
Millivolts Per Meter
2600
2400
2200
2000
1800
1600
1400
1200
1000
800
600
400
200
0
Distance from 0.1 MV/M Contour in Miles
0 10 20 30 40 50 60 70 80 90
180 170 160 150 140 130 120 110 100 90
180 190 200 210 220 230 240 250 260 270
360 350 340 330 320 310 300 290 280 270
Azimuth

Figure 11



FCC §73.190 Figure 12



FCC § 73.190 Figure 13

[28 FR 13574, Dec. 14, 1963, as amended at 30 FR 12720, Oct. 6, 1965; 33 FR 15420, Oct. 17, 1968; 48 FR 42959, Sept. 20, 1983; 49 FR 43963, Nov. 1, 1984; 50 FR 18844, May 2, 1985; 51 FR 4753, Feb. 7, 1986; 52 FR 36879, Oct. 1, 1987; 56 FR 64869, Dec. 12, 1991]

Subpart B—FM Broadcast Stations

§ 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:

Frequency (Mc/s)	Channel No.
88.1	201
88.3	202

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

[28 FR 13623, Dec. 14, 1963, as amended at 30 FR 4480, Apr. 7, 1965; 52 FR 10570, Apr. 2, 1987]

§ 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, and not currently assigned to a licensee or permittee or subject to a pending application for construction permit or license. 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. Channels to which licensed, permitted, and ''reserved'' facilities have been assigned are reflected in the Media Bureau's publicly available Consolidated Data Base System.

(1) Channels designated with an asterisk may be used only by noncommercial educational broadcast stations. The rules governing the use of those channels are contained in part 73, subpart C of this chapter. An entity that would be eligible to operate a noncommercial educational broadcast station can, in conjunction with an initial petition for rulemaking filed pursuant to part 1, subpart C of this chapter, request that a nonreserved FM channel

(channels 221 through 300) be allotted as reserved only for noncommercial educational broadcasting by demonstrating the following:

(i) No reserved channel can be used without causing prohibited interference to TV channel 6 stations or foreign broadcast stations; or

(ii) The applicant is technically precluded from using the reserved band by existing stations or previously filed applications and the proposed station would provide a first or second noncommercial educational radio service to 2,000 or more people who constitute 10% of the population within the proposed allocation's 60 dBu (1 mV/m) service contour.

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

NOTE: The provisions of this paragraph [(a)(2) of this section] become effective [3 years from the effective date of the Report and Order in BC Docket 80–90].

(b) *Table of FM Allotments.*

	Channel No.
ALABAMA	
Waverly	262A
ALASKA	
ARIZONA	
Bagdad	269C3
Ehrenberg	228C2
First Mesa	281C
Leupp	293C1
Overgaard	234C1
Parker	257C2
Paulden	228C3
Peach Springs	†265A
Pima	*296A
Quartzsite	275C3
Rough Rock	258C2
Sells	285A
Snowflake	259C2
Somerton	*260C3
Tusayan	222C1
Wickenburg	229C3
ARKANSAS	
Dermott	224A
Heber Springs	270C3
Hermitage	300A
Rison	255A
Strong	296C3
CALIFORNIA	
Alturas	277C
Barstow	267A
Boonville	300A
Cedarville	238A
Cottonwood	221A
Essex	280B
Ft. Bragg	253C1
Hemet	*273A
Lake Isabella	239A
Portola	258A
Randsburg	275A
Shasta Lake	224A
Sutter Creek	*298A
Westley	*238A
Wofford Heights	251A
COLORADO	
Akron	279C1
Battlement Mesa	275C3
Dinosaur	262C1
Dove Creek	229C3
Eckley	257C1
Hugo	222A
Lake City	247A
Olathe	*270C2, *293C
Stratton	246C1
Walden	226A
CONNECTICUT	
DELAWARE	
DISTRICT OF COLUMBIA	
FLORIDA	
Cross City	249C3
Horseshoe Beach	*234C3
Otter Creek	*240A
GEORGIA	
Maysville	265A
Plains	290A
Tignall	287A
HAWAII	
Kualapuu	296C2
IDAHO	
McCall	280A
ILLINOIS	
Abingdon	291A
Cedarville	*258A
Greenup	*230A
Pinckneyville	*282A
INDIANA	
Fowler	*291A
Madison	*265A
Terre Haute	*298B
IOWA	
Asbury	*238A
Keosauqua	*271C3
Rudd	*268A

	Channel No.
KANSAS	
Council Grove	*281C3
KENTUCKY	
Irvington	261A
Perryville	298A
LOUISIANA	
Bastrop	228A
Florien	222A
Golden Meadow	*289C2
Haynesville	286A
Hornbeck	269A
Rosepine	281A
Wisner	300C3
MAINE	
MARYLAND	
Newark	235A
MASSACHUSETTS	
West Tisbury	*282A
MICHIGAN	
Custer	260A
Houghton	242C1
Lake Isabella	255A
Lexington	*256A
Onekama	227C3
MINNESOTA	
Baudette	233C1
Grand Marais	245C3
Grand Portage	224C, 274C
Red Lake	287C1
MISSISSIPPI	
Bruce	233A
Cleveland	226C2
Drew	237A
Mound Bayou	270A
Summit	228A
MISSOURI	
Bourbon	231A
Columbia	252C2
Eminence	281A
Laurie	265C3
Maryville	285C3
MONTANA	
Bozeman	*240C3
Cut Bank	265C2
Lima	265C2
NEBRASKA	
Bayard	251A
NEVADA	
Owyhee	247C3
Silver Springs	273C
NEW HAMPSHIRE	
Enfield	282A
Groveton	268A
Jefferson	247A
NEW JERSEY	
NEW MEXICO	
Animas	279C1
Des Moines	287C
Roswell	237C0
Skyline-Ganipa	240A
Tohatchi	268C2
Virden	228C1
NEW YORK	
Amherst	*221A
Keeseville	231A
Narrowsburg	275A
Rhinebeck	*273A
Rosendale	255A
Sagaponack	233A
Shelter Island	277A
Westfield	265A
NORTH CAROLINA	
Dillsboro	*237A
NORTH DAKOTA	
Medina	222C1
Sarles	290C1
OHIO	
OKLAHOMA	
Arnett	293C2
Cheyenne	247C2
Clayton	262A
Coalgate	242A
Cordell	*229A
Covington	290A
Hennessey	249A
Millerton	265C2
Savanna	275A
Vici	249A
Wayne	266A
Waukomie	292A
Wright City	295A
OREGON	
Altamont	235C1
Arlington	295C2
Boardman	231C3
Dallas	*252C3
Diamond Lake	251A
Huntington	228C1
Manzanita	248C3
Merrill	289A
Moro	283C2
Powers	293C2
Prineville	267C1
Vale	288C
Waldport	229C2
PENNSYLVANIA	
Liberty	*298A

	Channel No.
RHODE ISLAND	
SOUTH CAROLINA	
SOUTH DAKOTA	
Eagle Butt	228C1
Edgemont	289C1
TENNESSEE	
Englewood	250A
TEXAS	
Albany	255A
Annona	263A
Asherton	284A
Aspermont	226C2
Austwell	290A
Balmorhea	283C
Batesville	250A
Benjamin	237C3
Big Lake	246A, 252C2, 281C1, 296C3
Big Spring	265C3
Bogata	247A
Bruni	293A
Canadian	235C1
Carbon	238A
Carrizo Springs	295A
Centerville	274A
Christine	245C3
Cotulla	264A, 289A
Crosbyton	264C3
Crystal Beach	268A
Cuney	259A
Dalhart	261C2
Dickens	240A, 294A
Dilley	291A
Early	294A
Eden	294A
El Indio	236A
Encinal	259A, 286A
Encino	250A, 283A
Estelline	263C3
Fort Stockton	263C
Freer	288A
Garwood	247A
George West	292A
Goldwaithe	297A
Goree	277A
Groom	223A
Guthrie	252A
Hale Center	236C1
Hamlin	283C2
Harper	256C3
Hawley	269A
Hebbronville	282A
Hico	293A
Iraan	269C2
Jacksonville	236A
Jayton	231C2
Junction	277C3, 297A
Knox City	293A, 297A
Leakey	257A, 275A, 299A
Llano	242C3
Lockney	271C3
Lometa	253A
Longview	300C2
Lovelady	288A
Marathon	278C
Marquez	296A
Mason	281C2
Matador	244C2, 276C3
Matagorda	291A
McCamey	233C3, 237C3
McLean	298C3
Memphis	283A, 292A
Menard	265A, 292A
Meyersville	261A
Midway	251A
Milano	274A
Moody	256A
Moran	281A
Mount Enterprise	279A
Muleshoe	227C1
Mullin	224A, 277A
Munday	270C1
Newcastle	263A
O'Donnell	249A
Olney	282A
Oakwood	233A
Paducah	234C3
Paint Rock	296C3
Palacios	264A
Pearsall	277A
Port Isabel	288A
Premont	264C3, 287A
Presidio	292C1
Quanah	251C3
Richland Springs	235A, 299A
Rising Star	290C3
Roaring Springs	227A, 249C3
Roby	249A
Rocksprings	291A
Roscoe	228A
Rule	253A
San Isidro	255A, 278A
Sanderson	274C1, 286C2
Sanger	281C3
Seymour	222C2
Sheffield	224C2
Silverton	221A
Smiley	280A
Spur	260C3
Teague	237C3
Trinity	251A
Turkey	221C2, 269A
Van Alstyne	*260A
Wellington	248C3, 253C3
Wells	254A
Westbrook	272A
Zapata	292A
UTAH	
Milford	288C
Paragonah	258A
Toquerville	281C
VERMONT	
Hardwick	290A
West Rutland	298A
VIRGINIA	
Chincoteague	233A
WASHINGTON	
Coupeville	266A
Dayton	272A
Oak Harbor	*233A, 277A
Raymond	300A
Trout Lake	236A

	Channel No.
WEST VIRGINIA	
WISCONSIN	
Ashland	*275A
Crandon	276A
Hayward	*232C2
Laona	272C3
New Holstein	258A
Tomahawk	265C3
WYOMING	
Baggs	277A
Bairoil	235C3
Basin	299C1
Dubois	242A
Jackson	*294C2
Lusk	242A
Marbleton	257C1
Meeteetse	259C
Pine Bluffs	287A
Wheatland	286A
AMERICAN SAMOA	
CENTRAL MARIANAS	
GARAPAN	
GUAM	
PUERTO RICO	
VIRGIN ISLANDS	
Charlotte Amalie	237B

(Sec. 316, 66 Stat. 717; 47 U.S.C. 316; sec. 5, 48 Stat., as amended, 1068; 47 U.S.C. 154, 155; secs. 2, 3, 4, 301, 303, 307, 308, 309, 315, 317, 48 Stat. as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085, 1088, 1089; (47 U.S.C. 152, 153, 301, 303, 307, 308, 309, 315, 317); secs 1, 201–205, 208, 215, 218, 313, 314, 403, 404, 410, 602; 48 Stat. as amended; 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102 (47 U.S.C. 151, 201–205, 208, 215, 218, 313, 314, 403, 404, 410, 602))

[30 FR 12711, Oct. 6, 1965]

EDITORIAL NOTES: 1. For FEDERAL REGISTER citations affecting §73.202, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

2. At 77 FR 50053, Aug. 20, 2012, §73.202(b), the Table of FM Allotments under California, was amended; however, the amendment could not be incorporated due to inaccurate amendatory instruction.

§ 73.203 Availability of channels.

(a) Except as provided for in paragraph (b) of this section and §1.401(d) of this chapter and 73.3573(a)(1), applications may be filed to construct new FM broadcast stations only at the communities and on the channels contained in the Table of Allotments (§73.202(b)).

(b) Applications filed on a first come, first served basis for the minor modification of an existing FM broadcast station may propose any change in channel and/or class and/or community not defined as major in §73.3573(a). Applications for a change in community of license must comply with the requirements set forth in §73.3573(g).

NOTE TO §73.203: This section is limited to non-reserved band changes in channel and/or class and/or community. Applications requesting such changes 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 through 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 through 73.215.

[71 FR 76219, Dec. 20, 2006]

§ 73.204 International agreements and other restrictions on use of channels.

See §§73.207, 73.220 and 73.1650.

[49 FR 10264, Mar. 20, 1984]

§ 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 291/2° and 451/2°; 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 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.)

(b) Zone I-A 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 I-A.

[29 FR 14116, Oct. 14, 1964, and 31 FR 10125, July 27, 1966, as amended at 48 FR 29504, June 27, 1983]

§ 73.207 Minimum distance separation 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:

TABLE A—MINIMUM DISTANCE SEPARATION REQUIREMENTS IN KILOMETERS (MILES)

Relation	Co-channel	200 kHz	400/600 kHz	10.6/10.8 MHz
A to A	115 (71)	72 (45)	31 (19)	10 (6)
A to B1	143 (89)	96 (60)	48 (30)	12 (7)
A to B	178 (111)	113 (70)	69 (43)	15 (9)
A to C3	142 (88)	89 (55)	42 (26)	12 (7)
A to C2	166 (103)	106 (66)	55 (34)	15 (9)
A to C1	200 (124)	133 (83)	75 (47)	22 (14)
A to C0	215 (134)	152 (94)	86 (53)	25 (16)
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 C0	248 (154)	180 (112)	87 (54)	27 (17)
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)	71 (44)	17 (11)

TABLE A—MINIMUM DISTANCE SEPARATION REQUIREMENTS IN KILOMETERS (MILES)—Continued

Relation	Co-channel	200 kHz	400/600 kHz	10.6/10.8 MHz
B to C2	241 (150)	169 (105)	74 (46)	20 (12)
B to C1	270 (168)	195 (121)	79 (49)	27 (17)
B to C0	272 (169)	214 (133)	89 (55)	31 (19)
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 C0	226 (140)	163 (101)	87 (54)	27 (17)
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 C0	239 (148)	176 (109)	89 (55)	31 (19)
C2 to C	249 (155)	188 (117)	105 (65)	35 (22)
C1 to C1	245 (152)	177 (110)	82 (51)	34 (21)
C1 to C0	259 (161)	196 (122)	94 (58)	37 (23)
C1 to C	270 (168)	209 (130)	105 (65)	41 (25)
C0 to C0	270 (168)	207 (129)	96 (60)	41 (25)
C0 to C	281 (175)	220 (137)	105 (65)	45 (28)
C to C	290 (180)	241 (150)	105 (65)	48 (30)

(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.

TABLE B—MINIMUM DISTANCE SEPARATION REQUIREMENTS IN KILOMETERS

Relation	Co-Channel	Adjacent Channels			I.F.
	0 kHz	200 kHz	400 kHz	600 kHz	10.6/10.8 MHz
A-A	132	85	45	37	8
A-B1	180	113	62	54	16
A-B	206	132	76	69	16
A-C1	239	164	98	90	32
A-C	242	177	108	100	32
B1-B1	197	131	70	57	24
B1-B	223	149	84	71	24
B1-C1	256	181	106	92	40
B1-C	259	195	116	103	40
B-B	237	164	94	74	24
					.....
B-C1	271	195	115	95	40
B-C	274	209	125	106	40
C1-C1	292	217	134	101	48
C1-C	302	230	144	111	48
C-C	306	241	153	113	48

(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.

TABLE C—MINIMUM DISTANCE SEPARATION REQUIREMENTS IN KILOMETERS

Relation	Co-Channel	200 kHz	400 kHz or 600 kHz	10.6 or 10.8 MHz (I.F.)
A to A	100	61	25	8
A to AA	111	68	31	9

TABLE C—MINIMUM DISTANCE SEPARATION REQUIREMENTS IN KILOMETERS—Continued

Relation	Co-Channel	200 kHz	400 kHz or 600 kHz	10.6 or 10.8 MHz (I.F.)
A to B1	138	88	48	11
A to B	163	105	65	14
A to C1	196	129	74	21
A to C	210	161	94	28
AA to AA	115	72	31	10
AA to B1	143	96	48	12
AA to B	178	125	69	15
AA to C1	200	133	75	22
AA to C	226	165	95	29
B1 to B1	175	114	50	14
B1 to B	211	145	71	17
B1 to C1	233	161	77	24
B1 to C	259	193	96	31
B to B	237	164	65	20
B to C1	270	195	79	27
B to C	270	215	98	35
C1 to C1	245	177	82	34
C1 to C	270	209	102	41
C to C	290	228	105	48

(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

[48 FR 29504, June 27, 1983, as amended at 49 FR 10264, Mar. 20, 1984; 49 FR 19670, May 9, 1984; 49 FR 50047, Dec. 26, 1984; 51 FR 26250, July 22, 1986; 54 FR 14963, Apr. 14, 1989; 54 FR 16366, Apr. 24, 1989; 54 FR 19374, May 5, 1989; 54 FR 35338, Aug. 25, 1989; 56 FR 27426, June 14, 1991; 56 FR 57293, Nov. 8, 1991; 62 FR 50256, Sept. 25, 1997; 65 FR 79776, Dec. 20, 2000]

§ 73.208 Reference points and distance computations.

(a)(1) The following reference points must be used to determine distance separation requirements when petitions to amend the Table of Allotments (§ 73.202(b)) are considered:

(i) First, transmitter sites if authorized, or if proposed in applications with cut-off protection pursuant to paragraph (a)(3) of this section;

(ii) Second, reference coordinates designated by the FCC;

(iii) Third, coordinates listed in the United States Department of Interior publication entitled Index to the National Atlas of the United States of America; or

(iv) Last, coordinates of the main post office.

(The community's reference points for which the petition is submitted will normally be the coordinates listed in the above publication.)

(2) When the distance between communities is calculated using community reference points and it does not meet the minimum separation requirements of § 73.207, the channel may still be allotted if a transmitter site is available that would meet the minimum separation requirements and still permit the proposed station to meet the minimum field strength requirements of § 73.315. A showing indicating the availability of a suitable site should be sumitted with the petition. In cases where a station is not authorized in a community or communities and the proposed channel cannot meet the separation requirement a showing should also be made indicating adequate distance between suitable transmitter sites for all communities.

(3) Petitions to amend the Table of Allotments that do not meet minimum distance separation requirements to transmitter sites specified in pending applications will not be considered unless they are filed no later than:

(i) The last day of a filing window if the application is for a new FM facility or a major change in the non-reserved band and is filed during a filing window established under section 73.3564(d)(3); or

(ii) The cut-off date established in a Commission Public Notice under § 73.3564(d) and 73.3573(e) if the application is for a new FM facility or a major change in the reserved band; or

(iii) The date of receipt of all other types of FM applications. If an application is amended so as to create a conflict with a petition for rule making filed prior to the date the amendment is filed, the amended application will be treated as if filed on the date of the amendment for purposes of this paragraph (a)(3).

NOTE: If the filing of a conflicting FM application renders an otherwise timely filed counterproposal unacceptable, the counterproposal may be considered in the rulemaking proceeding if it is amended to protect the site of the previously filed FM application within 15 days after being placed on the Public Notice routinely issued by the staff concerning the filing of counterproposals. No proposals involving communities not already included in the proceeding can be introduced during the reply comment period as a method of resolving conflicts. The counterproponent is required to make a showing that, at the time it filed the counterproposal, it did not know, and could not have known by exercising due diligence, of the pendency of the conflicting FM application.

(b) Station separations in licensing proceedings shall be determined by the distance between the coordinates of the proposed transmitter site in one community and

(1) The coordinates of an authorized transmitter site for the pertinent channel in the other community; or, where such transmitter site is not available for use as a reference point,

(2) Reference coordinates designated by the FCC; or, if none are designated,

(3) The coordinates of the other community as listed in the publication listed in paragraph (a) of this section; or, if not contained therein,

(4) The coordinates of the main post office of such other community.

(5) In addition, where there are pending applications in other communities which, if granted, would have to be considered in determining station separations, the coordinates of the transmitter sites proposed in such applications must be used to determine whether the requirements with respect to minimum separations between the proposed stations in the respective cities have been met.

(c) The method given in this paragraph shall be used to compute the distance between two reference points, except that, for computation of distance involving stations in Canada and Mexico, the method for distance computation specified in the applicable international agreement shall be used instead. The method set forth in this paragraph is valid only for distances not exceeding 475 km (295 miles).

(1) Convert the latitudes and longitudes of each reference point from degree-minute-second format to degree-decimal format by dividing minutes by 60 and seconds by 3600, then adding the results to degrees.

(2) Calculate the middle latitude between the two reference points by averaging the two latitudes as follows:

$$ML = (LAT1_{dd} + LAT2_{dd}) \div 2$$

(3) Calculate the number of kilometers per degree latitude difference for the middle latitude calculated in paragraph (c)(2) as follows:

$$KPD_{lat} = 111.13209 - 0.56605 \cos(2ML) + 0.00120 \cos(4ML)$$

(4) Calculate the number of kilometers per degree longitude difference for the middle latitude calculated in paragraph (c)(2) as follows:

$$KPD_{lon} = 111.41513 \cos(ML) - 0.09455 \cos(3ML) + 0.00012 \cos(5ML)$$

(5) Calculate the North-South distance in kilometers as follows:

$$NS = KPD_{lat}(LAT1_{dd} - LAT2_{dd})$$

(6) Calculate the East-West distance in kilometers as follows:

$$EW = KPD_{lon}(LON1_{dd} - LON2_{dd})$$

(7) Calculate the distance between the two reference points by taking the square root of the sum of the squares of the East-West and North-South distances as follows:

$$DIST = (NS^2 + EW^2)^{0.5}$$

(8) Round the distance to the nearest kilometer.

(9) Terms used in this section are defined as follows:

(i) $LAT1_{dd}$ and $LON1_{dd}$ = the coordinates of the first reference point in degree-decimal format.

(ii) $LAT2_{dd}$ and $LON2_{dd}$ = the coordinates of the second reference point in degree-decimal format.

(iii) ML = the middle latitude in degree-decimal format.

(iv) KPD_{lat} = the number of kilometers per degree of latitude at a given middle latitude.

(v) KPD_{lon} = the number of kilometers per degree of longitude at a given middle latitude.

(vi) NS = the North-South distance in kilometers.

(vii) EW = the East-West distance in kilometers.

(viii) DIST = the distance between the two reference points, in kilometers.

[28 FR 13623, Dec. 14, 1963, as amended at 29 FR 14116, Oct. 14, 1964; 48 FR 29505, June 27, 1983; 52 FR 37788, Oct. 9, 1987; 52 FR 39920, Oct. 26, 1987; 54 FR 9806, Mar. 8, 1989; 57 FR 36020, Aug. 12, 1992; 58 FR 38537, July 19, 1993]

§ 73.209 Protection from interference.

(a) Permittees and licensees of FM broadcast stations are not protected from any interference which may be caused by the grant of a new station, or of authority to modify the facilities of an existing station, in accordance with the provisions of this subpart. However, they are protected from interference caused by Class D (secondary) noncommercial educational FM stations. See § 73.509.

(b) The nature and extent of the protection from interference afforded FM broadcast stations operating on Channels 221–300 is limited to that which results when assignments are made in accordance with the rules in this subpart.

(c) Permittees and licensees of FM stations are not protected from interference which may be caused by the grant of a new LPFM station or of authority to modify an existing LPFM station, except as provided in subpart G of this part.

[43 FR 39715, Sept. 6, 1978 and 48 FR 29505, June 27, 1983; 54 FR 9802, Mar. 8, 1989; 65 FR 7640, Feb. 15, 2000; 65 FR 67299, Nov. 9, 2000]

§ 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, or proposed to be 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, C0 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 83 km, the station is Class C0.

(v) If this distance is greater than 83 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 then 46 km and less than or equal to 78 km, the station is Class B.

[52 FR 37788, Oct. 9, 1987; 52 FR 39920, Oct. 26, 1987, as amended at 54 FR 16367, Apr. 24, 1989; 54 FR 19374, May 5, 1989; 54 FR 35339, Aug. 25, 1989; 65 FR 79777, Dec. 20, 2000]

§ 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 and C0 stations is 100 kW.

(2) Class C0 stations must have an antenna height above average terrain (HAAT) of at least 300 meters (984 feet). Class C stations must have an antenna height above average terrain (HAAT) of at least 451 meters (1480 feet).

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

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

Station class	Maximum ERP	Reference HAAT in meters (ft.)	Class contour distance in kilometers
A	6 kW (7.8 dBk)	100 (328)	28
B1	25 kW (14.0 dBk)	100 (328)	39
B	50 kW (17.0 dBk)	150 (492)	52
C3	25 kW (14.0 dBk)	100 (328)	39
C2	50 kW (17.0 dBk)	150 (492)	52
C1	100 kW (20.0 dBk)	299 (981)	72
C0	100 kW (20.0 dBk)	450 (1476)	83
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 1mV/m contour using Figure 1 of § 73.333 and then rounding to the nearest kilometer. Antenna HAAT is determined using the procedure in § 73.313. If the HAAT so determined is less than 30 meters (100 feet), a HAAT of 30 meters must be used when finding the predicted distance to the 1 mV/m contour.

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

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

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

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

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

(d) *Existing Class C stations below minimum antenna HAAT.* Class C stations authorized prior to January 19, 2001 that do not meet the minimum antenna HAAT specified in paragraph (a)(2) of this section for Class C stations may continue to operate as authorized subject to the reclassification procedures set forth in Note 4 to § 73.3573.

[53 FR 17042, May 13, 1988, as amended at 54 FR 16367, Apr. 24, 1989; 54 FR 19374, May 5, 1989; 54 FR 35339, Aug. 25, 1989; 65 FR 79777, Dec. 20, 2000]

§ 73.212 Administrative changes in authorizations.

(a) In the issuance of FM broadcast station authorizations, the Commission will specify the transmitter output power and effective radiated power in accordance with the following tabulation:

Power (watts or kW)	Rounded out to nearest figure (watts or kW)
1 to 3	.05
3 to 10	.1
10 to 30	.5
30 to 100	1
100 to 300	5
300 to 1,000	10

(b) Antenna heights above average terrain will be rounded out to the nearest meter.

[28 FR 13623, Dec. 14, 1963, as amended at 48 FR 29506, June 27, 1983]

§ 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 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 dBμV/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.

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	196 (122)	129 (80)	74 (46)	21 (13)
A to C	222 (138)	161 (100)	94 (58)	28 (17)

(2) Applications for authorization of Class A facilities greater than 3,000 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.

[52 FR 37789, Oct. 9, 1987, as amended at 54 FR 14964, Apr. 14, 1989; 54 FR 35339, Aug. 25, 1989; 56 FR 27426, June 14, 1991; 62 FR 50521, Sept. 26, 1997; 63 FR 33876, June 22, 1998]

§ 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 dBμ) and 0.7 mV/m (57 dBμ), respectively. For all other stations, the F(50,50) field strength along the protected contour is 1.0 mV/m (60 dBμ).

(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) Protected and interfering contours (in dBu) for stations in Puerto Rico and the U.S. Virgin Islands are as follows:

Station with interfering contour	Station with protected contour					
	Class A		Class B1		Class B	
	Interfering	Protected	Interfering	Protected	Interfering	Protected
Co-Channel:						
Class A	46	66	41	61	40	60
Class B1	43	63	39	59	38	58
Class B	45	65	41	61	41	61
1st Adj. Channel:						
Class A	61	67	56	62	59	65
Class B1	57	63	54	60	54	60
Class B	62	68	56	62	57	63
2nd-3rd Adj. Channel:						
Class A	107	67	100	60	104	64
Class B1	99	59	100	60	104	64
Class B	94	54	94	54	104	64

Maximum permitted facilities assumed for each station pursuant to 47 CFR 73.211(b)(3):
6 kW ERP/240 meters HAAT—Class A
25 kW ERP/150 meters HAAT—Class B1
50 kW ERP/472 meters HAAT—Class B

(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 non-directional 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 non-directional 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 non-directional 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 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 non-directional 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 TO PARAGRAPH (b): 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)	25 (16)
A to B1	119 (74)	72 (45)	42 (26)
A to B	143 (89)	96 (60)	63 (39)
A to C3	119 (74)	72 (45)	36 (22)
A to C2	143 (89)	89 (55)	49 (30)
A to C1	178 (111)	111 (69)	69 (43)
A to C0	193 (120)	130 (81)	80 (50)
A to C	203 (126)	142 (88)	89 (55)
B1 to B1	143 (89)	96 (60)	44 (27)
B1 to B	178 (111)	114 (71)	65 (40)
B1 to C3	143 (89)	96 (60)	44 (27)
B1 to C2	175 (109)	114 (71)	50 (31)
B1 to C1	200 (124)	134 (83)	71 (44)
B1 to C0	0215 (134)	153 (95)	81 (50)
B1 to C	233 (145)	165 (103)	99 (61)
B to B	211 (131)	145 (90)	68 (42)
B to C3	178 (111)	114 (70)	65 (40)
B to C2	211 (131)	145 (90)	68 (42)
B to C1	241 (150)	169 (105)	73 (45)
B to C0	266 (165)	195 (121)	83 (52)
B to C	268 (163)	195 (121)	99 (61)
C3 to C3	142 (88)	89 (55)	37 (23)
C3 to C2	166 (103)	106 (66)	50 (31)
C3 to C1	200 (124)	133 (83)	70 (43)
C3to C0	215 (134)	152 (94)	81 (50)
C3 to C	226 (140)	165 (103)	90 (56)
C2 to C2	177 (110)	117 (73)	52 (32)
C2 to C1	211 (131)	144 (90)	73 (45)
C2 to C0	227 (141)	163 (101)	83 (52)
C2 to C	237 (147)	176 (109)	96 (61)
C1 to C1	224 (139)	158 (98)	76 (47)
C1 to C0	239 (148)	176 (109)	88 (55)
C1 to C	249 (155)	188 (117)	99 (61)
C0 to C0	259 (161)	196 (122)	90 (56)
C0 to C	270 (168)	207 (129	99 (61)
C to C	270 (168)	209 (130)	99 (61)

[54 FR 9802, Mar. 8, 1989, as amended at 54 FR 35340, Aug. 25, 1989; 56 FR 57294, Nov. 8, 1991; 57 FR 46325, Oct. 8, 1992; 65 FR 79777, Dec. 20, 2000; 66 FR 8149, Jan. 29, 2001]

§ 73.220 Restrictions on use of channels.

(a) The frequency 89.1 MHz (channel 206) is revised in the New York City metropolitan area for the use of the United Nations with the equivalent of an antenna height of 150 meters (492 feet) above average terrain and effective radiated power of 20 kWs, and the FCC will make no assignments which would cause objectionable interference with such use.

(b) [Reserved]

[43 FR 45845, Oct. 4, 1978, as amended at 46 FR 50376, Oct. 13, 1981, 47 FR 30068, July 12, 1982; 48 FR 29507, June 27, 1983; 70 FR 46676, Aug. 10, 2005]

§ 73.232 Territorial exclusivity.

No licensee of an FM 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.

[42 FR 16422, Mar. 28, 1977, as amended at 57 FR 48333, Oct. 23, 1992]

§ 73.239 Use of common antenna site.

No FM broadcast station license or renewal of FM broadcast station license will be granted to any person who owns, leases, or controls a particular site which is peculiarly suitable for FM broadcasting in a particular area and (a) which is not available for use by other FM broadcast station 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 FM broadcast stations that can be authorized in a particular area or would unduly restrict competition among FM broadcast stations.

[28 FR 13623, Dec. 14, 1963]

§ 73.258 Indicating instruments.

(a) Each FM broadcast station shall be equipped with indicating instruments which conform with the specifications described in § 73.1215 for determining power by the indirect method; for indicating the relative amplitude of the transmission line radio frequency current, voltage, or power; and with such other instruments as are necessary for the proper adjustment, operation, and maintenance of the transmitting system.

(b) The function of each instrument shall be clearly and permanently shown in the instrument itself or on the panel immediately adjacent thereto.

(c) In the event that any one of these indicating instruments becomes defective when no substitute which conforms with the required specifications is available, the station may be operated without the defective instrument pending its repair or replacement for a period not in excess of 60 days without further authority of the FCC: *Provided that,* if the defective instrument is the transmission line meter of a station which determines the output power by the direct method, the operating power shall be determined by the indirect method in accordance with § 73.267(c) during the entire time the station is operated without the transmission line meter.

(d) If conditions beyond the control of the licensee prevent the restoration of the meter to service within the above allowed period, an informal letter request in accordance with § 73.3549 may be filed with the FCC, Attention:

Audio Division, Media Bureau, in Washington, DC for such additional time as may be required to complete repairs of the defective instrument.

[41 FR 36818, Sept. 1, 1976, as amended at 48 FR 44805, Sept. 30, 1983; 50 FR 32416, Aug. 12, 1985; 63 FR 33876, June 22, 1998; 67 FR 13231, Mar. 21, 2002]

§ 73.267 Determining operating power.

(a) The operating power of each FM station is to be determined by either the direct or indirect method.

(b) Direct method. The direct method of power determination for an FM station uses the indications of a calibrated transmission line meter (responsive to relative voltage, current, or power) located at the RF output terminals of the transmitter. This meter must be calibrated whenever there is any indication that the calibration is inaccurate or whenever any component of the metering circuit is repaired or replaced. The calibration must cover, as a minimum, the range from 90% to 105% of authorized power. The meter calibration may be checked by measuring the power at the transmitter terminals while either:

(1) Operating the transmitter into the transmitting antenna, and determining actual operating power by the indirect method described in § 73.267(c); or

(2) Operating the transmitter into a load (of substantially zero reactance and a resistance equal to the transmission line characteristic impedance) and using an electrical device (within ±5% accuracy) or temperature and coolant flow indicator (within ±4% accuracy) to determine the power.

(3) The calibration must cover, as a minimum, the range from 90% to 105% of authorized power and the meter must provide clear indications which will permit maintaining the operating power within the prescribed tolerance or the meter shall be calibrated to read directly in power units.

(c) *Indirect method.* The operating power is determined by the indirect method by applying an appropriate factor to the input power to the last radio-frequency power amplifier stage of the transmitter, using the following formula:

$$\text{Transmitter output power} = \text{Ep} \times \text{Ip} \times F$$

Where:

Ep = DC input voltage of final radio stage.
Ip = Total DC input current of final radio stage.
F = Efficiency factor.

(1) If the above formula is not appropriate for the design of the transmitter final amplifier, use a formula specified by the transmitter manufacturer with other appropriate operating parameters.

(2) The value of the efficiency factor, F, established for the authorized transmitter output power is to be used for maintaining the operating power, even though there may be some variation in F over the power operating range of the transmitter.

(3) The value of F is to be determined and a record kept thereof by one of the following procedures listed in order of preference:

(i) Using the most recent measurement data for calibration of the transmission line meter according to the procedures described in paragraph (b) of this section or the most recent measurements made by the licensee establishing the value of F. In the case of composite transmitters or those in which the final amplifier stages have been modified pursuant to FCC approval, the licensee must furnish the FCC and also retain with the station records the measurement data used as a basis for determining the value of F.

(ii) Using measurement data shown on the transmitter manufacturer's test data supplied to the licensee; *Provided,* That measurements were made at the authorized frequency and transmitter output power.

(iii) Using the transmitter manufacturer's measurement data submitted to the FCC for type acceptance and as shown in the instruction book supplied to the licensee.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[44 FR 58731, Oct. 11, 1979, as amended at 45 FR 28141, Apr. 28, 1980; 48 FR 38479, Aug. 24, 1983; 49 FR 4210, Feb. 3, 1984; 49 FR 49851, Dec. 24, 1984]

§ 73.277 Permissible transmissions.

(a) No FM broadcast licensee or permittee shall enter into any agreement, arrangement or understanding, oral or

written, whereby it undertakes to supply, or receives consideration for supplying, on its main channel a functional music, background music, or other subscription service (including storecasting) for reception in the place or places of business of any subscriber.

(b) The transmission (or interruption) of radio energy in the FM broadcast band is permissible only pursuant to a station license, program test authority, construction permit, or experimental authorization and the provisions of this part of the rules.

[29 FR 7471, June 10, 1964. Redesignated at 39 FR 38655, Nov. 1, 1974 and amended at 48 FR 28454, June 22, 1983]

§ 73.293 Use of FM multiplex subcarriers.

Licensees of FM broadcast stations may transmit, without further authorization, subcarrier communication services in accordance with the provisions of §§ 73.319 and 73.322.

[51 FR 17028, May 8, 1986]

§ 73.295 FM subsidiary communications services.

(a) Subsidiary communication services are those transmitted on a subcarrier within the FM baseband signal, but do not include services which enhance the main program broadcast service, or exclusively relate to station operations (see § 73.293). Subsidiary communications include, but are not limited to services such as functional music, specialized foreign language programs, radio reading services, utility load management, market and financial data and news, paging and calling, traffic control signal switching, bilingual television audio, and point to point or multipoint messages.

(b) FM subsidiary communications services that are common carrier in nature are subject to common carrier regulation. Licensees operating such services are required to apply to the FCC for the appropriate authorization and to comply with all policies and rules applicable to the service. Responsibility for making the initial determinations of whether a particular activity is common carriage rests with the FM station licensee. Initial determinations by licensees are subject to FCC examination and may be reviewed at the FCC's discretion.

(c) Subsidiary communications services are of a secondary nature under the authority of the FM station authorization, and the authority to provide such communications services may not be retained or transferred in any manner separate from the station's authorization. The grant or renewal of an FM station permit or license is not furthered or promoted by proposed or past services. The permittee or licensee must establish that the broadcast operation is in the public interest wholly apart from the subsidiary communications services provided.

(d) The station identification, delayed recording and sponsor identification announcements required by §§ 73.1201, 73.1208, and 73.1212 are not applicable to material transmitted under an SCA.

(e) The licensee or permittee must retain control over all material transmitted in a broadcast mode via the station's facilities, with the right to reject any material that it deems inappropriate or undesirable.

[48 FR 28454, June 22, 1983, as amended at 48 FR 44805, Sept. 30, 1983; 49 FR 33663, Aug. 15, 1984; 50 FR 32416, Aug. 12, 1985; 57 FR 48333, Oct. 23, 1992]

§ 73.297 FM stereophonic sound broadcasting.

(a) An FM broadcast station may, without specific authority from the FCC, transmit stereophonic (biphonic, quadraphonic, etc.) sound programs upon installation of stereophonic sound transmitting equipment under the provisions of §§ 2.1001, 73.322, and 73.1590 of the Rules. Prior to commencement of stereophonic sound broadcasting, equipment performance measurements must be made to ensure that the transmitted signal complies with all applicable rules and standards.

(b) Each licensee or permittee engaging in multichannel broadcasting must measure the pilot subcarrier frequency as often as necessary to ensure that it is kept at all times within 2 Hz of the authorized frequency.

[48 FR 28454, June 22, 1983, and 48 FR 38479, Aug. 24, 1983]

§ 73.310 FM technical definitions.

(a) *Frequency modulation. Antenna height above average terrain (HAAT).* HAAT is calculated by: determining the average of the antenna heights above the terrain from 3 to 16 kilometers (2 to 10 miles) from the antenna for the eight directions evenly spaced for each 45° of azimuth starting with True North (a different antenna height will be determined in each direction from the antenna): and computing the average of these separate heights. In some cases less than eight directions may be used. (See § 73.313(d).) Where circular or elliptical polarization is used, the antenna height above average terrain must be based upon the height of the radiation of the antenna that transmits the horizontal component of radiation.

Antenna power gain. The square of the ratio of the root-mean-square (RMS) free space field strength produced at 1 kilometer in the horizontal plane in millivolts per meter for 1 kW antenna input power to 221.4 mV/m. This ratio is expressed in decibels (dB). If specified for a particular direction, antenna power gain is based on that field strength in the direction only.

Auxiliary facility. An auxiliary facility is an antenna separate from the main facility's antenna, permanently installed on the same tower or at a different location, from which a 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).

Center frequency. The term ''center frequency'' means:

(1) The average frequency of the emitted wave when modulated by a sinusoidal signal.

(2) The frequency of the emitted wave without modulation.

Composite antenna pattern. The composite antenna pattern is a relative field horizontal plane pattern for 360 degrees of azimuth, for which the value at a particular azimuth is the greater of the horizontally polarized or vertically polarized component relative field values. The composite antenna pattern is normalized to a maximum of unity (1.000) relative field.

Composite baseband signal. A signal which is composed of all program and other communications signals that frequency modulates the FM carrier.

Effective radiated power. The term ''effective radiated power'' means the product of the antenna power (transmitter output power less transmission line loss) times: (1) The antenna power gain, or (2) the antenna field gain squared. Where circular or elliptical polarization is employed, the term effective radiated power is applied separately to the horizontal and vertical components of radiation. For allocation purposes, the effective radiated power authorized is the horizontally polarized component of radiation only.

Equivalent isotropically radiated power (EIRP). The term ''equivalent isotropically radiated power (also known as ''effective radiated power above isotropic) means the product of the antenna input power and the antenna gain in a given direction relative to an isotropic antenna.

FM Blanketing. Blanketing is that form of interference to the reception of other broadcast stations which is caused by the presence of an FM broadcast signal of 115 dBu (562 mV/m) or greater signal strength in the area adjacent to the antenna of the transmitting station. The 115 dBu contour is referred to as the blanketing contour and the area within this contour is referred to as the blanketing area.

FM broadcast band. The band of frequencies extending from 88 to 108 MHz, which includes those assigned to noncommercial educational broadcasting.

FM broadcast channel. A band of frequencies 200 kHz wide and designated by its center frequency. Channels for FM broadcast stations begin at 88.1 MHz and continue in successive steps of 200 kHz to and including 107.9 MHz.

FM broadcast station. A station employing frequency modulation in the FM broadcast band and licensed primarily for the transmission of radiotelephone emissions intended to be received by the general public.

Field strength. The electric field strength in the horizontal plane.

Free space field strength. The field strength that would exist at a point in the absence of waves reflected from the earth or other reflecting objects.

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

Frequency deviation. The peak difference between modulated wave and the carrier frequency.

Frequency modulation. A system of modulation where the instantaneous radio frequency varies in proportion to the instantaneous amplitude of the modulating signal (amplitude of modulating signal to be measured after preemphasis, if used) and the instantaneous radio frequency is independent of the frequency of the modulating signal.

Frequency swing. The peak difference between the maximum and the minimum values of the instantaneous frequency of the carrier wave during modulation.

Multiplex transmission. The term ''multiplex transmission'' means the simultaneous transmission of two or more signals within a single channel. Multiplex transmission as applied to FM broadcast stations means the transmission of facsimile or other signals in addition to the regular broadcast signals.

Percentage modulation. The ratio of the actual frequency deviation to the frequency deviation defined as 100% modulation, expressed in percentage. For FM broadcast stations, a frequency deviation of ±75kHz is defined as 100% modulation.

(b) *Stereophonic sound broadcasting. Cross-talk.* An undesired signal occurring in one channel caused by an electrical signal in another channel.

FM stereophonic broadcast. The transmission of a stereophonic program by a single FM broadcast station utilizing the main channel and a stereophonic subchannel.

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 originating predominately 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 FM stereophonic broadcasts.

Main channel. The band of frequencies from 50 to 15,000 Hz which frequency-modulate the main carrier.

Pilot subcarrier. A subcarrier that serves as a control signal for use in the reception of FM stereophonic sound broadcasts.

Stereophonic separation. The ratio of the electrical signal caused in sound channel A to the signal caused in sound channel B by the transmission of only a channel B signal. Channels A and B may be any two channels of a stereophonic sound broadcast transmission system.

Stereophonic sound. The audio information carried by plurality of channels arranged to afford the listener a sense of the spatial distribution of sound sources. Stereophonic sound broadcasting includes, but is not limited to, biphonic (two channel), triphonic (three channel) and quadrophonic (four channel) program services.

Stereophonic sound subcarrier. A subcarrier within the FM broadcast baseband used for transmitting signals for stereophonic sound reception of the main broadcast program service.

Stereophonic sound subchannel. The band of frequencies from 23 kHz to 99 kHz containing sound subcarriers and their associated sidebands.

(c) *Visual transmissions.* Communications or message transmitted on a subcarrier intended for reception and visual presentation on a viewing screen, teleprinter, facsimile printer, or other form of graphic display or record.

(d) *Control and telemetry transmissions.* Signals transmitted on a multiplex subcarrier intended for any form of control and switching functions or for equipment status data and aural or visual alarms.

[28 FR 13623, Dec. 14, 1963, as amended at 39 FR 10575, Mar. 21, 1974; 44 FR 36038, June 20, 1979; 48 FR 28454, June 22, 1983; 48 FR 29507, June 27, 1983; 48 FR 37216, Aug. 17, 1983; 49 FR 45145, Nov. 15, 1984; 57 FR 48333, Oct. 23, 1992; 62 FR 51058, Sept. 30, 1997]

§ 73.311 Field strength contours.

(a) Applications for FM broadcast authorizations must show the field strength contours required by FCC

Form 301 or FCC Form 340, as appropriate.

(b) The field strength contours provided for in this section shall be considered for the following purposes only:

(1) In the estimation of coverage resulting from the selection of a particular transmitter site by an applicant for an FM broadcast station.

(2) In connection with problems of coverage arising out of application of § 73.3555.

(3) In determining compliance with § 73.315(a) concerning the minimum field strength to be provided over the principal community to be served.

(4) In determining compliance with § 73.215 concerning contour protection.

[28 FR 13623, Dec. 14, 1963, as amended at 31 FR 10126, July 27, 1966; 32 FR 11471, Aug. 9, 1967; 52 FR 10570, Apr. 2, 1987; 54 FR 9802, Mar. 8, 1989]

§ 73.312 Topographic data.

(a) In the preparation of the profile graphs previously described, and in determining the location and height above mean sea level of the antenna site, the elevation or contour intervals shall be taken from United States Geological Survey Topographic Quadrangle Maps, United States Army Corps of Engineers Maps or Tennessee Valley Authority maps, whichever is the latest, for all areas for which such maps are available. If such maps are not published for the area in question, the next best topographic information should be used. Topographic data may sometimes be obtained from state and municipal agencies. The data from the Sectional Aeronautical Charts (including bench marks) or railroad depot elevations and highway elevations from road maps may be used where no better information is available. In cases where limited topographic data can be obtained, use may be made of an altimeter in a car driven along roads extending generally radially from the transmitter site.

(b) The Commission will not ordinarily require the submission of topographical maps for areas beyond 24 km (15 miles) from the antenna site, but the maps must include the principal city or cities to be served. If it appears necessary, additional data may be requested.

(c) The U.S. Geological Survey Topography Quadrangle Sheets may be obtained from the U.S. Geological Survey Department of the Interior, Washington, DC 20240. The Sectional Aeronautical Charts are available from the U.S. Coast and Geodetic Survey, Department of Commerce, Washington, DC 20235. These maps may also be secured from branch offices and from authorized agents or dealers in most principal cities.

(d) In lieu of maps, the average terrain elevation may be computer generated except in cases of dispute, using elevations from a 30 second, point or better topographic data file. The file must be identified and the data processed for intermediate points along each radial using linear interpolation techniques. The height above mean sea level of the antenna site must be obtained manually using appropriate topographic maps.

[28 FR 13623, Dec. 14, 1963, as amended at 31 FR 10126, July 27, 1966; 49 FR 48937, Dec. 17, 1984; 58 FR 44950, Aug. 25, 1993; 63 FR 33877, June 22, 1998]

§ 73.313 Prediction of coverage.

(a) All predictions of coverage made pursuant to this section shall be made without regard to interference and shall be made only on the basis of estimated field strengths.

(b) Predictions of coverage shall be made only for the same purposes as relate to the use of field strength contours as specified in § 73.311.

(c) In predicting the distance to the field strength contours, the F(50,50) field strength chart, Figure 1 of § 73.333 must be used. The 50% field strength is defined as that value exceeded for 50% of the time.

(1) The F(50,50) chart gives the estimated 50% field strengths exceeded at 50% of the locations in dB above 1 uV/m. The chart is based on an effective power radiated from a half-wave dipole antenna in free space, that produces an unattenuated field strength at 1 kilometer of about 107 dB above 1 uV/m (221.4 mV/m).

(2) To use the chart for other ERP values, convert the ordinate scale by the appropriate adjustment in dB. For example, the ordinate scale for an ERP of 50 kW should be adjusted by 17 dB [10

log (50 kW) = 17 dBk], and therefore a field strength of 60 dBu would correspond to the field strength value at (60 − 17 =) 44 dBu on the chart. When predicting the distance to field strength contours, use the maximum ERP of the main radiated lobe in the pertinent azimuthal direction (do not account for beam tilt). When predicting field strengths over areas not in the plane of the maximum main lobe, use the ERP in the direction of such areas, determined by considering the appropriate vertical radiation pattern.

(d) The antenna height to be used with this chart is the height of the radiation center of the antenna above the average terrain along the radial in question. In determining the average elevation of the terrain, the elevations between 3 and 16 kilometers from the antenna site are used.

(1) Profile graphs must be drawn for eight radials beginning at the antenna site and extending 16 kilometers therefrom. The radials should be drawn for each 45° of azimuth starting with True North. At least one radial must include the principal community to be served even though it may be more than 16 kilometers from the antenna site. However, in the event none of the evenly spaced radials include the principal community to be served, and one or more such radials are drawn in addition, these radials must not be used in computing the antenna height above average terrain.

(2) Where the 3 to 16 kilometers portion of a radial extends in whole or in part over a large body of water or extends over foreign territory but the 50 uV/m (34 dBu) contour encompasses land area within the United States beyond the 16 kilometers portion of the radial, the entire 3 to 16 kilometers portion of the radial must be included in the computation of antenna height above average terrain. However, where the 50 uV/m (34 dBu) contour does not so encompass United States land area, and (i) the entire 3 to 16 kilometers portion of the radial extends over large bodies of water or over foreign territory, such radial must be completely omitted from the computation of antenna height above average terrain, and (ii) where a part of the 3 to 16 kilometers portion of a radial extends over large bodies of water or foreign territory, only that part of the radial extending from 3 kilometers to the outermost portion of land in the United States covered by the radial used must be used in the computation of antenna height above average terrain.

(3) The profile graph for each radial should be plotted by contour intervals of from 12 to 30 meters and, where the data permits, at least 50 points of elevation (generally uniformly spaced) should be used for each radial. In instances of very rugged terrain where the use of contour intervals of 30 meters would result in several points in a short distance, 60 or 120 meter contour intervals may be used for such distances. On the other hand, where the terrain is uniform or gently sloping the smallest contour interval indicated on the topographic map should be used, although only relatively few points may be available. The profile graph should indicate the topography accurately for each radial, and the graphs should be plotted with the distance in kilometers as the abscissa and the elevation in meters above mean sea level as the ordinate. The profile graphs should indicate the source of the topographical data used. The graph should also show the elevation of the center of the radiating system. The graph may be plotted either on rectangular coordinate paper or on special paper that shows the curvature of the earth. It is not necessary to take the curvature of the earth into consideration in this procedure as this factor is taken care of in the charts showing signal strengths. The average elevation of the 13 kilometer distance between 3 and 16 kilometers from the antenna site should then be determined from the profile graph for each radial. This may be obtained by averaging a large number of equally spaced points, by using a planimeter, or by obtaining the median elevation (that exceeded for 50% of the distance) in sectors and averaging those values.

(4) Examples of HAAT calculations:

(i) The heights above average terrain on the eight radials are as follows:

	Meters
0°	120

	Meters
45°	255
90°	185
135°	90
180°	−10
225°	−85
270°	40
315°	85

The antenna height above terrain (defined in §73.310(a)) is computed as follows:

(120 + 255 + 185 + 90 − 10 − 85 + 40 + 85) / 8 = 85 meters.

(ii) Same as paragraph (d)(4)(i) of this section, except the 0° radial is entirely over sea water. The antenna height above average terrain is computed as follows (note that the divisor is 7 not 8):

(255 + 185 + 90 − 10 − 85 + 40 + 85) / 7 = 80 meters.

(iii) Same as paragraph (d)(4)(i) of this section, except that only the first 10 kilometers of the 90° radial are in the United States; beyond 10 kilometers the 90° radial is in a foreign country. The height above average terrain of the 3 to 10 kilometer portion of the 90° radial is 105 meters. The antenna height above average terrain is computed as follows (note that the divisor is 8 not 7.5):

(120 + 255 + 105 + 90 − 10 − 85 + 40 + 85) / 8 = 75 meters.

(e) In cases where the terrain in one or more directions from the antenna site departs widely from the average elevation of the 3 to 16 kilometer sector, the prediction method may indicate contour distances that are different from what may be expected in practice. For example, a mountain ridge may indicate the practical limit of service although the prediction method may indicate otherwise. In such cases, the prediction method should be followed, but a supplemental showing may be made concerning the contour distances as determined by other means. Such supplemental showings should describe the procedure used and should include sample calculations. Maps of predicted coverage should include both the coverage as predicted by the regular method and as predicted by a supplemental method. When measurements of area are required, these should include the area obtained by the regular prediction method and the area obtained by the supplemental method. In directions where the terrain is such that antenna heights less than 30 meters for the 3 to 16 kilometer sector are obtained, an assumed height of 30 meters must be used for the prediction of coverage. However, where the actual contour distances are critical factors, a supplemental showing of expected coverage must be included together with a description of the method used in predicting such coverage. In special cases, the FCC may require additional information as to terrain and coverage.

(f) The effect of terrain roughness on the predicted field strength of a signal at points distant from an FM transmitting antenna is assumed to depend on the magnitude of a terrain roughness factor (h) which, for a specific propagation path, is determined by the characteristics of a segment of the terrain profile for that path 40 kilometers in length located between 10 and 50 kilometers from the antenna. The terrain roughness factor has a value equal to the distance, in meters, between elevations exceeded by all points on the profile for 10% and 90% respectively, of the length of the profile segment. (See §73.333, Figure 4.)

(g) If the lowest field strength value of interest is initially predicted to occur over a particular propagation path at a distance that is less than 50 kilometers from the antenna, the terrain profile segment used in the determination of terrain roughness factor over that path must be that included between points 10 kilometers from the transmitter and such lesser distances. No terrain roughness correction need be applied when all field strength values of interest are predicted to occur 10 kilometers or less from the transmitting antenna.

(h) Profile segments prepared for terrain roughness factor determinations are to be plotted in rectangular coordinates, with no less than 50 points evenly spaced within the segment using data obtained from topographic maps with contour intervals of approximately 15 meters (50 feet) or less if available.

(i) The field strength charts (§ 73.333, Figs. 1–1a) were developed assuming a terrain roughness factor of 50 meters, which is considered to be representative of average terrain in the United States. Where the roughness factor for a particular propagation path is found to depart appreciably from this value, a terrain roughness correction (ΔF) should be applied to field strength values along this path, as predicted with the use of these charts. The magnitude and sign of this correction, for any value of Δh, may be determined from a chart included in § 73.333 as Figure 5.

(j) Alternatively, the terrain roughness correction may be computed using the following formula:

$$\Delta F = 1.9 - 0.03(\Delta h)(1 + f/300)$$

Where:

ΔF = terrain roughness correction in dB
Δk = terrain roughness factor in meters
f = frequency of signal in MHz (MHz)

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[28 FR 13623, Dec. 14, 1963, as amended at 40 FR 27678, July 1, 1975; 48 FR 29507, June 27, 1983; 52 FR 11655, Apr. 10, 1987; 52 FR 37789, Oct. 9, 1987; 57 FR 48333, Oct. 23, 1992; 63 FR 33877, June 22, 1998]

EFFECTIVE DATE NOTE: At 42 FR 25736, May 19, 1977, the effective date of § 73.313 paragraphs (i) and (j) was stayed indefinitely.

§ 73.314 Field strength measurements.

(a) Except as provided for in § 73.209, FM broadcast stations shall not be protected from any type of interference or propagation effect. Persons desiring to submit testimony, evidence or data to the Commission for the purpose of showing that the technical standards contained in this subpart do not properly reflect the levels of any given type of interference or propagation effect may do so only in appropriate rule making proceedings concerning the amendment of such technical standards. Persons making field strength measurements for formal submission to the Commission in rule making proceedings, or making such measurements upon the request of the Commission, shall follow the procedure for making and reporting such measurements outlined in paragraph (b) of this section. In instances where a showing of the measured level of a signal prevailing over a specific community is appropriate, the procedure for making and reporting field strength measurements for this purpose is set forth in paragraph (c) of this section.

(b) Collection of field strength data for propagation analysis.

(1) *Preparation for measurements.* (i) On large scale topographic maps, eight or more radials are drawn from the transmitter location to the maximum distance at which measurements are to be made, with the angles included between adjacent radials of approximately equal size. Radials should be oriented so as to traverse representative types of terrain. The specific number of radials and their orientation should be such as to accomplish this objective.

(ii) Each radial is marked, at a point exactly 16 kilometers from the transmitter and, at greater distances, at successive 3 kilometer intervals. Where measurements are to be conducted over extremely rugged terrain, shorter intervals may be used, but all such intervals must be of equal length. Accessible roads intersecting each radial as nearly as possible at each 3 kilometer marker are selected. These intersections are the points on the radial at which measurements are to be made, and are referred to subsequently as measuring locations. The elevation of each measuring location should approach the elevation at the corresponding 3 kilometer marker as nearly as possible.

(2) *Measurement procedure.* All measurements must be made utilizing a receiving antenna designed for reception of the horizontally polarized signal component, elevated 9 meters above the roadbed. At each measuring location, the following procedure must be used:

(i) The instrument calibration is checked.

(ii) The antenna is elevated to a height of 9 meters.

(iii) The receiving antenna is rotated to determine if the strongest signal is arriving from the direction of the transmitter.

(iv) The antenna is oriented so that the sector of its response pattern over which maximum gain is realized is in the direction of the transmitter.

(v) A mobile run of at least 30 meters is made, that is centered on the intersection of the radial and the road, and the measured field strength is continuously recorded on a chart recorder over the length of the run.

(vi) The actual measuring location is marked exactly on the topographic map, and a written record, keyed to the specific location, is made of all factors which may affect the recorded field, such as topography, height and types of vegetation, buildings, obstacles, weather, and other local features.

(vii) If, during the test conducted as described in paragraph (b)(2)(iii) of this section, the strongest signal is found to come from a direction other than from the transmitter, after the mobile run prescribed in paragraph (b)(2)(v) of this section is concluded, additional measurements must be made in a ''cluster'' of at least five fixed points. At each such point, the field strengths with the antenna oriented toward the transmitter, and with the antenna oriented so as to receive the strongest field, are measured and recorded. Generally, all points should be within 60 meters of the center point of the mobile run.

(viii) If overhead obstacles preclude a mobile run of at least 30 meters, a ''cluster'' of five spot measurements may be made in lieu of this run. The first measurement in the cluster is identified. Generally, the locations for other measurements must be within 60 meters of the location of the first.

(3) *Method of reporting measurements.* A report of measurements to the Commission shall be submitted in affidavit form, in triplicate, and should contain the following information:

(i) Tables of field strength measurements, which, for each measuring location, set forth the following data:

(A) Distance from the transmitting antenna.

(B) Ground elevation at measuring location.

(C) Date, time of day, and weather.

(D) Median field in dBu for 0 dBk, for mobile run or for cluster, as well as maximum and minimum measured field strengths.

(E) Notes describing each measuring location.

(ii) U.S. Geological Survey topographic maps, on which is shown the exact location at which each measurement was made. The original plots shall be made on maps of the largest available scale. Copies may be reduced in size for convenient submission to the Commission, but not to the extent that important detail is lost. The original maps shall be made available, if requested. If a large number of maps is involved, an index map should be submitted.

(iii) All information necessary to determine the pertinent characteristics of the transmitting installation, including frequency, geographical coordinates of antenna site, rated and actual power output of transmitter, measured transmission line loss, antenna power gain, height of antenna above ground, above mean sea level, and above average terrain. The effective radiated power should be computed, and horizontal and vertical plane patterns of the transmitting antenna should be submitted.

(iv) A list of calibrated equipment used in the field strength survey, which, for each instrument, specifies its manufacturer, type, serial number and rated accuracy, and the date of its most recent calibration by the manufacturer, or by a laboratory. Complete details of any instrument not of standard manufacture shall be submitted.

(v) A detailed description of the calibration of the measuring equipment, including field strength meters, measuring antenna, and connecting cable.

(vi) Terrain profiles in each direction in which measurements were made, drawn on curved earth paper for equivalent 4/3 earth radius, of the largest available scale.

(c) Collection of field strength data to determine FM broadcast service in specific communities.

(1) *Preparation for measurement.* (i) The population (P) of the community, and its suburbs, if any, is determined by reference to an appropriate source, e.g., the 1970 U.S. Census tables of population of cities and urbanized areas.

(ii) The number of locations at which measurements are to be made shall be at least 15, and shall be approximately equal to $0.1(P)^{1/2}$, if this product is a number greater than 15.

(iii) A rectangular grid, of such size and shape as to encompass the boundaries of the community is drawn on an accurate map of the community. The number of line intersections on the grid included within the boundaries of the community shall be at least equal to the required number of measuring locations. The position of each intersection on the community map determines the location at which a measurement shall be made.

(2) *Measurement procedure.* All measurements must be made using a receiving antenna designed for reception of the horizontally polarized signal component, elevated 9 meters above ground level.

(i) Each measuring location shall be chosen as close as feasible to a point indicated on the map, as previously prepared, and at as nearly the same elevation as that point as possible.

(ii) At each measuring location, after equipment calibration and elevation of the antenna, a check is made to determine whether the strongest signal arrives from a direction other than from the transmitter.

(iii) At 20 percent or more of the measuring locations, mobile runs, as described in paragraph (b)(2) of this section shall be made, with no less than three such mobile runs in any case. The points at which mobile measurements are made shall be well separated. Spot measurements may be made at other measuring points.

(iv) Each actual measuring location is marked exactly on the map of the community, and suitably keyed. A written record shall be maintained, describing, for each location, factors which may affect the recorded field, such as the approximate time of measurement, weather, topography, overhead wiring, heights and types of vegetation, buildings and other structures. The orientation, with respect to the measuring location shall be indicated of objects of such shape and size as to be capable of causing shadows or reflections. If the strongest signal received was found to arrive from a direction other than that of the transmitter, this fact shall be recorded.

(3) *Method of reporting measurements.* A report of measurements to the Commission shall be submitted in affidavit form, in triplicate, and should contain the following information:

(i) A map of the community showing each actual measuring location, specifically identifying the points at which mobile runs were made.

(ii) A table keyed to the above map, showing the field strength at each measuring point, reduced to dBu for the actual effective radiated power of the station. Weather, date, and time of each measurement shall be indicated.

(iii) Notes describing each measuring location.

(iv) A topographic map of the largest available scale on which are marked the community and the transmitter site of the station whose signals have been measured, which includes all areas on or near the direct path of signal propagation.

(v) Computations of the mean and standard deviation of all measured field strengths, or a graph on which the distribution of measured field strength values is plotted.

(vi) A list of calibrated equipment used for the measurements, which for each instrument, specifies its manufacturer, type, serial number and rated accuracy, and the date of its most recent calibration by the manufacturer, or by a laboratory. Complete details of any instrument not of standard manufacture shall be submitted.

(vii) A detailed description of the procedure employed in the calibration of the measuring equipment, including field strength meters, measuring antenna, and connecting cable.

[40 FR 27682, July 1, 1975; 40 FR 28802, July 9, 1975, as amended at 48 FR 29508, June 27, 1983]

§ 73.315 FM transmitter location.

(a) The transmitter location shall be chosen so that, on the basis of the effective radiated power and antenna height above average terrain employed, a minimum field strength of 70 dB above one uV/m (dBu), or 3.16 mV/m, will be provided over the entire principal community to be served.

(b) The transmitter location should be chosen to maximize coverage to the city of license while minimizing interference. This is normally accomplished by locating in the least populated area available while maintaining the provisions of paragraph (a) of this section.

In general, the transmitting antenna of a station should be located in the most sparsely populated area available at the highest elevation available. The location of the antenna should be so chosen that line-of-sight can be obtained from the antenna over the principle city or cities to be served; in no event should there be a major obstruction in this path.

(c) The transmitting location should be selected so that the 1 mV/m contour encompasses the urban population within the area to be served. It is recognized that topography, shape of the desired service area, and population distribution may make the choice of a transmitter location difficult. In such cases consideration may be given to the use of a directional antenna system, although it is generally preferable to choose a site where a nondirectional antenna may be employed.

(d) In cases of questionable antenna locations it is desirable to conduct propagation tests to indicate the field strength expected in the principal city or cities to be served and in other areas, particularly where severe shadow problems may be expected. In considering applications proposing the use of such locations, the Commission may require site tests to be made. Such tests should include measurements made in accordance with the measurement procedures described in §73.314, and full data thereon shall be supplied to the Commission. The test transmitter should employ an antenna having a height as close as possible to the proposed antenna height, using a balloon or other support if necessary and feasible. Information concerning the authorization of site tests may be obtained from the Commission upon request.

(e) Cognizance must of course be taken regarding the possible hazard of the proposed antenna structure to aviation and the proximity of the proposed site to airports and airways. Procedures and standards with respect to the Commission's consideration of proposed antenna structures which will serve as a guide to persons intending to apply for radio station licenses are contained in Part 17 of this chapter (Construction, Marking, and Lighting of Antenna Structures).

[28 FR 13623, Dec. 14, 1963, as amended at 41 FR 22943, June 8, 1976; 49 FR 38131, Sept. 27, 1984; 49 FR 45146, Nov. 15, 1984; 51 FR 9965, Mar. 24, 1986; 52 FR 10570, Apr. 2, 1987; 65 FR 79778, Dec. 20, 2000]

§73.316 FM antenna systems.

(a) It shall be standard to employ horizontal polarization; however, circular or elliptical polarization may be employed if desired. Clockwise or counterclockwise rotation may be used. The supplemental vertically polarized effective radiated power required for circular or elliptical polarization shall in no event exceed the effective radiated power authorized.

(b) *Directional antennas.* A directional antenna is an antenna that is designed or altered for the purpose of obtaining a non-circular radiation pattern.

(1) Applications for the use of directional antennas that propose a ratio of maximum to minimum radiation in the horizontal plane of more than 15 dB will not be accepted.

(2) Directional antennas used to protect short-spaced stations pursuant to §73.213 or §73.215 of the rules, that have a radiation pattern which varies more than 2 dB per 10 degrees of azimuth will not be authorized.

(c) *Applications for directional antennas.* (1) Applications for construction permit proposing the use of directional antenna systems must include a tabulation of the composite antenna pattern for the proposed directional antenna. A value of 1.0 must be used to correspond to the direction of maximum radiation. The pattern must be tabulated such that 0° corresponds to the direction of maximum radiation or alternatively, in the case of an asymmetrical antenna pattern, the pattern must be tabulated such that 0° corresponds to the actual azimuth with respect to true North. In the case of a composite antenna composed of two or more individual antennas, the pattern required is that for the composite antenna, not the patterns for each of the individual antennas. Applications must include valuations tabulated at intervals of not greater than ten (10) degrees. In addition, tabulated values of all maximas and minimas, with their

corresponding azimuths, must be submitted.

(2) Applications for license upon completion of antenna construction must include the following:

(i) A complete description of the antenna system, including the manufacturer and model number of the directional antenna. It is not sufficient to label the antenna with only a generic term such as ''dipole.'' In the case of individually designed antennas with no model number, or in the case of a composite antenna composed of two or more individual antennas, the antenna must be described as a ''custom'' or ''composite'' antenna, as appropriate. A full description of the design of the antenna must also be submitted.

(ii) A plot of the composite pattern of the directional antenna. A value of 1.0 must be used to correspond to the direction of maximum radiation. The plot of the pattern must be oriented such that 0° corresponds to the direction of maximum radiation or alternatively, in the case of an asymmetrical antenna pattern, the plot must be oriented such that 0° corresponds to the actual azimuth with respect to true North. The horizontal plane pattern must be plotted to the largest scale possible on unglazed letter-size polar coordinate paper (main engraving approximately 18 cm × 25 cm (7 inches × 10 inches)) using only scale divisions and subdivisions of 1, 2, 2.5, or 5 times 10-nth. Values of field strength less than 10% of the maximum field strength plotted on that pattern must be shown on an enlarged scale. In the case of a composite antenna composed of two or more individual antennas, the composite antenna pattern should be provided, and not the pattern for each of the individual antennas.

(iii) A tabulation of the measured relative field pattern required in paragraph (c)(1) of this section. The tabulation must use the same zero degree reference as the plotted pattern, and must contain values for at least every 10 degrees. Sufficient vertical patterns to indicate clearly the radiation characteristics of the antenna above and below the horizontal plane. Complete information and patterns must be provided for angles of −10 deg. from the horizontal plane and sufficient additional information must be included on that portion of the pattern lying between + 10 deg. and the zenith and −10 deg. and the nadir, to conclusively demonstrate the absence of undesirable lobes in these areas. The vertical plane pattern must be plotted on rectangular coordinate paper with reference to the horizontal plane. In the case of a composite antenna composed of two or more individual antennas, the composite antenna pattern should be used, and not the pattern for each of the individual antennas.

(iv) A statement that the antenna is mounted on the top of an antenna tower recommended by the antenna manufacturer, or is side-mounted on a particular type of antenna tower in accordance with specific instructions provided by the antenna manufacturer.

(v) A statement that the directional antenna is not mounted on the top of an antenna tower which includes a top-mounted platform larger than the nominal cross-sectional area of the tower in the horizontal plane.

(vi) A statement that no other antenna of any type is mounted on the same tower level as a directional antenna, and that no antenna of any type is mounted within any horizontal or vertical distance specified by the antenna manufacturer as being necessary for proper directional operation.

(vii) A statement from an engineer listing such individual engineer's qualifications and certifying that the antenna has been installed pursuant to the manufacturer's instructions.

(viii) A statement from a licensed surveyor that the installed antenna is properly oriented.

(ix)(A) For a station authorized pursuant to §73.215 or Sec. §73.509, a showing that the root mean square (RMS) of the measured composite antenna pattern (encompassing both the horizontally and vertically polarized radiation components (in relative field)) is at least 85 percent of the RMS of the authorized composite directional antenna pattern (in relative field). The RMS value, for a composite antenna pattern specified in relative field values, may be determined from the following formula:

RMS = the square root of:

[(relative field value 1)^2 + (relative field value 2)^2 + ... + (last relative field value)^2]

total number of relative field values

(B) where the relative field values are taken from at least 36 evenly spaced radials for the entire 360 degrees of azimuth. The application for license must also demonstrate that coverage of the community of license by the 70 dBu contour is maintained for stations authorized pursuant to §73.215 on Channels 221 through 300, as required by §73.315(a), while noncommercial educational stations operating on Channels 201 through 220 must show that the 60 dBu contour covers at least a portion of the community of license.

(d) Applications proposing the use of FM transmitting antennas in the immediate vicinity (*i.e.* 60 meters or less) of other FM or TV broadcast antennas must include a showing as to the expected effect, if any, of such approximate operation.

(e) Where an FM licensee or permittee proposes to mount its antenna on or near an AM tower, as defined in §1.30002, the FM licensee or permittee must comply with §1.30003 or §1.30002, depending on whether the antenna is proposed to be mounted on an AM tower (§1.30003) or near an AM tower (§1.30002).

[28 FR 13623, Dec. 14, 1963, as amended at 34 FR 14222, Sept. 10, 1969; 37 FR 25841, Dec. 5, 1972; 43 FR 53738, Nov. 17, 1978; 48 FR 29508, June 27, 1983; 51 FR 17028, May 8, 1986; 54 FR 9804, Mar. 8, 1989; 56 FR 57294, Nov. 8, 1991; 62 FR 51058, Sept. 30, 1997; 63 FR 70047, Dec. 18, 1998; 78 FR 66298, Nov. 5, 2013]

§73.317 FM transmission system requirements.

(a) FM broadcast stations employing transmitters authorized after January 1, 1960, must maintain the bandwidth occupied by their emissions in accordance with the specification detailed below. FM broadcast stations employing transmitters installed or type accepted before January 1, 1960, must achieve the highest degree of compliance with these specifications practicable with their existing equipment. In either case, should harmful interference to other authorized stations occur, the licensee shall correct the problem promptly or cease operation.

(b) Any emission appearing on a frequency removed from the carrier by between 120 kHz and 240 kHz inclusive must be attenuated at least 25 dB below the level of the unmodulated carrier. Compliance with this requirement will be deemed to show the occupied bandwidth to be 240 kHz or less.

(c) Any emission appearing on a frequency removed from the carrier by more than 240 kHz and up to and including 600 kHz must be attenuated at least 35 dB below the level of the unmodulated carrier.

(d) Any emission appearing on a frequency removed from the carrier by more than 600 kHz must be attenuated at least 43 + 10 Log_{10} (Power, in watts) dB below the level of the unmodulated carrier, or 80 dB, whichever is the lesser attenuation.

(e) Preemphasis shall not be greater than the impedance-frequency characteristics of a series inductance resistance network having a time constant of 75 microseconds. (See upper curve of Figure 2 of §73.333.)

[51 FR 17028, May 8, 1986]

§73.318 FM blanketing interference.

Areas adjacent to the transmitting antenna that receive a signal with a strength of 115 dBu (562 mV/m) or greater will be assumed to be blanketed. In determining the blanketed area, the 115 dBu contour is determined by calculating the inverse distance field using the effective radiated power of the maximum radiated lobe of the antenna without considering its vertical radiation pattern or height. For directional antennas, the effective radiated power in the pertinent bearing shall be used.

(a) The distance to the 115 dBu contour is determined using the following equation:

D (in kilometers) = $0.394\sqrt{\ }$ P
D (in miles) = $0.245\sqrt{\ }$ P

Where P is the maximum effective radiated power (ERP), measured in kilowatts, of the maximum radiated lobe.

(b) After January 1, 1985, permittees or licensees who either (1) commence

program tests, or (2) replace their antennas, or (3) request facilities modifications and are issued a new construction permit must satisfy all complaints of blanketing interference which are received by the station during a one year period. The period begins with the commencement of program tests, or commencement of programming utilizing the new antenna. Resolution of complaints shall be at no cost to the complainant. These requirements specifically do not include interference complaints resulting from malfunctioning or mistuned receivers, improperly installed antenna systems, or the use of high gain antennas or antenna booster amplifiers. Mobile receivers and non-RF devices such as tape recorders or hi-fi amplifiers (phonographs) are also excluded.

(c) A permittee collocating with one or more existing stations and beginning program tests on or after January 1, 1985, must assume full financial responsibility for remedying new complaints of blanketing interference for a period of one year. Two or more permittees that concurrently collocate on or after January 1, 1985, shall assume shared responsibility for remedying blanketing complaints within the blanketing area unless an offending station can be readily determined and then that station shall assume full financial responsibility.

(d) Following the one year period of full financial obligation to satisfy blanketing complaints, licensees shall provide technical information or assistance to complainants on remedies for blanketing interference.

[28 FR 13623, Dec. 14, 1963, as amended at 52 FR 25866, July 9, 1987]

§ 73.319 FM multiplex subcarrier technical standards.

(a) The technical specifications in this Section apply to all transmissions of FM multiplex subcarriers except those used for stereophonic sound broadcasts under the provisions of § 73.322.

(b) *Modulation.* Any form of modulation may be used for subcarrier operation.

(c) *Subcarrier baseband.* (1) During monophonic program transmissions, multiplex subcarriers and their significant sidebands must be within the range of 20 kHz to 99 kHz.

(2) During stereophonic sound program transmissions (see § 73.322), multiplex subcarriers and their significant sidebands must be within the range of 53 kHz to 99 kHz.

(3) During periods when broadcast programs are not being transmitted, multiplex subcarriers and their significant sidebands must be within the range of 20 kHz to 99 kHz.

(d) *Subcarrier injection.* (1) During monophonic program transmissions, modulation of the carrier by the arithmetic sum of all subcarriers may not exceed 30% referenced to 75 kHz modulation deviation. However, the modulation of the carrier by the arithmetic sum of all subcarriers above 75 kHz may not modulate the carrier by more than 10%.

(2) During stereophonic program transmissions, modulation of the carrier by the arithmetic sum of all subcarriers may not exceed 20% referenced to 75 kHz modulation deviation. However, the modulation of the carrier by the arithmetic sum of all subcarriers above 75 kHz may not modulate the carrier by more than 10%.

(3) During periods when no broadcast program service is transmitted, modulation of the carrier by the arithmetic sum of all subcarriers may not exceed 30% referenced to 75 kHz modulation deviation. However, the modulation of the carrier by the arithmetic sum of all subcarriers above 75 kHz may not modulate the carrier by more than 10%.

(4) Total modulation of the carrier wave during transmission of multiplex subcarriers used for subsidiary communications services must comply with the provisions § 73.1570(b).

(e) Subcarrier generators may be installed and used with a type accepted FM broadcast transmitter without specific authorization from the FCC provided the generator can be connected to the transmitter without requiring any mechanical or electrical modifications in the transmitter FM exciter circuits.

(f) Stations installing multiplex subcarrier transmitting equipment must ensure the proper suppression of spurious or harmonic radiations. See

§§ 73.317, 73.1590 and 73.1690. If the subcarrier operation causes the station's transmissions not to comply with the technical provisions for FM broadcast stations or causes harmful interference to other communication services, the licensee or permittee must correct the problem promptly or cease operation. The licensee may be required to verify the corrective measures with supporting data. Such data must be retained at the station and be made available to the FCC upon request.

[48 FR 28455, June 22, 1983, as amended at 48 FR 37216, Aug. 17, 1983; 49 FR 15080, Apr. 17, 1984; 49 FR 38131, Sept. 27, 1984; 50 FR 1534, Jan. 11, 1985; 51 FR 17029, May 8, 1986; 57 FR 48333, Oct. 23, 1992]

§ 73.322 FM stereophonic sound transmission standards.

(a) An FM broadcast station shall not use 19 kHz ±20 Hz, except as the stereophonic pilot frequency in a transmission system meeting the following parameters:

(1) The modulating signal for the main channel consists of the sum of the right and left signals.

(2) The pilot subcarrier at 19 kHz ±2 Hz, must frequency modulate the main carrier between the limits of 8 and 10 percent.

(3) One stereophonic subcarrier must be the second harmonic of the pilot subcarrier (*i.e.*, 38 kHz) and must cross the time axis with a positive slope simultaneously with each crossing of the time axis by the pilot subcarrier. Additional stereophomic subcarriers are not precluded.

(4) Double sideband, suppressed-carrier, amplitude modulation of the stereophonic subcarrier at 38 kHz must be used.

(5) The stereophonic subcarrier at 38 kHz must be suppressed to a level less than 1% modulation of the main carrier.

(6) The modulating signal for the required stereophonic subcarrier must be equal to the difference of the left and right signals.

(7) The following modulation levels apply:

(i) When a signal exists in only one channel of a two channel (biphonic) sound transmission, modulation of the carrier by audio components within the baseband range of 50 Hz to 15 kHz shall not exceed 45% and modulation of the carrier by the sum of the amplitude modulated subcarrier in the baseband range of 23 kHz to 53 kHz shall not exceed 45%.

(ii) When a signal exists in only one channel of a stereophonic sound transmission having more than one stereophonic subcarrier in the baseband, the modulation of the carrier by audio components within the audio baseband range of 23 kHz to 99 kHz shall not exceed 53% with total modulation not to exceed 90%.

(b) Stations not transmitting stereo with the method described in (a), must limit the main carrier deviation caused by any modulating signals occupying the band 19 kHz ±20 Hz to 125 Hz.

(c) All stations, regardless of the stereophonic transmission system used, must not exceed the maximum modulation limits specified in § 73.1570(b)(2). Stations not using the method described in (a), must limit the modulation of the carrier by audio components within the audio baseband range of 23 kHz to 99 kHz to not exceed 53%.

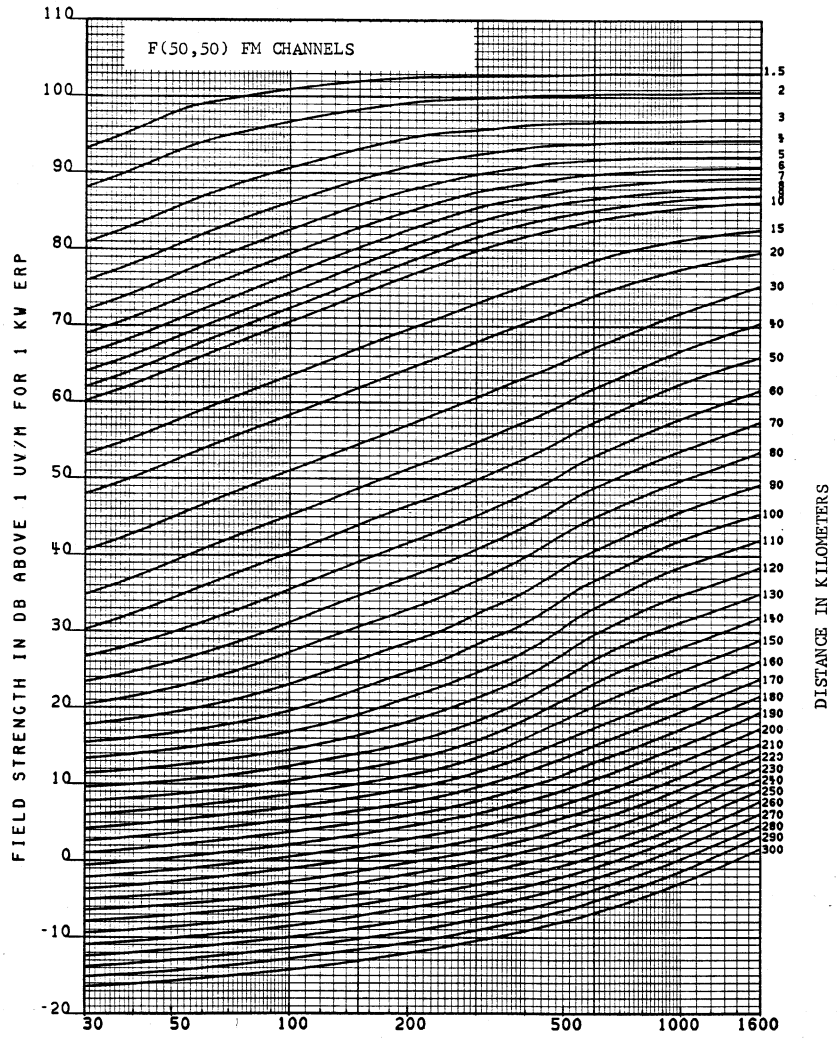
[51 FR 17029, May 8, 1986]

§ 73.333 Engineering charts.

This section consists of the following Figures 1, 1a, 2, and slider 4 and 5.

NOTE: The figures reproduced herein, due to their small scale, are not to be used in connection with material submitted to the F.C.C.

C16

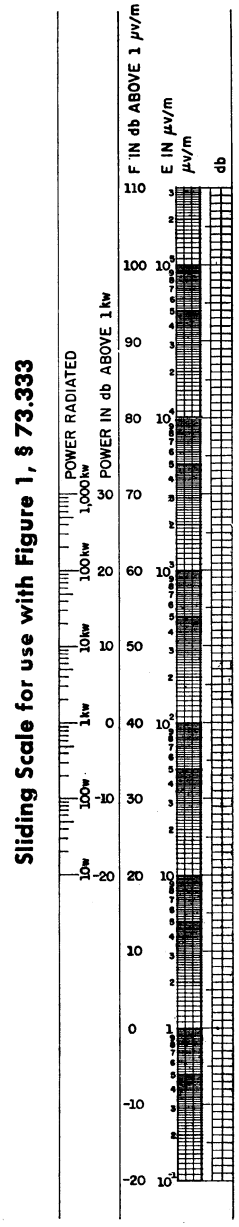


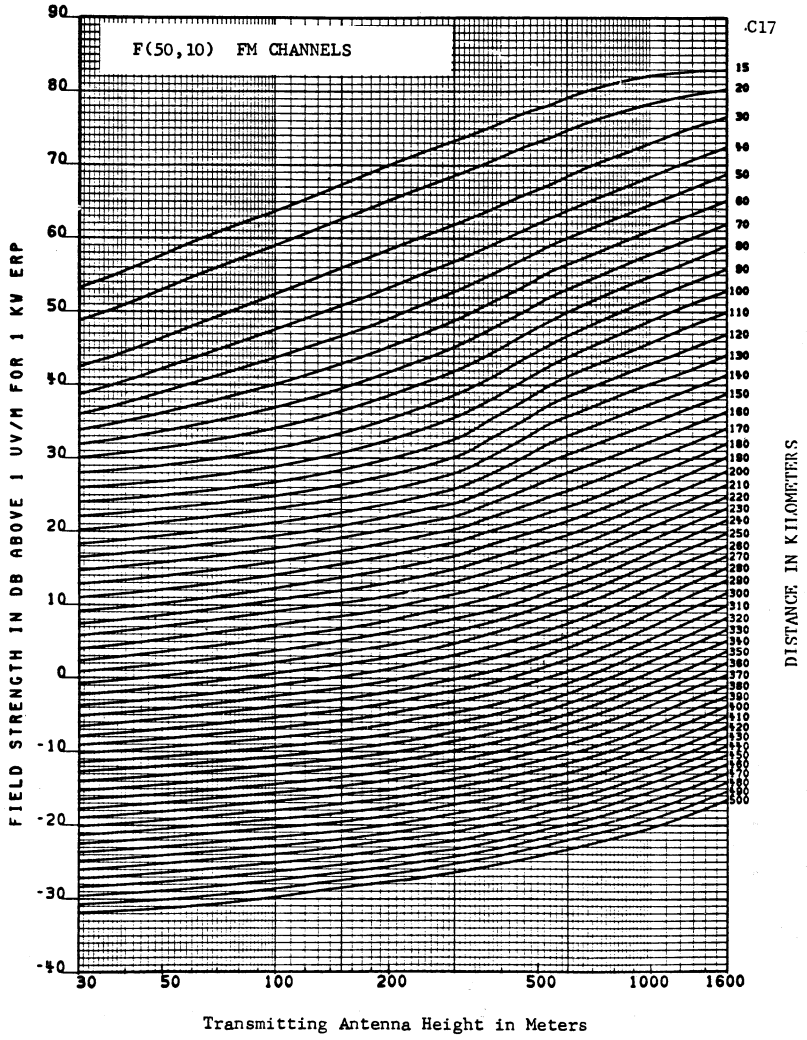
FCC §73.333 FIGURE 1

FM CHANNELS

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 50 PERCENT OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS

Sliding Scale for use with Figure 1, § 73.333





FCC §73.333 FIGURE 1a

FM CHANNELS

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT
OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 10 PERCENT
OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS

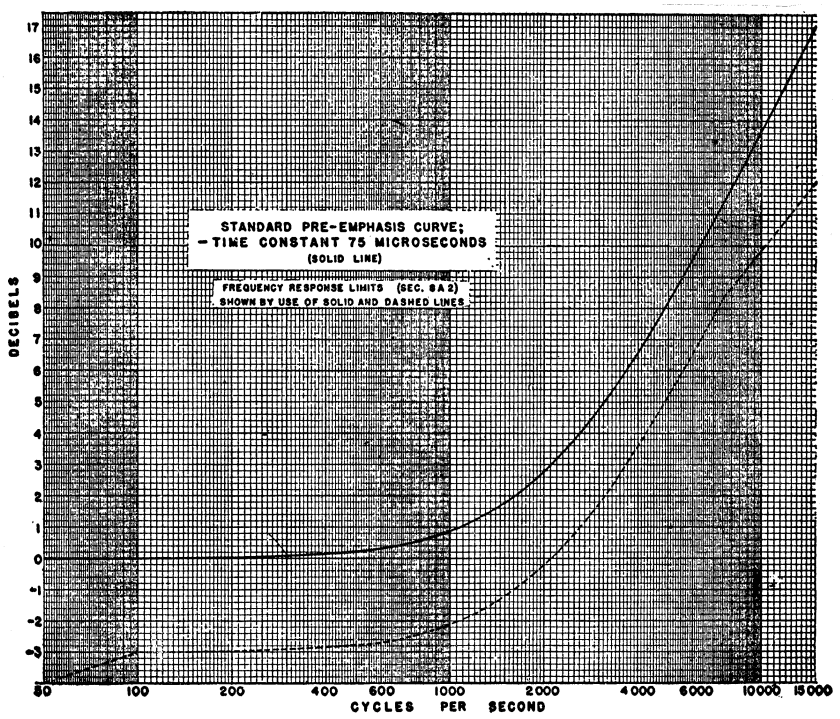
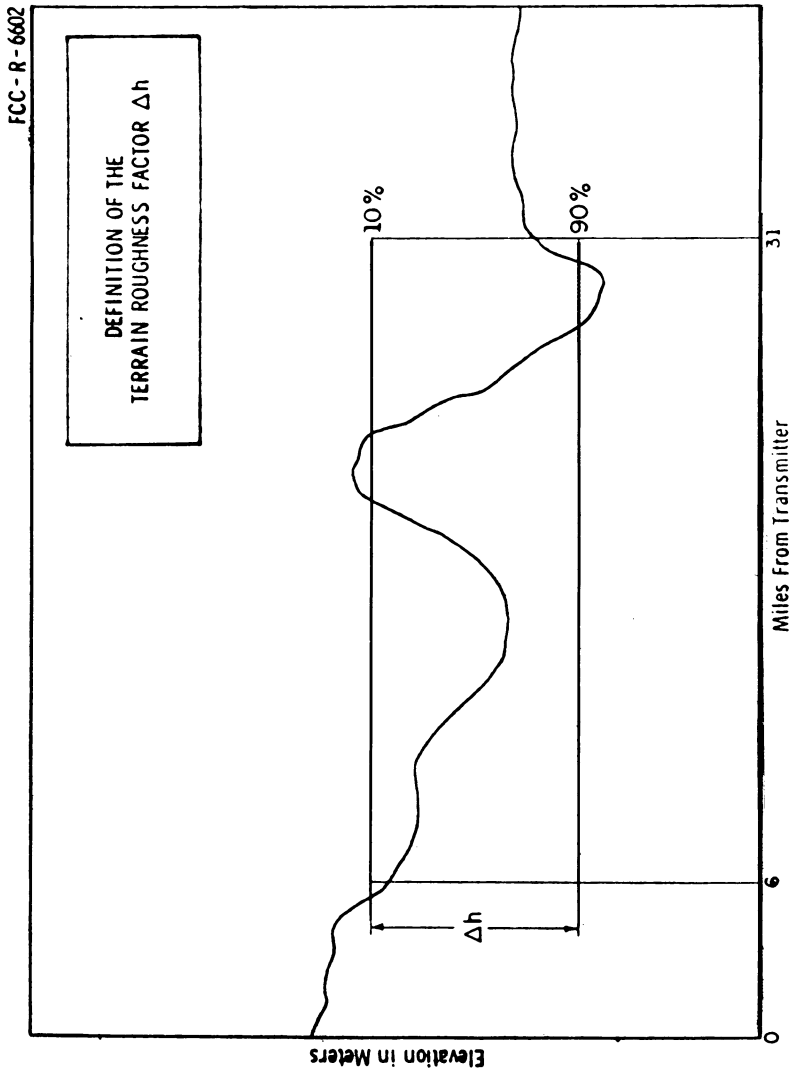
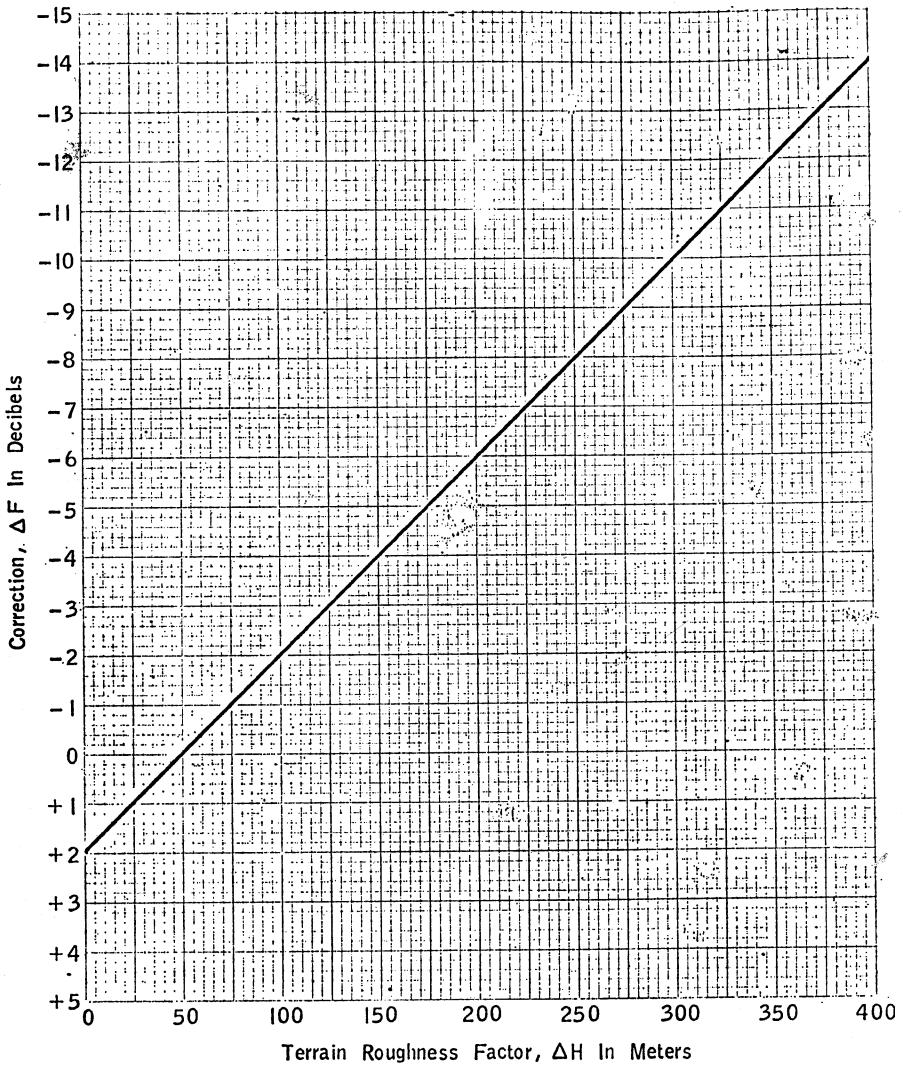

STANDARD PRE-EMPHASIS CURVE;
-TIME CONSTANT 75 MICROSECONDS
(SOLID LINE)
FREQUENCY RESPONSE LIMITS (SEC. 9A2)
SHOWN BY USE OF SOLID AND DASHED LINES
DECIBELS
17
16
15
14
13
12
11
10
9
8
7
6
5
4
3
2
1
0
-1
-2
-3
50
100
200
400
600
1000
2000
4000
6000
10000
15000
CYCLES PER SECOND

FIGURE 2



FCC § 73.333 FIGURE 4
(new)



TERRAIN ROUGHNESS CORRECTION

for use with estimated FM F(50,50) and F(50,10) field strength curves

FCC §73.333 FIGURE 5

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[28 FR 13623, Dec. 14, 1963, as amended at 35 FR 2591, Feb. 5, 1970; 40 FR 27679, July 1, 1975; 45 FR 28141, Apr. 28, 1980; 48 FR 29508, June 27, 1983; 49 FR 19670, May 9, 1984]

EFFECTIVE DATE NOTE: At 42 FR 25736, May 19, 1977, in §73.333, the effective date of Figures 4 and 5 was stayed indefinitely.

Subpart C—Digital Audio Broadcasting

SOURCE: 72 FR 45692, Aug. 15, 2007, unless otherwise noted.

§ 73.401 Scope.

This subpart contains those rules which apply exclusively to the digital audio broadcasting (DAB) service, and are in addition to those rules in Subparts A, B, C, G and H which apply to AM and FM broadcast services, both commercial and noncommercial.

§ 73.402 Definitions.

(a) *DAB.* Digital audio broadcast stations are those radio stations licensed by the Commission and use the In-band On-channel (''IBOC'') system for broadcasting purposes.

(b) *In Band On Channel DAB System.* A technical system in which a station's digital signal is broadcast in the same spectrum and on the same channel as its analog signal.

(c) *Hybrid DAB System.* A system which transmits both the digital and analog signals within the spectral emission mask of a single AM or FM channel.

(d) *Extended hybrid operation.* An enhanced mode of FM IBOC DAB operation which includes additional DAB subcarriers transmitted between the analog FM signal and the inner edges of the primary DAB sidebands.

(e) *Primary AM DAB Sidebands.* The two groups of hybrid AM IBOC DAB subcarriers which are transmitted 10 to 15 kHz above carrier frequency (the upper primary DAB sideband), and 10 to 15 kHz below carrier frequency (the lower primary DAB sideband).

(f) *Multicasting.* Subdividing the digital bitstream into multiple channels for additional audio programming uses.

(g) *Datacasting.* Subdividing the digital bitstream into multiple channels for additional data or information services uses.

§ 73.403 Digital audio broadcasting service requirements.

(a) Broadcast radio stations using IBOC must transmit at least one over-the-air digital audio programming stream at no direct charge to listeners. In addition, a broadcast radio station must simulcast its analog audio programming on one of its digital audio programming streams. The DAB audio programming stream that is provided pursuant to this paragraph must be at least comparable in sound quality to the analog programming service currently provided to listeners.

(b) Emergency information. The emergency information requirements found in § 73.1250 shall apply to all free DAB programming streams.

§ 73.404 Interim hybrid IBOC DAB operation.

(a) The licensee of an AM or FM station, or the permittee of a new AM or FM station which has commenced program test operation pursuant to § 73.1620, may commence interim hybrid IBOC DAB operation with digital facilities which conform to the technical specifications specified for hybrid DAB operation in the *First Report and Order* in MM Docket No. 99–325, as revised in the Media Bureau's subsequent *Order* in MM Docket No. 99–325. FM stations are permitted to operate with hybrid digital effective radiated power equal to one percent (−20 decibels below carrier (dBc)) of authorized analog effective radiated power and may operate with up to ten percent (−10 dBc) of authorized analog effective radiated power in accordance with the procedures set forth in the Media Bureau's *Order* in MM Docket No. 99–325. An AM or FM station may transmit IBOC signals during all hours for which the station is licensed to broadcast.

(b) In situations where interference to other stations is anticipated or actually occurs, AM licensees may, upon notification to the Commission, reduce the power of the primary DAB sidebands by up to 6 dB. Any greater reduction of sideband power requires prior authority from the Commission via the filing of a request for special temporary authority or an informal letter request for modification of license.

(c) Hybrid IBOC AM stations must use the same licensed main or auxiliary antenna to transmit the analog and digital signals.

(d) FM stations may transmit hybrid IBOC signals in combined mode; *i.e.*, using the same antenna for the analog

and digital signals; or may employ separate analog and digital antennas. Where separate antennas are used, the digital antenna:

(1) Must be a licensed auxiliary antenna of the station;

(2) Must be located within 3 seconds latitude and longitude from the analog antenna;

(3) Must have a radiation center height above average terrain between 70 and 100 percent of the height above average terrain of the analog antenna.

(e) Licensees must provide notification to the Commission in Washington, DC, within 10 days of commencing IBOC digital operation. The notification must include the following information:

(1) Call sign and facility identification number of the station;

(2) Date on which IBOC operation commenced;

(3) Certification that the IBOC DAB facilities conform to permissible hybrid specifications;

(4) Name and telephone number of a technical representative the Commission can call in the event of interference;

(5) FM digital effective radiated power used and certification that the FM analog effective radiated power remains as authorized;

(6) Transmitter power output; if separate analog and digital transmitters are used, the power output for each transmitter;

(7) If applicable, any reduction in an AM station's primary digital carriers;

(8) If applicable, the geographic coordinates, elevation data, and license file number of the auxiliary antenna employed by an FM station as a separate digital antenna;

(9) If applicable, for FM systems employing interleaved antenna bays, a certification that adequate filtering and/or isolation equipment has been installed to prevent spurious emissions in excess of the limits specified in § 73.317;

(10) A certification that the operation will not cause human exposure to levels of radio frequency radiation in excess of the limits specified in § 1.1310 of this chapter and is therefore categorically excluded from environmental processing pursuant to § 1.1306(b) of this chapter. Any station that cannot certify compliance must submit an environmental assessment (''EA'') pursuant to § 1.1311 of this chapter and may not commence IBOC operation until such EA is ruled upon by the Commission.

[72 FR 45692, Aug. 15, 2007, as amended at 75 FR 17877, Apr. 8, 2010]

Subpart D—Noncommercial Educational FM Broadcast Stations

SOURCE: 28 FR 13651, Dec. 14, 1963, unless otherwise noted. Redesignated at 72 FR 45692, Aug. 15, 2007.

§ 73.501 Channels available for assignment.

(a) The following frequencies, except as provided in paragraph (b) of this section, are available for noncommercial educational FM broadcasting:

Frequency (MHz)	Channel No.
87.9	[1] 200
88.1	201
88.3	202
88.5	203
88.7	204
88.9	205
89.1	[2] 206
89.3	207
89.5	208
89.7	209
89.9	210
90.1	211
90.3	212
90.5	213
90.7	214
90.9	215
91.1	216
91.3	217
91.5	218
91.7	219
91.9	220

[1] The frequency 87.9 MHz, Channel 200, is available only for use of existing Class D stations required to change frequency. It is available only on a noninterference basis with respect to TV Channel 6 stations and adjacent channel noncommercial educational FM stations. It is not available at all within 402 kilometers (250 miles) of Canada and 320 kilometers (199 miles) of Mexico. The specific standards governing its use are contained in § 73.512.

[2] The frequency 89.1 MHz, Channel 206, in the New York City metropolitan area, is reserved for the use of the United Nations with the equivalent of an antenna height of 150 meters (492 feet) above average terrain and effective radiated power of 20 kW and the Commission will make no assignments which would cause objectionable interference with such use.

(b) In Alaska, FM broadcast stations operating on Channels 200–220 (87.9–91.9

MHz) shall not cause harmful interference to and must accept interference from non-Government fixed operations authorized prior to January 1, 1982.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[43 FR 39715, Sept. 6, 1978, as amended at 47 FR 30068, July 12, 1982; 52 FR 43765, Nov. 16, 1987; 58 FR 44950, Aug. 25, 1993]

§ 73.503 Licensing requirements and service.

The operation of, and the service furnished by noncommercial educational FM broadcast stations shall be governed by the following:

(a) A noncommercial educational FM broadcast station will be licensed only to a nonprofit educational organization and upon showing that the station will be used for the advancement of an educational program.

(1) In determining the eligibility of publicly supported educational organizations, the accreditation of their respective state departments of education shall be taken into consideration.

(2) In determining the eligibility of privately controlled educational organizations, the accreditation of state departments of education and/or recognized regional and national educational accrediting organizations shall be taken into consideration.

(b) Each station may transmit programs directed to specific schools in a system or systems for use in connection with the regular courses as well as routine and administrative material pertaining thereto and may transmit educational, cultural, and entertainment programs to the public.

(c) A noncommercial educational FM broadcast station may broadcast programs produced by, or at the expense of, or furnished by persons other than the licensee, if no other consideration than the furnishing of the program and the costs incidental to its production and broadcast are received by the licensee. The payment of line charges by another station network, or someone other than the licensee of a noncommercial educational FM broadcast station, or general contributions to the operating costs of a station, shall not be considered as being prohibited by this paragraph.

(d) Each station shall furnish a nonprofit and noncommercial broadcast service. Noncommercial educational FM broadcast stations are subject to the provisions of § 73.1212 to the extent they are applicable to the broadcast of programs produced by, or at the expense of, or furnished by others. No *promotional* announcement *on behalf of for profit entities* shall be broadcast at any time in exchange for the receipt, in whole or in part, of consideration to the licensee, its principals, or employees. However, acknowledgements of contributions can be made. *The scheduling of any announcements and acknowledgements may not interrupt regular programming,* except as permitted under paragraph (e) of this section.

(e) A noncommercial educational FM broadcast station may interrupt regular programming to conduct fundraising activities on behalf of a third-party non-profit organization, provided that all such fundraising activities conducted during any given year do not exceed one percent of the station's total annual airtime. A station may use the prior year's total airtime for purposes of determining how many hours constitute one percent of its total annual airtime. With respect to stations that multicast programming on two or more separate channels, the one-percent annual limit will apply separately to each individual programming stream. For purposes of this paragraph, a non-profit organization is an entity that qualifies as a non-profit organization under 26 U.S.C. 501(c)(3).

(1) *Audience disclosure.* A noncommercial educational FM broadcast station that interrupts regular programming to conduct fundraising activities on behalf of a third-party non-profit organization must air a disclosure during such activities clearly stating that the fundraiser is not for the benefit of the station itself and identifying the entity for which it is fundraising. The station must air the audience disclosure at the beginning and the end of each fundraising program and at least once during each hour in which the program is on the air.

(2) *Reimbursement.* A noncommercial educational FM broadcast station that

interrupts regular programming to conduct fundraising activities on behalf of a third-party non-profit organization may accept reimbursement of expenses incurred in conducting third-party fundraising activities or airing third-party fundraising programs.

(3) *Exemption.* No noncommercial educational FM broadcast station that receives funding from the Corporation for Public Broadcasting shall have the authority to interrupt regular programming to conduct fundraising activities on behalf of a third-party non-profit organization.

(f) Mutually exclusive applications for noncommercial educational radio stations operating on reserved channels will be resolved pursuant to the point system in subpart K.

NOTE TO §73.503: Commission interpretation on this rule, including the acceptable form of acknowledgements, may be found in the *Second Report and Order* in Docket No. 21136 (Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations), 86 FCC 2d 141 (1981); the *Memorandum Opinion and Order* in Docket No. 21136, 90 FCC 2d 895 (1982); the *Memorandum Opinion and Order* in Docket 21136, 97 FCC 2d 255 (1984); and the *Report and Order* in Docket No. 12–106 (Noncommercial Educational Station Fundraising for Third-Party Non-Profit Organizations), FCC 17–41, April 20, 2017. *See also Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations*, Public Notice, 7 FCC Rcd 827 (1992), which can be retrieved through the Internet at *http://www.fcc.gov/mmb/asd/nature.html*.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[28 FR 13651, Dec. 14, 1963, as amended at 35 FR 7558, May 15, 1970; 47 FR 36178, Aug. 19, 1982; 49 FR 29069, July 18, 1984; 63 FR 33877, June 22, 1998; 65 FR 36378, June 8, 2000; 82 FR 21135, May 5, 2017]

EFFECTIVE DATE NOTE: At 82 FR 21135, May 5, 2017, §73.503 was amended by adding new paragraph (e). Paragraph (e)(1) contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget. Paragraph (e)(1) has been approved by the Office of Management and Budget and will become effective Nov. 13, 2017.

§ 73.504 Channel assignments in the Mexican border area.

(a) NCE-FM stations within 199 miles (320 km) of the United States-Mexican border shall comply with the separation requirements and other provisions of the ''Agreement between the United States of America and the United Mexican States Concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band'' as amended.

(b) Applicants for noncommercial educational FM stations within 199 miles (320 km) of the United States-Mexican border shall propose at least Class A minimum facilities (see §73.211(a)). However, existing Class D noncommercial educational stations may apply to change frequency within the educational portion of the FM band in accordance with the requirements set forth in §73.512.

(c) Section 73.208 of this chapter shall be complied with as to the determination of reference points and distance computations used in applications for new or changed facilities. However, if it is necessary to consider a Mexican channel assignment or authorization, the computation of distance will be determined as follows: if a transmitter site has been established, on the basis of the coordinates of the site; if a transmitter site has not been established, on the basis of the reference coordinates of the community, town, or city.

[52 FR 43765, Nov. 16, 1987]

§ 73.505 Zones.

For the purpose of assignment of noncommercial educational FM stations, the United States is divided into three zones, Zone I, Zone I-A, and Zone II, having the boundaries specified in §73.205.

[42 FR 36828, July 18, 1977]

§ 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.

[43 FR 39715, Sept. 6, 1978, as amended at 49 FR 10264, Mar. 20, 1984; 52 FR 47569, Dec. 15, 1987; 54 FR 16367, Apr. 24, 1989; 54 FR 19374, May 5, 1989]

§ 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 provisions 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.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[42 FR 36828, July 18, 1977, as amended at 43 FR 39716, Sept. 6, 1978; 44 FR 65764, Nov. 15, 1979; 49 FR 10264, Mar. 20, 1984; 49 FR 19670, May 9, 1984]

§ 73.508 Standards of good engineering practice.

(a) All noncommercial educational stations and LPFM stations operating with more than 10 watts transmitter power output shall be subject to all of the provisions of the FM Technical Standards contained in subpart B of this part. Class D educational stations and LPFM stations operating with 10 watts or less transmitter output power shall be subject to the definitions contained in § 73.310, and also to those other provisions of the FM Technical Standards which are specifically made applicable to them by the provisions of this subpart.

(b) The transmitter and associated transmitting equipment of each noncommercial educational FM station and LPFM station licensed for transmitter power output above 10 watts must be designed, constructed and operated in accordance with § 73.317.

(c) The transmitter and associated transmitting equipment of each noncommercial educational FM station licensed for transmitter power output of 10 watts or less, although not required to meet all requirements of § 73.317, must be constructed with the safety provisions of the current national electrical code as approved by the American National Standards Institute. These stations must be operated, tuned, and adjusted so that emissions are not radiated outside the authorized band causing or which are capable of

causing interference to the communications of other stations. The audio distortion, audio frequency range, carrier hum, noise level, and other essential phases of the operation which control the external effects, must be at all times capable of providing satisfactory broadcast service. Studio equipment properly covered by an underwriter's certificate will be considered as satisfying safety requirements.

[65 FR 7640, Feb. 15, 2000]

§ 73.509 Prohibited overlap.

(a) An application for a new or modified NCE-FM station other than a Class D (secondary) station will not be accepted if the proposed operation would involve overlap of signal strength contours with any other station licensed by the Commission and operating in the reserved band (Channels 200–220, inclusive) as set forth below:

Frequency separation	Contour of proposed station	Contour of other station
Co-channel	0.1mV/m (40 dBu) ...	1 mV/m (60 dBu)
	1 mV/m (60 dBu)	0.1 mV/m (40 dBu)
200 kHz	0.5 mV/m (54 dBu) ..	1 mV/m (60 dBu)
	1 mV/m (60 dBu)1 ...	0.5 mV/m (54 dBu)
400 kHz/600 kHz.	100 mV/m (100 dBu)	1 mV/m (60 dBu)
	1 mV/m (60 dBu)	100 mV/m (100 dBu)

(b) An application by a Class D (secondary) station, other than an application to change class, will not be accepted if the proposed operation would involve overlap of signal strength contours with any other station as set forth below:

Frequency separation	Contour of proposed station	Contour of any other station
Co-channel	0.1 mV/m (40 dBu) ..	1 mV/m (60 dBu).
200 kHz	0.5 mV/m (54 dBu) ..	1 mV/m (60 dBu).
400 kHz	10 mV/m (80 dBu) ...	1 mV/m (60 dBu).
600 kHz	100 mV/m (100 dBu)	1 mV/m (60 dBu).

(c) The following standards must be used to compute the distances to the pertinent contours:

(1) The distance of the 60 dBu (1 mV/m) contours are to be computed using Figure 1 of § 73.333 [F(50,50) curves] of this part.

(2) The distance to the other contours are to be computed using Figure 1a of § 73.333 [F(50,10) curves]. In the event that the distance to the contour is below 16 kilometers (approximately 10 miles), and therefore not covered by Figure 1a, curves in Figure 1 must be used.

(3) The effective radiated power (ERP) that is the maximum ERP for any elevation plane on any bearing will be used.

(d) An application for a change (other than a change in channel) in the facilities of a NCE-FM broadcast station will be accepted even though overlap of signal strength contours, as specified in paragraphs (a) and (b) of this section, would occur with another station in an area where such overlap does not already exists, if:

(1) The total area of overlap with that station would not be increased;

(2) The area of overlap with any other station would not increase;

(3) The area of overlap does not move significantly closer to the station receiving the overlap; and,

(4) No area of overlap would be created with any station with which the overlap does not now exist.

(e) The provisions of this section concerning prohibited overlap will not apply where the area of such overlap lies entirely over water.

[50 FR 27962, July 9, 1985, as amended at 52 FR 43765, Nov. 16, 1987; 65 FR 79778, Dec. 20, 2000]

§ 73.510 Antenna systems.

(a) All noncommercial educational stations operating with more than 10 watts transmitter output power shall be subject to the provisions of § 73.316 concerning antenna systems contained in subpart B of this part.

(b) *Directional antenna.* No application for a construction permit of a new station, or change in channel, or change in an existing facility on the same channel will be accepted for filing if a directional antenna with a maximum-to-minimum ratio of more than 15 dB is proposed.

[42 FR 36829, July 18, 1977]

§ 73.511 Power and antenna height requirements.

(a) No new noncommercial educational station will be authorized with less power than minimum power requirements for commercial Class A facilities. (See § 73.211.)

(b) No new noncommercial educational FM station will be authorized

with facilities greater than Class B in Zones I and I-A or Class C in Zone II, as defined in § 73.211.

(c) Stations licensed before December 31, 1984, and operating above 50 kW in Zones I and I-A, and above 100 kW and in Zone II may continue to operate as authorized.

[50 FR 27963, July 9, 1985, as amended at 50 FR 31379, Aug. 2, 1985; 54 FR 3602, Jan. 25, 1989]

§ 73.512 Special procedures applicable to Class D noncommercial educational stations.

(a) All Class D stations seeking renewal of license for any term expiring June 1, 1980, or thereafter shall comply with the requirements set forth below and shall simultaneously file an application on FCC Form 340, containing full information regarding such compliance with the provisions set forth below.

(1) To the extent possible, each applicant shall select a commercial FM channel on which it proposes to operate in lieu of the station's present channel. The station may select any commercial channel provided no objectionable interference, as set forth in § 73.509(b), would be caused. The application shall include the same engineering information as is required to change the frequency of an existing station and any other information necessary to establish the fact that objectionable interference would not result. If no commerical channel is available where the station could operate without causing such interference, the application shall set forth the basis upon which this conclusion was reached.

(2) If a commercial channel is unavailable, to the extent possible each applicant should propose operation on Channel 200 (87.9 MHz) unless the station would be within 402 kilometers (250 miles) of the Canadian border or 320 kilometers (199 miles) of the Mexican border or would cause interference to an FM station operating on Channels 201, 202, or 203 or to TV Channel 6, as provided in § 73.509.

(3) If a channel is not available under either paragraph (a) (1) or (2) of this section, the renewal applicant shall study all 20 noncommercial educational FM channels and shall propose operation on the channel which would cause the least preclusion to the establishment of new stations or increases in power by existing stations. Full information regarding the basis for the selection should be provided.

(b) At any time before the requirements of paragraph (a) become effective, any existing Class D station may file a construction permit application on FCC Form 340 to change channel in the manner described above which shall be subject to the same requirements. In either case, any license granted shall specify that the station's license is for a Class D (secondary) station.

(c) Except in Alaska, no new Class D applications nor major change applications by existing Class D stations are acceptable for filing except by existing Class D stations seeking to change frequency. Upon the grant of such application, the station shall become a Class D (secondary) station.

(d) Class D noncommercial educational (secondary) stations (see § 73.506(a)(2)) will be permitted to continue to operate only so long as no interference (as defined in § 73.509) is caused to any TV or commercial FM broadcast stations. In the event that the Class D (secondary) station would cause interference to a TV or commercial FM broadcast station after that Class D (secondary) station is authorized, the Class D (secondary) station must cease operation when program tests for the TV or commercial FM broadcast station commence. The Class D (secondary) station may apply for a construction permit (see § 73.3533) to change to another frequency or antenna site where it would not cause interference (as defined in § 73.509). If the Class D (secondary) station must cease operation before the construction permit is granted, an application for temporary authorization (pursuant to § 73.3542) to operate with the proposed facilities may be submitted; where appropriate, such temporary authorization can be granted.

[43 FR 39716, Sept. 6, 1978, as amended at 44 FR 48226, Aug. 17, 1979; 47 FR 28388, June 30, 1982; 50 FR 8326, Mar. 1, 1985]

§ 73.513 Noncommercial educational FM stations operating on unreserved channels.

(a) Noncommercial educational FM stations other than Class D (secondary) which operate on Channels 221 through 300 but which comply with § 73.503 as to licensing requirements and the nature of the service rendered, must comply with the provisions of the following sections of subpart B: §§ 73.201 through 73.213 (Classification of FM Broadcast Stations and Allocations of Frequencies) and such other sections of subpart B as are made specially applicable by the provisions of this subpart C. Stations in Alaska authorized before August 11, 1982, using Channels 261–300 need not meet the minimum effective radiated power requirement specified in § 73.211(a). In all other respects, stations operating on Channels 221 through 300 are to be governed by the provisions of this subpart and not subpart B.

(b) When a noncommercial educational applicant is among mutually exclusive applications for an unreserved FM channel, the mutually exclusive applications will be considered pursuant to Subpart I—Competitive Bidding Procedures and not Subpart K—Application and Selection Procedures On Reserved Noncommercial Educational Channels.

[47 FR 30068, July 12, 1982, as amended at 65 FR 36378, June 8, 2000]

§ 73.514 Protection from interference.

Permittees and licensees of NCE FM stations are not protected from interference which may be caused by the grant of a new LPFM station or of authority to modify an existing LPFM station, except as provided in subpart G of this part.

[65 FR 67299, Nov. 9, 2000]

§ 73.515 NCE FM transmitter location.

The transmitter location shall be chosen so that, on the basis of effective radiated power and antenna height above average terrain employed, a minimum field strength of 1 mV/m (60 dBu) will be provided over at least 50 percent of its community of license or reach 50 percent of the population within the community.

[65 FR 79779, Dec. 20, 2000]

§ 73.525 TV Channel 6 protection.

The provisions of this section apply to all applications for construction permits for new or modified facilities for a NCE-FM station on Channels 200–220 unless the application is accompanied by a written agreement between the NCE-FM applicant and each affected TV Channel 6 broadcast station concurring with the proposed NCE-FM facilities.

(a) *Affected TV Channel 6 station.* (1) An affected TV Channel 6 station is a TV broadcast station which is authorized to operate on Channel 6 that is located within the following distances of a NCE-FM station operating on Channels 201–220:

TABLE A

NCE-FM channel	Distance (kilometers)	NCE-FM channel	Distance (kilometers)
201	265	211	196
202	257	212	195
203	246	213	193
204	235	214	187
205	225	215	180
206	211	216	177
207	196	217	174
208	196	218	166
209	196	219	159
210	196	220	154

(2) Where a NCE-FM application has been accepted for filing or granted, the subsequent acceptance of an application filed by a relevant TV Channel 6 station will not require revision of the pending NCE-FM application or the FM station's authorized facilities, unless the provisions of paragraph (e)(3) of this section for TV translator or satellite stations apply.

(b) *Existing NCE-FM stations.* (1) A NCE-FM station license authorized to operate on channels 201–220 as of December 31, 1984, or a permittee, granted a construction permit for a NCE-FM station as of December 31, 1984, are not subject to this section unless they propose either:

(i) To make changes in operating facilities or location which will increase predicted interference as calculated under paragraph (e) of this section to

TV Channel 6 reception in any direction; or,

(ii) To increase its ratio of vertically polarized to horizontally polarized transmissions.

(2) Applicants must comply with the provision of paragraphs (c) or (d) of this section unless the application for modification demonstrates that, for each person predicted to receive new interference as a result of the change, existing predicted interference to two person will be eliminated. Persons predicted to receive new interference are those located outside the area predicted to receive interference from the station's currently authorized facilities (''existing predicted interference area'') but within the area predicted to receive interference from the proposed facilities (''proposed predicted interference area''). Persons for whom predicted interference will be eliminated are those located within the existing predicted interference area and outside the proposed predicted interference area.

(i) In making this calculation, the provisions contained at paragraph (e) will be used except as modified by paragraph (b)(3) of this section.

(ii) The following adjustment to the population calculation may be made: up to 1,000 persons may be subtracted from the population predicted to receive new interference if, for each person substracted, the applicant effectively installs two filters within 90 days after commencing program tests with the proposed facilities and, no later than 45 days thereafter, provides the affected TV Channel 6 station (as defined in paragraph (a) of this section) with a certification containing sufficient information to permit verification of such installation. The required number of filters will be installed on television receivers located within the predicted interference area; provided that half of the installations are within the area predicted to receive new interference.

(3) Where an NCE-FM applicant wishes to operate with facilities in excess of that permitted under the provisions of paragraphs (c) or (d) of this section, by proposing to use vertically polarized transmissions only, or to increase its ratio of vertically to horizontally polarized transmissions, the affected TV Channel 6 station must be given an option to pay for the required antenna and, if it takes that option, the NCE-FM vertically polarized component of power will be one half (−3 dB) that which would be allowed by the provisions of paragraph (e)(4) of this section.

(4) Applications for modification will include a certification that the applicant has given early written notice of the proposed modification to all affected TV Channel 6 stations (as defined in paragraph (a) of this section).

(5) Where the NCE-FM station demonstrates in its application that it must make an involuntary modification (e.g., due to loss of its transmitter site) that would not otherwise be permitted under this section, its application will be considered on a case-by-case basis. In such cases, the provisions of paragaph (b)(3) of this section do not apply.

(c) *New NCE-FM stations.* Except as provided for by paragraph (d) of this section, applicants for NCE-FM stations proposing to operate on Channels 201–220 must submit a showing indicating that the predicted interference area resulting from the proposed facility contains no more than 3,000 persons.

(1) In making these calculations, the provisions in paragraph (e) of this section will be used.

(2) The following adjustment to population may be made: up to 1,000 persons may be subtracted from the population within the predicted interference area if, for each person subtracted, the applicant effectively installs one filter within 90 days after commencing program tests and, no later than 45 days thereafter, provides the affected TV Channel 6 station with a certification containing sufficient information to permit verification of such installation. The required number of filters will be installed on television receivers located within the predicted interference area.

(d) *Collocated stations.* As an alternative to the provisions contained in paragraphs (b) and (c) of this section, an application for a NCE-FM station operating on Channels 201–220 and located at 0.4 kilometer (approximately 0.25 mile) or less from a TV Channel 6

station will be accepted under the following requirements:

(1) The effective radiated power cannot exceed the following values:

TABLE B

NCE-FM channel	Power (kilowatt)	NCE-FM channel	Power (kilowatt)
201	1.1	211	26.3
202	1.9	212	31.6
203	3.1	213	38.0
204	5.0	214	46.8
205	8.3	215	56.2
206	10.0	216	67.6
207	12.0	217	83.2
208	14.8	218	100.0
209	17.8	219	100.0
210	21.4	220	100.0

(2) The NCE-FM application will include a certification that the applicant has coordinated its antenna with the affected TV station by employing either: The same number of antenna bays with radiation centers separated by no more than 30 meters (approximately 100 feet) vertically; or, the FM vertical pattern not exceeding the TV vertical pattern by more than 2dB.

(e) *Calculation of predicted interference area and population.* Predictions of interference required under this section and calculations to determine the number of persons within a predicted interference area for NCE-FM operation on Channels 201–220 are made as follows:

(1) The predicted interference area will be calculated as follows:

(i) The distances to the TV Channel 6 field strength contours will be predicted according to the procedures specified in §73.684, ''Prediction of coverage,'' using the F(50,50) curves in Figure 9, §73.699.

(ii) For each TV Channel 6 field strength contour, there will be an associated F(50,10) FM interference contour, the value of which (in units of dBu) is defined as the sum of the TV Channel 6 field strength (in dBu) and the appropriate undesired-to-desired (U/D) signal ratio (in dB) obtained from Figures 1 and 2, §73.599, corresponding to the channel of the NCE-FM applicant and the appropriate F(50,50) field strength contour of the TV Channel 6 station.

(iii) An adjustment of 6 dB for television receiving antenna directivity will be added to each NCE-FM interference contour at all points outside the Grade A field strength contour (§73.683) of the TV Channel 6 station and within an arc defined by the range of angles, of which the FM transmitter site is the vertex, from 110° relative to the azimuth from the FM transmitter site to the TV Channel 6 transmitter site, counterclockwise to 250° relative to that azimuth. At all points at and within the Grade A field strength contour of the TV Channel 6 station, the 6 dB adjustment is applicable over the range of angles from 70° clockwise to 110° and from 250° clockwise to 290°.

(iv) The distances to the applicable NCE-FM interference contours will be predicted according to the procedures specified in §73.313, ''Prediction of Coverage,'' using the proposed antenna height and horizontally polarized, or the horizontal equivalent of the vertically polarized, effective radiated power in the pertinent direction and the F(50,10) field strength curves (Figure 1a, §73.333).

(v) The predicted interference area will be defined as the area within the TV Channel 6 station's 47 dBu field strength contour that is bounded by the locus of intersections of a series of TV Channel 6 field strength contours and the applicable NCE-FM interference contours.

(vi) In cases where the terrain in one or more directions departs widely from the surrounding terrain average (for example, an intervening mountain), a supplemental showing may be made. Such supplemental showings must describe the procedure used and should include sample calculations. The application must also include maps indicating the predicted interference area for both the regular method and the supplemental method.

(vii) In cases where the predicted interference area to Channel 6 television from a noncommercial educational FM station will be located within the 90 dBu F(50,50) contour of the television Channel 6 station, the location of the FM interfering contour must be determined using the assumption that the Channel 6 field strength remains constant at 90 dBu everywhere within the 90 dBu TV contour. The FM to Channel 6 U/D signal strength ratio specified in §73.599 corresponding to the Channel 6

TV field strength of 90 dBu shall be used.

(2) The number of persons contained within the predicted interference area will be based on data contained in the most recently published U.S. Census of Population and will be determined by plotting the predicted interference area on a County Subdivision Map of the state published for the Census, and totalling the number of persons in each County Subdivision (such as, Minor Civil Division (MCD), Census County Division (CCD), or equivalent areas) contained within the predicted interference area. Where only a portion of County Subdivision is contained within the interference area:

(i) The population of all incorporated places or Census designated places will be subtracted from the County Subdivision population;

(ii) Uniform distribution of the remaining population over the remaining area of the County Subdivision will be assumed in determining the number of persons within the predicted interference area in proportion to the share of the remaining area of the County Subdivision that lies within the predicted interference area; and,

(iii) The population of the incorporated places or Census designated places contained within the predicted interference area will then be added to the total, again assuming uniform distribution of the population within the area of each place and adding a share of the population proportional to the share of the area if only a portion of such a place is within the predicted interference area.

(iv) At the option of either the NCE-FM applicant or an affected TV Channel 6 station which provides the appropriate analysis, more detailed population data may be used.

(3) Adjustments to the population calculated pursuant to paragraph (e)(2) of this section may be made as follows:

(i) If any part of the predicted interference area is within the Grade A field strength contour (§ 73.683) of a TV translator station carrying the affected TV Channel 6 station, the number of persons within that overlap area will be subtracted, provided the NCE-FM construction permit and license will contain the following conditions:

(A) When the TV translator station ceases to carry the affected TV Channel 6 station's service and the cessation is not the choice of the affected TV Channel 6 station, the NCE-FM station will modify its facilities, within a reasonable transition period, to meet the requirements of this section which would have applied if no adjustment to population for translator service had been made in its application.

(B) The transition period may not exceed 1 year from the date the NCE-FM station is notified by the TV Channel 6 station that the translator station will cease to carry the affected TV Channel 6 station's service or 6 months after the translator station ceases to carry the affected TV Channel 6 station's service, whichever is earlier.

(ii) If any part of the interference area is within the Grade B field strength contour (§ 73.683) of a satellite station of the affected TV Channel 6 station, the number of persons within the overlap area will be subtracted, provided the NCE-FM permit and license will contain the following conditions:

(A) If the satellite station ceases to carry the affected TV Channel 6 station's service and the cessation is not the choice of the affected TV Channel 6 station, the NCE-FM station will modify its facilities, within a reasonable transition period, to meet the requirements of this rule which would have applied if no adjustment to population for satellite station service had been made in its application.

(B) The transition period may not exceed 1 year from the date the NCE-FM station is notified by the TV Channel 6 station that the satellite station will cease to carry the affected TV Channel 6 stations's service or 6 months after the satellite station ceases to carry the affected TV Channel 6 station's service, whichever is earlier.

(iii) If any part of the predicted interference area is located outside the affected TV Channel 6 station's Area of Dominant Influence (ADI), outside the Grade A field strength contour (§ 73.683), and within the predicted city grade field strength contour (73.685(a)) of a TV broadcast station whose only network affiliation is the same as the only network affiliation of the affected

TV Channel 6 station, the number of persons within that part will be subtracted. (For purposes of this provision, a network is defined as ABC, CBS, NBC, or their successors.) In addition, the ADI of an affected TV Channel 6 station and the program network affiliations of all relevant TV broadcast stations will be assumed to be as they were on the filing date of the NCE-FM application or June 1, 1985, whichever is later.

(iv) In calculating the population within the predicted interference area, an exception will be permitted upon a showing (e.g., as survey of actual television reception) that the number of persons within the predicted interference area should be reduced to account for persons actually experiencing co-channel or adjacent channel interference to reception of the affected TV Channel 6 station. The area within which such a showing may be made will be limited to the area calculated as follows:

(A) The distances to the field strength contours of the affected TV Channel 6 station will be predicted according to the procedures specified in §73.684, ''Prediction of coverage,'' using the F(50,50) curves in Figure 9, §73.699.

(B) For each field strength contour of the affected TV Channel 6 station, there will be an associated co-channel or adjacent channel TV broadcast station interference contour, the value of which (in units of dBu) is defined as the sum of the affected TV Channel 6 station's field strength (in dBu) and the appropriate undesired-to-desired signal ratio (in dB) as follows:

Co-channel, normal offset, −22 dB
Co-channel, no offset, −39 dB
Adjacent channel, + 12 dB

(C) The distances to the associated co-channel or adjacent channel TV broadcast station interference contour will be predicted according to the procedures specified in §73.684, ''Prediction of coverage,'' using the F(50,10) curves in Figure 9a, §73.699.

(D) The area within which the showing of actual interference may be made will be the area bounded by the locus of intersections of a series of the affected TV Channel 6 station's field strength contours and the associated interference contours of the co-channel or adjacent channel TV broadcast station.

(4) The maximum permissible effective radiated power (ERP) and antenna height may be adjusted for vertical polarity as follows:

(i) If the applicant chooses to use vertically polarized transmissions only, the maximum permissible vertically polarized ERP will be the maximum horizontally polarized ERP permissible at the same proposed antenna height, calculated without the adjustment for television receiving antenna directivity specified in paragraph (e)(1)(iii) of this section, multiplied by either: 40 if the predicted interference area lies entirely outside the limits of a city of 50,000 persons or more; or 10 if it does not.

(ii) If the applicant chooses to use mixed polarity, the permissible ERP is as follows:

[H + (V/A)] is no greater than P

Where:

H is the horizontally polarized ERP in kilowatts for mixed polarity;
V is the vertically polarized ERP in kilowatts for mixed polarity;
A is 40 if the predicted interference area lies entirely outside the limits of a city of 50,000 persons or more, or 10 if it does not; and
P is the maximum permitted horizontally polarized-only power in kilowatts.

(f) *Channel 200 Applications.* No application for use of NCE-FM Channel 200 will be accepted if the requested facility would cause objectionable interference to TV Channel 6 operations. Such objectionable interference will be considered to exist whenever the 15 dBu contour based on the F(50,10) curves in §73.333 Figure 1a would overlap the 40 dBu contour based on the F(50,50) curves in §73.699, Figure 9.

[50 FR 27963, July 9, 1985; 50 FR 30187, July 24, 1985; 50 FR 31379, Aug. 2, 1985, as amended at 51 FR 26250, July 22, 1986; 52 FR 25867, July 9, 1987; 62 FR 51059, Sept. 30, 1997]

§73.558 Indicating instruments.

The requirements for indicating instruments described in §73.258 are applicable to all educational FM broadcast stations licensed with a transmitter power greater than 0.01 kw.

[51 FR 17029, May 8, 1986]

§ 73.561 Operating schedule; time sharing.

(a) All noncommercial educational FM stations will be licensed for unlimited time operation except those stations operating under a time sharing arrangement. All noncommercial educational FM stations are required to operate at least 36 hours per week, consisting of at least 5 hours of operation per day on at least 6 days of the week; however, stations licensed to educational institutions are not required to operate on Saturday or Sunday or to observe the minimum operating requirements during those days designated on the official school calendar as vacation or recess periods.

(b) All stations, including those meeting the requirements of paragraph (a) of this section, but which do not operate 12 hours per day each day of the year, will be required to share use of the frequency upon the grant of an appropriate application proposing such share time arrangement. Such applications shall set forth the intent to share time and shall be filed in the same manner as are applications for new stations. They may be filed at any time, but in cases where the parties are unable to agree on time sharing, action on the application will be taken only in connection with the renewal of application for the existing station. In order to be considered for this purpose, such an application to share time must be filed no later than the deadline for filing petitions to deny the renewal application of the existing licensee, or, in the case of renewal applications filed by the existing licensee on or before May 1, 1995, no later than the deadline for filing applications in conflict with the such renewal applications.

(1) The licensee and the prospective licensee(s) 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 shall set forth which licensee is to operate on each of the hours of the day throughout the year. Such agreement shall not include simultaneous operation of the stations. Each licensee shall file the same in triplicate with each application to the Commission for initial construction permit or renewal of license. Such written agreements shall become part of the terms of each station's license.

(2) The Commission desires to facilitate the reaching of agreements on time sharing. However, if the licensees of stations authorized to share time are unable to agree on a division of time, the Commission shall be so notified by statement to that effect filed with the application proposing time sharing. Thereafter the Commission will designate the application for hearing on any qualification issues arising regarding the renewal or new applicants. If no such issues pertain, the Commission will set the matter for expedited hearing limited solely to the issue of the sharing of time. In the event the stations have been operating under a time sharing agreement but cannot agree on its continuation, a hearing will be held, and pending such hearing, the operating schedule previously adhered to shall remain in full force and effect.

(c) A departure from the regular schedule set forth in a time-sharing agreement will be permitted only in cases where a written agreement to that effect is reduced to writing, is signed by the licensees of the stations affected thereby, and is filed in triplicate by each licensee with the Commission, Attention: Audio Division, Media Bureau, 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 the written agreement, provided that appropriate notice is sent to the Commission in Washington, DC, Attention: Audio Division, Media Bureau.

(d) In the event that causes beyond the control of a permittee or licensee make it impossible to adhere to the operating schedule in paragraph (a) or (b) of this section or to continue operating, the station may limit or discontinue operation for a period not exceeding 30 days without further authority from the Commission provided that notification is sent to the Commission in Washington, DC, Attention: Audio Division, Media Bureau, no later than the 10th day of limited or discontinued operation. During such period, the permittee shall continue to adhere to the

requirements of 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 permittee or licensee will notify the FCC, Attention: Audio Division of the date that normal operations resumed. If causes beyond the control of the permittee or licensee make it impossible to comply within the allowed period, Special Temporary Authority (see § 73.1635) must be requested to remain silent for such additional time as deemed necessary. 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 license to the contrary.

NOTE 1 TO § 73.561: For allocations purposes, both (all) stations sharing time will be treated as unlimited time stations.

NOTE 2 TO § 73.561: See §§ 73.1705, 73.1715, and 73.1740.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[43 FR 39717, Sept. 6, 1978, as amended at 43 FR 45845, Oct. 4, 1978; 44 FR 3416, Jan. 19, 1979; 44 FR 65764, Nov. 15, 1979; 47 FR 54448, Dec. 3, 1982; 50 FR 13974, Apr. 9, 1985; 61 FR 18291, Apr. 25, 1996; 61 FR 28767, June 6, 1996; 63 FR 33877, June 22, 1998; 67 FR 13231, Mar. 21, 2002]

§ 73.567 Determining operating power.

The procedures for determining operating power described in § 73.267 are applicable to noncommercial education FM stations.

[44 FR 58732, Oct. 11, 1979]

§ 73.593 Subsidiary communications services.

The licensee of a noncommercial educational FM station is not required to use its subcarrier capacity, but if it chooses to do so, it is governed by §§ 73.293 through 73.295 of the Commission's Rules regarding the types of permissible subcarrier uses and the manner in which subcarrier operations shall be conducted; *Provided*, however, that remunerative use of a station's subcarrier capacity shall not be detrimental to the provision of existing or potential radio reading services for the blind or otherwise inconsistent with its public broadcasting responsibilities.

[48 FR 26615, June 9, 1983]

§ 73.597 FM stereophonic sound broadcasting.

A noncommercial educational FM broadcast station may, without specific authority from the FCC, transmit stereophonic sound programs upon installation of stereophonic sound transmitting equipment under the provisions of §§ 2.977, 2.1001, 73.322, and 73.1590 of the FCC's Rules.

[51 FR 17029, May 8, 1986]

§ 73.599 NCE-FM engineering charts.

This section consists of the following Figures 1 and 2.

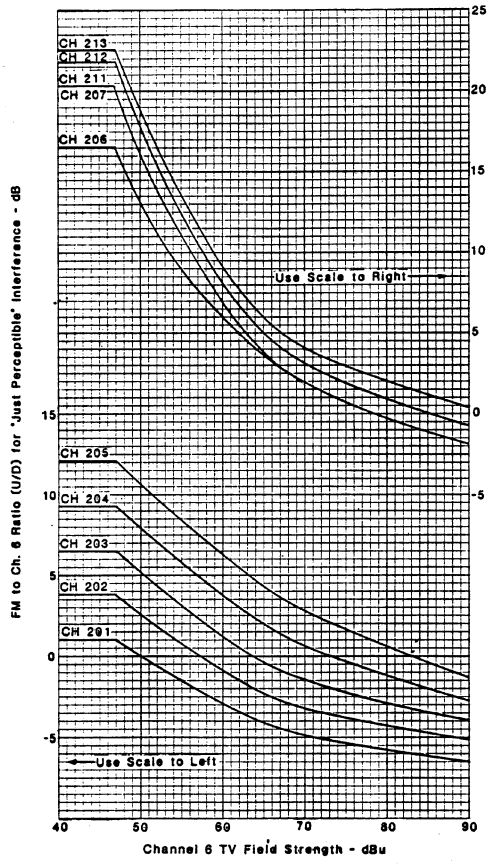


Figure 1
FM/TV 6 PROTECTION RATIOS
BASED ON MEDIAN RECEIVERS
CHANNELS 201-213

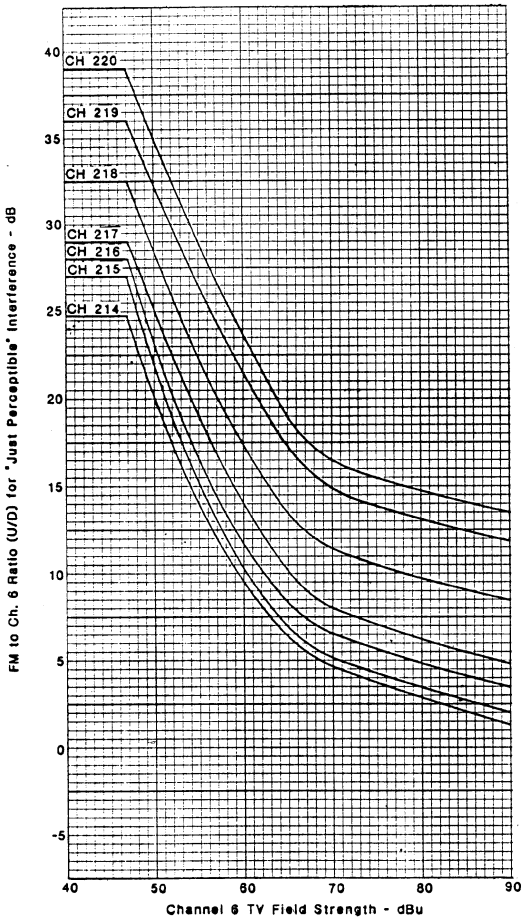


Figure 2
FM/TV 6 PROTECTION RATIOS
BASED ON MEDIAN RECEIVERS
CHANNELS 214-220

[50 FR 27965, July 9, 1985]

Subpart E—Television Broadcast Stations

§ 73.601 Scope of subpart.

This subpart contains the rules and regulations (including engineering standards) governing TV broadcast stations, including noncommercial educational TV broadcast stations and, where indicated, low power TV and TV translator stations in the United States, its Territories and possessions. TV broadcast, low power TV, and TV translator stations are assigned channels 6 MHz wide, designated as set forth in § 73.603(a).

[47 FR 21494, May 18, 1982]

§ 73.602 Cross reference to rules in other parts.

See § 73.1010.

[43 FR 32781, July 28, 1978]

§ 73.603 Numerical designation of television channels.

(a)

Channel No.	Frequency band (MHz)
2	54–60
3	60–66
4	66–72
5	76–82
6	82–88
7	174–180
8	180–186
9	186–192
10	192–198
11	198–204
12	204–210
13	210–216
14	470–476
15	476–482
16	482–488
17	488–494
18	494–500
19	500–506
20	506–512
21	512–518
22	518–524
23	524–530
24	530–536
25	536–542
26	542–548
27	548–554
28	554–560
29	560–566
30	566–572
31	572–578
32	578–584
33	584–590
34	590–596
35	596–602
36	602–608
37	608–614
38	614–620
39	620–626
40	626–632
41	632–638
42	638–644
43	644–650
44	650–656
45	656–662
46	662–668
47	668–674
48	674–680
49	680–686
50	686–692
51	692–698
52	698–704
53	704–710
54	710–716
55	716–722
56	722–728
57	728–734
58	734–740
59	740–746
60	746–752
61	752–758
62	758–764
63	764–770
64	770–776
65	776–782
66	782–788
67	788–794
68	794–800
69	800–806

(b) [Reserved]

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

(d) In Hawaii, the frequency band 488–494 MHz is allocated for non-broadcast use. This frequency band (Channel 17) will not be assigned in Hawaii for use by television broadcast stations.

[28 FR 13660, Dec. 14, 1963, as amended at 35 FR 11179, July 11, 1970; 39 FR 10576, Mar. 21, 1974; 47 FR 16789, Apr. 20, 1982; 47 FR 30068, July 12, 1982; 47 FR 35989, Aug. 18, 1982; 51 FR 18450, May 20, 1986; 70 FR 46676, Aug. 10, 2005]

§ 73.606 Table of allotments.

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

(b) *Table of Allotments.*

ALABAMA

	Channel No.
Anniston	40-
Arab	56-
Bessemer	17
Birmingham	6-, *10-, 13-, 21-, 42 + , *62 + , 68-
Decatur.	
Demopolis	*41
Dothan	4, 18, *39 + , 60-
Dozier	*2-
Florence	15, 26, *36-
Gadsden	44 + , 60
Gulf Shores	55
Huntsville	19, *25 + , 31 + , 48-
Huntsville-Decatur	54
Louisville	*43 +
Mobile	5 + , 10 + , 15 + , 21 + , *31, *42
Montgomery	12, 20, *26 + , 32, 45-, *63
Mount Cheaha	*7-
Munford	*16-
Opelika	50, 66
Ozark	34
Selma	8, 29-
Troy	67
Tuscaloosa	23-, 33, *39-
Tuscumbia	52 +
Tuskegee	22-

ALASKA

	Channel No.
Anchorage	2-, 4-, 5, *7-, *9, 11, 13-, and 33
Bethel	*4
Dillingham	*2, 10
Fairbanks	2 + , 7 + , *9 + , 11 + , 13 +
Juneau	*3, 8, 10
Ketchikan	2, 4, *9
North Pole	4 +
Seward	3-,
Sitka	13

ARIZONA

[See footnotes at end of tables]

	Channel No.
Ajo	*23-
Coolidge	*43
Douglas	3, *28
Flagstaff	2, 4 + , 9, 13, and *16
Globe	*14 +
Green Valley	46
Holbrook	*11 + , *18 +
Kingman	6-, *14-
McNary	*22 +
Mesa	12-
Nogales	*16 +
Page	*17
Parker	*17-
Phoenix	3 + , 5-, *8 + , 10-, 15-, 21, 33, 39, 45, 61
Prescott	7, *19
Safford	*23 +
Sierra Vista	58
Tolleson	51
Tucson	4-, *6 + , 9-, 13-, 18-, *27-, 40
Tucson-Nogales	[2] 11
Yuma	11-, 13 + , *16-

ARKANSAS

	Channel No.
Arkadelphia	*9 +
Camden	237A, 246, 49-
Cimarron	23
El Dorado	10-, 43-
Eureka Springs	34 +
Fayetteville	*13-, 36
Fort Smith	5-, 24 + , 40-
Gosnell	46
Harrison	31 +
Hot Springs	*20, 26
Jonesboro	8-, *19 + , 48 +
Little Rock	*2-, 4, 7-, 11, 16-, *36, and 42
Mountain Home	43 +
Mountain View	*6-
Newark	*17
Pine Bluff	25-, 38-
Rogers	51-
Russellville	*28 +
Springdale	57

CALIFORNIA

[See footnotes at end of tables]

	Channel No.
Alturas	13 +
Anaheim	56-
Arcata	23
Avalon	54
Bakersfield	17, 23-, 29, *39-, 45, 65 +
Barstow	*35 + , 64
Big Bear Lake	59 +
Bishop	*14-, 20 +
Blythe	*22-
Brawley	*26
Calipatria	54
Ceres	*23 +
Chico	12-, *18, 24 + , *46-
Clovis	43
Coalinga	*27-
Concord	42
Corona	52
Cotati	*22-
El Centro	7 + , 9 +
Eureka	3-, 6-, *13-, and 29
Fort Bragg	8-
Fresno	*18 + , 24, 30 + , 47, 53,
Hanford	21
Huntington Beach	*50-
Indio	*19 +
Long Beach	18-
Los Angeles	2, 4, 5, 7, 9, 11, 13, 22, *28, 34, *58-, *68-
Merced	51
Modesto	19-
Novato	68
Oakland	2 +
Ontario	46
Oroville	28
Oxnard	63 +
Palm Springs	36-, 42
Paradise	30
Porterville	61
Rancho Palos Verdes	44 +
Redding	7, *9, 16
Ridgecrest	*25
Riverside	62
Sacramento	3, *6, 10, 29-, 31-, 40-
Salinas-Monterey	8 + , 35-, 46-, *56, 67-
San Bernardino	*24-, 30
San Diego	8, 10, *15, 39, 51, 69

CALIFORNIA—Continued

[See footnotes at end of tables]

	Channel No.
San Francisco	4-, 5 + , 7-, *9 + , 14 + , 20-, 26-, *32 + , 38, 44-
San Jose	11 + , 36, 48-, *54, 65
San Luis Obispo	6 + , *15 + , and 33
San Mateo	*60
Sanger	59
Santa Anna	40,
Santa Barbara	3-, 14,1 *20,1 , 38, and *55
Santa Cruz	*16-
Santa Maria	12 + , 42 +
Santa Rosa	50-, *62
Stockton	13 + , 58, 64
Susanville	*14
Twentynine Palms	31
Vallejo-Fairfield	66
Ventura	57
Visalia	26 + , *49
Watsonville	*25 +
Weaverville	32
Willits	11-
Yosemite Valley	41
Yreka City	*20 +

COLORADO

	Channel No.
Alamosa	*16, 47
Boulder	14
Broomfield	*12
Castle Rock	53
Colorado Springs	11, 13, 21
Craig	*16 +
Denver	2, 4-, *6-, 7, 9-, 20, 31, *41, 50, 59
Durango	6 + , *20-, and 33 +
Fort Collins	22-
Glenwood Springs	3-, *19 +
Grand Junction	5-, 8-, *18 + , 4*, 11 +
Gunnison	*17-
La Junta	*22 +
Lamar	12-, *14-
Leadville	*15-
Longmont	25
Montrose	10 + , *22
Pueblo	5, *8, 32-, 48
Salida	*23 +
Steamboat Springs	24 +
Sterling	3, *18 +
Trinidad	*24

CONNECTICUT

	Channel No.
Bridgeport	43-, *49-
Hartford	3 + , 18-, *24, 61 +
New Britain	30 +
New Haven	8, 59 + , 55
New London	26 +
Norwich	*53
Waterbury	20

DELAWARE

	Channel No.
Dover	*34
Seaford	38, *64

DELAWARE—Continued

	Channel No.
Wilmington	*12, 61

DISTRICT OF COLUMBIA

	Channel No.
Washington	4-, 5-, 7 + , 9, 20 + , *26-, *32 + , 50

FLORIDA

	Channel No.
Boca Raton	*63
Bradenton	*19, 66
Bunnell	58
Cape Coral	36
Clearwater	22
Clermont	18-
Cocoa	*52, 68
Crystal River	39-
Daytona Beach	2-, 26
Destin	48
Fort Lauderdale	51
Fort Myers	11 + , 20 + , *30
Fort Pierce	*21-, 34
Fort Walton Beach	35, 53, 58
Gainesville	*5-, 20, 29
High Springs	53 +
Hollywood	69
Inverness	64
Islamorada	*9 +
Jacksonville	4 + , *7, 12 + , 17, 30 + , 47-, *59
Kenansville	31
Key West	8, *13, and 22 +
Lake City	*41
Lake Worth	67
Lakeland	32
Leesburg	*45-, 55
Live Oak	57-
Madison	*36-
Marathon	16 +
Marianna	*16 + , 51
Melbourne	43 + , 56
Miami	*2, 4, 6, 7-, 10 + , *17-, 23-, 33, 35, 39, and 45 +
Naples	26-, 46
New Smyrna Beach	*15 +
Ocala	*29, 51-
Orange Park	25-
Orlando	6-, 9, * 24-, 27, 35 + , and 65
Palatka	*42, 63 +
Palm Beach	61
Panama City	7 + , 13, 28-, *56, 46
Panama City Beach	46
Pensacola	3-, *23, 33 + , 44
St. Petersburg	10-, 38, 44 +
Sarasota	40
Sebring	*48, 60
Stuart	59
Tallahassee	*11-, 24, 27 + , 40 +
Tampa	*3, 8-, 13-, *16, 28, and 50
Tequesta	25
Tice	49
Venice	62
West Palm Beach	5, 12, 29 + , *42 + ,

GEORGIA

	Channel No.
Albany	10, 19-, 31-, and 52-
Ashburn	*23 +
Athens	*8-, 34
Atlanta	2, 5-, 11 + , 17-, *30, 36, 46-, *57 + , 69
Augusta	6 + , 12-, 26, 54-
Bainbridge	49
Baxley	34
Brunswick	21 +
Carrollton	*49-
Carnesville	*52
Cedartown	*65-
Chatsworth	*18-
Cochran	*29 +
Columbus	3, 9 + , *28, 38 + , *48, 54 +
Cordele	55 +
Dalton	23
Dawson	*25
Draketown	*27-
Elberton	*60 +
Flintstone	*41-
Lafayette	*35
Macon	13 + , 24 + , 41 + , *47 + , 64-
Monroe	63
Pelham	*14-
Perry	58 +
Rome	14 +
Royston	*22 +
Savannah	3, *9-, 11, 22,
Thomasville	6
Toccoa	32-, *68-
Valdosta	*33, 44-
Vidalia	*18 +
Warm Springs.	
Warner Robbins	35-
Waycross	*8 +
Wrens	*20-
Young Harris	*51-

HAWAII

	Channel No.
Hilo (Hawaii)	2, *4, 9, 11, 13, 14 + , 20 + , 26 + , *32 + , *38 +
Honolulu (Oahu)	2 + , 4-, 5, 9-, *11 + , 13-, 14, 20, 26, 32, *38, and *44.
Kailua	50
Kailua-Kona (Hawaii)	6
Kaneohe	66 +
Lihue (Kauai)	3 + , *8-, 10 + , 12-, 15-, *21-, *27-, *67
Wailuku (Maui)	3, 7, *10, 12, 15, 21, *27, *33, 39
Waimanalo	56

IDAHO

	Channel No.
Boise	2, *4 + , 7, 39
Burley	*17 +
Caldwell	9-
Coeur d'Alene	*26 +
Filer	*19-
Grangeville	*15-
Idaho Falls	3, 8 + , 20, *33 +
Lewiston	3-
Moscow	*35-
Nampa	6, 12 +
Preston	*28

IDAHO—Continued

	Channel No.
Pocatello	6-, *10, 15, 25 + , 31-
Sandpoint	*16 +
Sun Valley	5-
Twin Falls	11, *13-, 35
Weiser	*17

ILLINOIS

[See footnotes at end of tables]

	Channel No.
Aurora	60
Bloomington	43
Carbondale	*8
Champaign	3 + , 15-
Charleston	*51 +
Chicago	2-, 5, 7, 9 + , *11, *20, 26, 32, 38-, 44
Danville	68
Decatur	17, 23-
DeKalb	*33, *48-
East St. Louis	46
Edwardsville	*18-
Elgin	[4] 66 +
Freeport	23, *65-
Galesburg	53
Harrisburg	3
Jacksonville	*14
Joliet	[1] 14-, 66 +
Kankakee	*54-
LaSalle	35
Macomb	*22 +
Marion	27
Moline	8, *24-
Mount Vernon	13 +
Olney	*16-
Paris	46 +
Peoria	19, 25 + , 31 + , *47-, 59 +
Pontiac	53
Quincy	10-, 16 + , *27 +
Rockford	13, 17 + , 39
Rock Island	4 +
Springfield	20 + , 49-, 55 +
Streator	*63
Urbana	*12-, 27-
Vandalia	*21

INDIANA

	Channel No.
Anderson	67 +
Angola	63
Bloomington	4, *30-, 42 + and 63 +
Elkhart	28 +
Evansville	7, *9 + , 14-, 25-, and 44
Fort Wayne	15 + , 21 + , 33-, *39-, 55
Gary	50, *56 +
Hammond	62 +
Indianapolis	6, 8-, 13-, *20-, 40, 59-, *69
Kokomo	29-
Lafayette	18, *24
Madison	*60 +
Marion	23
Muncie	49, *61
Richmond	43 +
Salem	58 +
South Bend	16, 22, *34-, 46
Terre Haute	2 + , 10, *26-, 38
Vincennes	*22-

IOWA

	Channel No.
Ames	5, 23-, *34 +
Burlington	26-, *57-
Carroll	*18-, 30 + , and 52
Cedar Rapids	2, 9-, 28 + , and 48-
Centerville	*31-
Council Bluffs	*32
Davenport	6 + , 18 + , 30-, *36 +
Decorah	*14 +
Des Moines	8-, *11 + , 13-, 17 + , *43-, 63-
Dubuque	16-, *29-, 40-
Estherville	*49 +
Fort Dodge	*21
Fort Madison	*38 +
Hampton	50
High Point	*14-
Iowa City	*12 + , 20-
Keokuk	*44 +
Keosauqua	*54 +
Lansing	*41 +
Mason City	3 + , *24 +
Mount Ayr	*25-
Newton	39 +
Ottumwa	15 + , *33-
Red Oak	*36
Rock Rapids	*25 +
Sibley	*33
Sioux City	4-, 9, 14, *27-, 44
Spirit Lake	*38
Waterloo	7 + , 22-, *32-

KANSAS

	Channel No.
Chanute	*30 +
Cimarron	23
Colby	4
Columbus	*48-
Dodge City	*21-
Emporia	*25 +
Ensign	6 +
Fort Scott	20 +
Garden City	11 + , 13-, *18
Goodland	10
Great Bend	2
Hays	7-, *9
Hoisington	14
Hutchinson	*8, 12, 36 +
Junction City	31
Lakin	*3
Lawrence	38
Liberal	5 +
Manhattan	*21
Oakley	*15-
Parsons	*39
Phillipsburg	*22-
Pittsburg	7 + and 14
Pratt	*32 +
Randall.	
Salina	18 + , 34-, 44
Sedan	*28
Topeka	*11, 13 + , 22 + , 27, 49
Wichita	3-, 10-, *15 + , 24-, 33, *42

KENTUCKY

	Channel No.
Ashland	*25, 50-, 61 +
Beattyville	65

KENTUCKY—Continued

	Channel No.
Blanco	52 +
Bowling Green	13, *24-, 40 + , *53-, 59 +
Campbellsville	34
Covington	*54 +
Danville	56
Elizabethtown	*23 +
Harlan	44-
Hazard	*35 + , 57-
Hopkinsville	51
Lexington	18 + , 27-, 36, *46, 62
Louisville	3-, 11, *15, 21-, 32-, 41 + , *68 +
Madisonville	19-, *35-, and 57 +
Morehead	*38 + , 67-
Murray	*21 + , 38
Newport	19 +
Owensboro	31-, 48, 61 +
Owenton	*52 +
Paducah	6 + , 29 and 49
Paintsville	69 +
Pikeville	*22-, 51 +
Somerset	16, *29 +

LOUISIANA

	Channel No.
Alexandria	5, *25 + , 31 + , 41 +
Baton Rouge	2, 9-, *27 + , 33-, and 44 +
Columbia	11 +
De Ridder	*23-
Houma	11
Lafayette	3 + , 10, 15, *24
Lake Charles	7-, *18-, 29-
Minden	21 +
Monroe	8 + , *13,
Morgan City	*14 +
Natchitoches	*20 +
New Iberia	50
New Orleans	4 + , 6, 8-, * 12, 20-, 26, * 32 + , 38 + , and 49
Shreveport	3-, 12, *24-, 33, and 45 +
Slidell	54 +
Tallulah	*19
West Monroe	14-, 39 +

MAINE

	Channel No.
Augusta	*10-
Bangor	2-, 5 + , 7-
Biddeford	*26-
Calais	*13-
Fort Kent	*46 +
Fryeburg	*18 +
Houlton	*25 +
Kittery	*39
Lewiston	35-
Millinocket	*44-
Orono	*12-
Poland Spring 8-.	
Portland	6-, 13 + , 51
Presque Isle	8, *10 + , 47
Rumford	*43 +
Waterville	23-

MARYLAND

	Channel No.
Annapolis	*22 +
Baltimore	2 + , 11-, 13 + , 24 + , 45, 54, *67-
Cumberland	52 + , 65
Frederick	*62
Hagerstown	25-, *31, and 68 +
Oakland	*36 +
Salisbury	16 + , *28-, 47-
Waldorf	*58 +

MASSACHUSETTS

[See footnotes at end of tables]

	Channel No.
Adams	19
Boston	*2 + , 4 + , 5-, 7 + , 25 + , 38, *44, 68 +
Cambridge	56
Greenfield	32 +
Lawrence	62
Marlborough	66
New Bedford	6 + , 28-, *34
North Adams	*35
Norwell	46 +
Pittsfield	51 +
Springfield	22, 40, *57 +
Vineyard Haven	58 +
Worcester	14, [1] 27, *48 + ,

MICHIGAN

	Channel No.
Alpena	*6, 11
Ann Arbor	31 + , *58 +
Bad Axe	* 15-, 41-
Battle Creek	41 + , and 43-
Bay City	5-, 46 +
Cadillac	9, *27, 33
Calumet	5-, *22-
Cheboygan	4 +
Detroit	2 + , 4, 7-, 20 + , 50-, *56, 62
East Lansing	*23-, *69-
Escanaba	3 +
Flint	12-, *28-, 66-
Grand Rapids	8 + , 13 + , 17-, *35 +
Iron Mountain	8-, *17 +
Ironwood	*15-, 24 +
Ishpeming	10
Jackson	18 +
Kalamazoo	3-, *52 + , 64
Lansing	6-, 47, 53-
Manistee	*21
Manistique	*15 +
Marquette	6-, *13, 19
Mount Clemens	38 +
Mount Pleasant	*14
Muskegon	54 +
Onondaga	10-
Petoskey	*23 +
Port Huron	46 +
Saginaw	25-, 49-
Sault Ste. Marie	8, 10 + , *32-
Traverse City	7 + , 29-
University Center *19 +.	
Vanderbilt	45
West Branch	*24

MINNESOTA

	Channel No.
Alexandria	7, * 24, and 42
Appleton	*10-
Austin	6-, *15-
Bemidji	*9, 26 +
Brainerd	*22
Chisholm	11
Crookston	*33
Duluth	3, *8, 10 + , 21 + , 27-
Ely	*17-
Fairmont	*16 +
Hibbing	13-
International Falls	*35 +
Mankato	12, *26-
Marshall	*30-
Minneapolis-St. Paul	*2-, 4, 5-, 9 + , 11-, *17, 23 + , 29 + , and 45
Redwood Falls	43
Rochester	10, 47-
St. Cloud	19, *25-, 41
St. James	32 +
Thief River Falls	10, *30
Wadena	*20-
Walker	12-, 38-
Wilmar	*14-
Winona	*35 + , 44-
Worthington	*20

MISSISSIPPI

	Channel No.
Biloxi	13 + , *19 + ,
Booneville	*12-
Bude	*17 +
Clarksdale	*21
Cleveland	*31-
Columbia	*45
Columbus	4-, *43
Greenville	15-, 44
Greenwood	6 + , *23 +
Gulfport	25-
Grenada	22 +
Hattiesburg	22, *47
Holly Springs	40
Houston	45 +
Jackson	3, 12 + , 16, *29 + , 40 + , and 51
Laurel	7, 18 +
Magee	34 +
Meridian	11-, *14, 24-, 30-
Mississippi State	*2 +
Natchez	*42 + , 48
Oxford	*18
Senatobia	*34-
Tupelo	9-, 49 +
Vicksburg	35-
West Point	27
Wiggins	43-, 46-
Yazoo City	*32-

MISSOURI

	Channel No.
Birchtree	*20-
Bowling Green	*35 +
Cape Girardeau	12, 23, *39-
Carrollton	*18
Columbia	8 + , 17-*23 +
Flat River	*22
Hannibal	7-

MISSOURI—Continued

	Channel No.
Jefferson City	13, 25, *36-
Joplin	12 + , 16, *26-
Kansas City	4, 5 + , 9 + , *19 + , 29, 41-, 50-, 62 + , *68-
Kennett	58 +
King City	*28-
Kirksville	3-
LaPlata	*21 +
Lowry City	*15-
Osage Beach	49 +
Poplar Bluff	15 + , *26 + , 55
Rolla	*28
St. Joseph	2-, 16-, 22
St. Louis	2, 4-, 5-, *9, 11-, 24 + , 30 + , *40-, *46
Sedalia	6
Sikeston	45
Springfield	3 + , 10, *21-, 27-, 33--

MONTANA

	Channel No.
Anaconda	2 +
Billings	2-, 6, 8, *11, 14, 20 +
Bozeman	7-, *9
Butte	*2 + , 4, 6 + , 18, 24
Cut Bank	*14-
Dillon	*14 +
Glendive	5 + , 13 + , *16-
Great Falls	3 + , 5 + , 16, 26, *32
Hardin	4 +
Havre	9 + , 11-, and *18-
Helena	10 + , 12, *15 +
Joplin	35-, 48, 54-
Kalispell	9-, *29-
Lewistown	13
Miles City	3-, *10
Missoula	8-, *11 + , 13-, 17-, and 23-
Wolf Point	*17 +

NEBRASKA

	Channel No.
Albion	18, *21 + , 24 +
Alliance	*13-
Bassett	*7-
Beatrice	23 +
Falls City	*24
Grand Island	11-, 17
Hastings	5-, *29 +
Hayes Center	6
Hay Springs-Scottsbluff.	4 +
Kearney	13
Lexington	*3 +
Lincoln	8 + , 10 + , *12-, 45, 51
McCook	8-, 16 + , 12
Merriman	*12
Norfolk	*19 +
North Platte	235, 246, 278
Omaha	3, 6 + , 7, 15, *26, 42 + , *48-, and 54
Orchard	16
Pawnee	33 +
Scottsbluff	10-, 16
Superior	4 +

NEVADA

	Channel No.
Elko	10-, *14 +
Ely	3-, 6 +
Fallon	*25
Goldfield	7-
Henderson	5 +
Las Vegas	3, 8-, *10 + , 13-, 15 + , 21 + , and 33 +
Laughlin	34 +
McGill	*13
Paradise	39 +
Pawnee City	*33 +
Reno	2, 4, *5, 8, 11, 21 + , and 27 +
Tonopah	9-, *17 +
Winnemucca	7 + , *15-
Yerington	*16 +

NEW HAMPSHIRE

[See footnotes at end of tables]

	Channel No.
Berlin	*40-
Concord	21 +
Derry	50-
Durham	*11
Hanover	*15 +
Keene	*52 +
Littleton	*49 +
Manchester	9-,
Merrimack	60 +
Portsmouth	[1] 17-

NEW JERSEY

	Channel No.
Atlantic City	*36, 53 + , 62-
Burlington	48-
Camden	*23 +
Linden-Newark	47 +
Montclair	*50 +
Newark	13-, 68
New Brunswick	*58
Newton	63
Paterson	41-
Secaucus	9 +
Trenton	*52-
Vineland	59-, 65-
West Milford	*66-
Wildwood	40

NEW MEXICO

	Channel No.
Alamogordo	*18-
Albuquerque	4 + , *5 + , 7 + , 13 + , 14-, 23-, *32 + , 41, 50
Carlsbad	6-, *15 + , 25-
Clayton	*17
Clovis	12--
Deming	*16
Farmington	3, 12 + , *15 +
Gallup	*8-, 10
Hobbs	29 +
Las Cruces	*22-, 48 +
Lovington	*19
Portales	*3 +
Raton	*18-

NEW MEXICO—Continued

	Channel No.
Roswell	8, 10-, 21-, 27-, *33 +
Santa Fe	2 + , *9 + , 11-, 19-
Silver City	6, 10 + , *12
Socorro	*15-
Tucumcari	*15

NEW YORK

[See footnotes at end of tables]

	Channel No.
Albany-Schenectady	6, 10-, 13, *17 + , 23-, *29 + , 45
Amsterdam	*39 + , 55
Arcade	62-
Batavia	51-
Bath	14-
Binghamton	12-, 34, 40-, *46 +
Buffalo	2, 4, 7 + , 17, *23, 29-, 49-
Carthage	7-
Corning	*30, 48 +
Elmira	18 + , 36-
Garden City	*21-
Glens Falls	*58-
Ilion	67-
Ithaca	52, *65 +
Jamestown	26 + , *46
Kingston	62 +
Lake Placid	*34 +
New York	2, 4, 5 + , 7, 11 + , *25, 31-
North Pole	5
Norwood	*18
Oneonta	[1] 15, *42
Plattsburg	*57
Poughkeepsie	54 +
Riverhead	55 +
Rochester	8, 10 + , 13-, *21, 31 + , *61 +
Saranac Lake	40 +
Smithtown	67
Springville	67 +
Syracuse	3-, 5-, 9-, *24 + , 43 + , 56 + , 68-
Utica	2-, 4-, 20 + , 33, *59
Watertown	*16, 50 +
Waverly	*57-

NORTH CAROLINA

	Channel No.
Andrews	*59
Asheville	13-, 21 + , *33, 62 +
Belmont	46 +
Bryson City	*67
Burlington	16
Canton	*27
Chapel Hill	*4 +
Charlotte	3, 9 + , 18, 36, *42 +
Concord	*58
Cullowhee	50 +
Durham	11 + , 28 +
Edenton	*2
Fayetteville	40 + , 62
Forest City	66 +
Franklin	*56 +
Goldsboro	17-
Greensboro	2-, 48-, 61
Greenville	9-, 14, *25, and 38 +
Hickory	14-
High Point	8-, *32 + , 67 +
Jacksonville	*19, 35
Kannapolis	64-

NORTH CAROLINA—Continued

	Channel No.
Laurel Hill	59 +
Lexington	20
Linville	*17
Lumberton	*31
Manteo	4
Morehead City	8 +
Morganton	23-
New Bern	12 +
Raleigh	5, 22, *34, 50 +
Roanoke Rapids	*36-
Rockingham	*53
Rocky Mount	47 +
Washington	7
Waynesville	59
Wilmington	3-, 6, 26-, *39-
Wilson	30-
Winston-Salem	12, *26 + , 45

NORTH DAKOTA

	Channel No.
Bismarck	*3, 5, 12-, 17-, 26 +
Devils Lake	8 + , *22 +
Dickinson	2 + , *9-, 7
Ellendale	*19-
Fargo	6, 11 + , *13, 15-
Grand Forks	*2, 14 + , 27 +
Jamestown	7-, *23
Minot	*6 + , 10-, 13-, 14-, 24
Pembina	12
Valley City	4-
Williston	*4, 8-, 11-, *15-

OHIO

[See footnotes at end of tables]

	Channel No.
Akron	23 + , *49 + , 55-
Alliance	*45 +
Ashtabula	[1] 15
Athens	20*, 63-
Bowling Green	*27 +
Cambridge	*44-
Canton	17-, 67
Chillicothe	53
Cincinnati	5-, 9, 12, *48-, 64-
Cleveland	3, 5 + , 8, *25 + , 61
Columbus	4-, 6 + , 10 + , 28-, *34, *56-
Dayton	2, 7 + , *16 + , 22 + , 45
Defiance	65 +
Hillsboro	*24 + , 55 +
Lima	35-, 44 + , *57 + , 17
Lorain	43
Mansfield	*47 + , 68-
Newark	*31-, 51
Oxford	*14 +
Portsmouth	30, *42-
Sandusky	52
Shaker Heights	19.
Springfield	26 + , *66
Steubenville	9 + , *62 +
Toledo	11-, 13, 24-, *30 + , 36-, and 40-
Xenia	32
Youngstown	21-, 27, 33, *58
Zanesville	18-

OKLAHOMA

[See footnotes at end of tables]

	Channel No.
Ada	10 + , *22
Altus	*27
Ardmore	*17, *28-
Bartlesville	17 +
Cheyenne	12 +
Claremore	*35
Duncan	40 +
Elk City	*15-
Enid	20-, *26 +
Eufaula	*3
Grove	45 +
Guymon	9 + , *16
Hugo	42 + , [1] *15 + , *48 +
Lawton	7 + , *36-, 16-, 45
McAlester	*32-
Miami	*18-
Muskogee	19
Norman	46-
Oklahoma City	4-, 5, 9-, *13, 14-, 25-, 34-, 43 + , 52, and 62 +
Okmulgee	44-
Sayre	8 +
Shawnee	30
Tulsa	2 + , 6 + 8-, *11-, 23, 41 + , 47, 53
Woodward	*17-, 35 +

OREGON

	Channel No.
Astoria	*21
Bend	*3 + , *15, 21 + , 51
Brookings	*14-
Burns	*18
Coos Bay	11, 23 + , 41
Corvallis	*7-
Eugene	9 + , 13, 16 + , *28-, and 34
Grants Pass	*18 + , 30 +
Klamath Falls	2-, *22 + , and 31
LaGrande	*13 + , 16
Medford	5, *8 + , 10 + , 12 + , and 26 +
North Bend	*17 +
Pendleton	11-
Portland	2, 6 + , 8-, *10, 12, 24 + , *30, 40-
Roseburg	4 + , 36, 46 +
Salem	22, 32
The Dalles	*17-

PENNSYLVANIA

[See footnotes at end of tables]

	Channel No.
Allentown	*39, 69
Altoona	10-, 23-, 47, *57 +
Bethlehem	60-
Clearfield	*3 +
Erie	12, 24, 35 + , *54 + , 66 +
Greensburg	40 +
Harrisburg	21 + , 27-, *33 +
Hazleton	56
Jeanette	19 +
Johnstown	6, 8-, 19 + , *28 +
Lancaster	8 + , 15 +
Lebanon	55-
Philadelphia	3, 6-, 10, 17-, 29, *35-, 57
Pittsburgh	2-, 4 + , 11, *13-, 16, 22, 53 +
Reading	51
Red Lion	49 +

PENNSYLVANIA—Continued

[See footnotes at end of tables]

	Channel No.
Scranton	16-, 22-, 38 + , *44-, 64
State College	29 + , and *59 +
Wilkes Barre	28
Williamsport	[1] 20-, 53-
York	43,

RHODE ISLAND

[See footnotes at end of tables]

	Channel No.
Block Island	69-
Providence	10 + , 12 + , [1] 16, *36, 64 +

SOUTH CAROLINA

	Channel No.
Aiken	*44
Allendale	*14
Anderson	40
Beaufort	*16-
Charleston	2 + , 4, 5 + , *7-, 24, and 36 +
Columbia	10-, 19 + , 25-, *35 + , 47, 57-
Conway	*23 +
Florence	13 + , 15-, 21, *33 +
Greenville	4-, 16 + , 21, *29
Greenwood	*38, 48 +
Hardeeville	28-
Myrtle Beach	32, 43 +
Rock Hill	30 + , 55-
Spartanburg	7 + , 49
Sumter	*27- and 63-

SOUTH DAKOTA

	Channel No.
Aberdeen	9-, *16-
Allen	22 +
Brookings	*8
Eagle Butte	*13
Florence	3-
Huron	12 +
Lead	5-, 11 +
Lowry	*11-, 56, 62 + , 68-
Martin	*8-
Mitchell	5 +
Pierre	4, *10 +
Rapid City	3 + , 7 + , *9, 15-, 21-
Reliance	6-
Seneca	*2-
Sioux Falls	11, 13 + , 17-, *23, 36 + , 46
Vermillion	*2 +

TENNESSEE

	Channel No.
Athens	*24
Chattanooga	3 + , 9, 12 + , *45, 61-
Cleveland	53
Cookeville	*22, 28 +
Crossville	20 + , *55 +
Fayetteville	*29-
Greeneville	39-
Hendersonville	50

TENNESSEE—Continued

	Channel No.
Jackson	7 + , 16 + , *32 +
Jellico	54-
Johnson City	11-, *41
Kingsport	19
Knoxville	6, 8, 10 + , *15-, 43 +
Lebanon	66--
Lexington	*11 +
Livingston	60-
McMinnville	33 +
Memphis	3-, 5 + , *10 + , 13 + , *14 + , 24, 30, 50 + , and *56
Murfreesboro	39 +
Nashville	2-, 4 + , 5, *8 + , 17 + , 30 + , *42, and 58
Sneedville	*2 +
Tazewell	48 +
Tullahoma	64 +
Union City	41

TEXAS

	Channel No.
Abilene	9 + , 15, *26 + , 32 +
Alpine	12-
Alvin	67
Amarillo	*2 + , 4, 7, 10, 14 +
Austin	7 + , *18 + , 24, 36, 42-, and 54
Bay City	*43 +
Baytown	57 +
Beaumont	6-, 12-, 21, *34-
Belton	46-
Big Spring	4-, *14
Blanco	17
Boquillas	8-
Borger	31
Brady	13
Brownsville	23
Bryan	3, 28
Childress	*21
College Station	*15, 50-
Conroe	49 + and 55 +
Corpus Christi	3-, 6, 10-, *16, 28-, 38 +
Crockett	40
Dallas	4 + , 8, *13 + , 27-, 33 + , 39, and 58
Decatur	29
Del Rio	10, *24 +
Denton	*2
Eagle Pass	16 +
El Paso	4, 7, 9, *13, 14, 26 + , *38--, and 65
Farwell	18 +
Fort Stockton	5 +
Fort Worth	5 + , 11-, 21-, *31 + , and 52-
Fredericksburg	2 +
Galveston	*22, 47
Garland	23
Greenville	47 +
Harlingen	4 + , *44, 60
Houston	2-, *8, 11 + , 13-, *14, 20, 26, 39-, and 61
Irving	49
Jacksonville	56
Katy	51 +
Kennville	35 +
Killeen	62
Lake Dallas	55
Laredo	8, 13, 27-, *39
Liano	14-
Longview	16 + , 38-, and 51-
Lubbock	*5-,11,13-, 16 + , 28, and 34-

TEXAS—Continued

	Channel No.
Lufkin	9
McAllen	48
Marfa	3
Marshall	*22-, 35 +
Midland	2-, 18
Mineola	64 +
Monahans-Odessa	9-
Nacogdoches	19-, *32
Odessa	7-, 24-, 30, *36 + , and 42
Palestine	43
Paris, Texas	36 + , 42 +
Port Arthur	4-
Presidio	7 +
Rio Grande City	40
Rosenberg	45
San Angelo	3-, 6, 8 + , *21 +
San Antonio	4, 5, *9-, 12 + , *23-, 29 + , 41 + , and 60 +
Sherman	12-, 20-, *26-
Snyder	17-
Sonora	11 +
Sulphur Springs	18
Sweetwater	12
Temple	6 + ,
Texarkana	6, 17-, *34
Tyler	7,14 + , *38, and 60
Uvalde	26-
Victoria	19 + , 25, 31, and *47
Waco	10 + , 25 + , *34 + , 44-
Weslaco	5-
Wichita Falls	3 + , 6-, 18-, *24
Wolfforth	22-

UTAH

	Channel No.
Cedar City	4, *16 +
Logan	12-, *22
Moab	*14 +
Monticello	*16-
Ogden	*9 + , *18-, 24, 30
Price	3 + , *15
Provo	*11-, 16, 32
Richfield	8 + , *19
Salt Lake City	2-, 4-, 5 + , *7-, 13 + , 14-, 20 + , *26-
St. George	12, *18-
Vernal	6, *17 +

VERMONT

	Channel No.
Burlington	3, 22 + , *33-, 44 +
Hartford	31
Rutland	*28 +
St. Johnsbury	*20-
Windsor	*41

VIRGINIA

	Channel No.
Arlington	14-
Ashland	65 +
Blacksburg	*43, 65-
Bristol	5 + , *28-
Bluefield	*63 +
Charlottesville	29-, *41-, 64 +

VIRGINIA—Continued

	Channel No.
Courtland	*52
Danville	24-, 44 + , *56
Farmville	*31-
Fairfax	*56-
Fredericksburg	69 +
Front Royal	*42
Goldvein	*53
Grundy	68
Harrisonburg	3-
Lynchburg	13, 21-, *54 +
Manassas	66 +
Marion	*52-
Norfolk-Portsmouth-Newport News-.	3 + , 10 + , 13-, *15, 27, 33, 49- and
Hampton	*55 +
Norton	*47-
Onancock	*25 +
Petersburg	8
Richmond	6 + , 12-, *23, 35 + , *57-, 63
Roanoke	7-, 10, *15 + , 27 + , 38-, and 60
Staunton	*51-
Virginia Beach	21 + , 43 +
West Point	*46

WASHINGTON

	Channel No.
Anacortes	64
Bellevue	33 + , 51 +
Bellingham	12 + , 24, *34
Centralia	*15 +
East Wenatchee	249A
Everett	16-
Kennewick	42 +
Morton	39
Olympia	67
Pasco	19-
Pullman	*10-, 24 +
Richland	25, *31
Rochester	26 +
Seattle	4, 5 + , 7, *9, 22 + , 45 + , and *62
Spokane	2-, 4-, 6-,*7 + 22, 28-, and 34-
Tacoma	11 + , 13-, 20, *28, and *56
Vancouver	*14, 49
Walla Walla	9 +
Wenatchee	*18 + , 27
Yakima	23 + , 29 + , 35, *47

WEST VIRGINIA

[See footnotes at end of tables]

	Channel No.
Bluefield	6-, 40-
Charleston	8 + , 11 + , 29, *49-
Clarksburg	12 + , 46-
Fairmont	66-
Grandview	*9-
Huntington	3 + , 13 + , *33 +
Keyser	*30 +
Lewisburg	59
Martinsburg	*44, 60 +
Morgantown	*24-
Oak Hill	4
Parkersburg	15-, 39 + , *57
Weirton	*50 +
Weston	5
Wheeling	7, [1] 14, *41
Williamson	*31 +

WISCONSIN

	Channel No.
Antigo	46
Appleton	32 +
Bloomington	*49
Chippewa Falls	48
Crandon	4
Eagle River	34
Eau Claire	13 + , 18
Fond du Lac	68
Green Bay	2 + , 5 + , 11 + , 26 + , *38, 50 +
Highland	*51
Janesville	57 +
Kenosha	55-
Kieler	*46 +
LaCrosse	8 + , 19 + , 25, *31
Madison	3, 15, *21-, 27 + , 47 +
Manitowoc	16 +
Marshfield	39-
Mayville	52
Menomonie	*28-
Milwaukee	4-, 6, *10 + , 12, 18-, 24 + , 30, *36, and 58
Oshkosh	22 + and *50 +
Park Falls	*36 +
Racine	49 +
Rhinelander	12 +
Rice Lake	16
Richland Center	45 +
Sheboygan	28
Sturgeon Bay	42
Superior	6 + , 40
Suring	14-
Tomah	43
Wausau	7-, 9, *20 + , 33-
Wittenberg	55

WYOMING

	Channel No.
Casper	2 + , *6 + , 13 + , 14-, 20-
Cheyenne	5 + , *17, 27-, 33-
Jackson	2, 11 +
Lander	*4, 5
Laramie	*8 +
Rawlins	11-
Riverton	10 +
Rock Springs	13
Sheridan	7, 9 + , 12 +

U.S. TERRITORIES AND POSSESSIONS

[See footnotes at end of tables]

	Channel No.
Guam:	
Agana	*4, 8, 10, *12
Tamuning	14, 20
Puerto Rico:	
Aguada	50
Aguadilla	*32, 44
Arecibo-Aguadilla	12 +
Arecibo	54, 60
Bayamon	36
Caguas	11-, *58
Carolina	52
Cayey.	
Fajardo	13 + , 34, and *40
Guayama	46
Humacoa	68
Mayaguez	3 + , 5-, 16, 22

U.S. TERRITORIES AND POSSESSIONS—Continued

[See footnotes at end of tables]

	Channel No.
Naranjito	64
Ponce	7 + , 9-, 14, 20, *26, 48
San Juan	2 + , 4-, *6 + , 18, 24, 30, and *62
San Sebastian	38
Utuado.	
Yauco	42
Virgin Islands:	
Charlotte Amalie	10-, 17, *23, 43
Charlotte Amalie-Christiansted.	*3, [6] *12
Christiansted	8 + , 15, *21, 39
Frederiksted	66

Footnotes to tables:

[1] Following the decision in Docket No. 18261, channels so indicated will not be available for television use until further action by the Commission.

[2] Operation on this channel is subject to the conditions, terms, and requirements set out in the Report and Order in Docket No. 19075, RM–1645, adopted January 5, 1972, released January 7, 1972, FCC 72–19.

[3] [Reserved]

[4] This channel is not available for use at Elgin unless and until it is determined by the Commission that it is not needed for use at Joliet, Ill.

[5] [Reserved]

[6] Stations using these allotments shall limit radiation toward stations on the same channel in Puerto Rico, to no more than the effective radiated power which would be radiated by an omnidirectional radio station using maximum permissible effective radiated power for antenna height above average terrain, at the minimum distances from such stations specified in Sec. 73.610(b). The FCC shall consider the status of the negotiations with the appropriate British authorities concerning these allotments when the applications for construction permits come before the FCC.

(Sec. 5, 48 Stat. 1068; 47 U.S.C. 155)

[28 FR 13660, Dec. 14, 1963]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 73.606, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§ 73.607 Availability of channels.

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

(b) Notwithstanding paragraph (a) of this section, an application may be filed for a channel or community not listed in the TV Table of Allotments if it is consistent with the rules and policies established in the Third Report and Order in WT Docket 99–168 (FCC 01–25), adopted January 18, 2001. Where such a request is approved, the Media Bureau will change the Table of Allotments to reflect that approval.

[51 FR 44070, Dec. 8, 1986, as amended at 66 FR 10208, Feb. 14, 2001; 67 FR 13232, Mar. 21, 2002]

§ 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 U.S. Albers Equal Area Projection Map (based on standard parallels 29½° and 45½°; 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 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 29.50 and 45.50 North American datum), beginning at a point on the east coast of Georgia and the 31st parallel and ending at the United States-Mexican border, consisting of arcs drawn with a 241.4 kilometer (150 mile) radius to the north from the following specified points:

	North latitude	West longitude
(a)	29°40′00″	83°24′00″
(b)	30°07′00″	84°12′00″
(c)	30°31′00″	86°30′00″
(d)	30°48′00″	87°58′30″
(e)	30°00′00″	90°38′30″
(f)	30°04′30″	93°19′00″
(g)	29°46′00″	95°05′00″
(h)	28°43′00″	96°39′30″
(i)	27°52′30″	97°32′00″

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.)

[28 FR 13660, Dec. 14, 1963, as amended at 33 FR 15422, Oct. 17, 1968; 50 FR 23697, June 5, 1985; 51 FR 44070, Dec. 8, 1986]

§ 73.610 Minimum distance separations between stations.

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

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

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

(1)

Zone	Kilometers	
	Channels 2–13	Channels 14–69
I	272.7 (169.5 miles)	248.6 (154.5 miles)
II	304.9 (189.5 miles)	280.8 (174.5 miles)
III	353.2 (219.5 miles)	329.0 (204.5 miles)

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

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

(1) Channels 2–13 95.7 kilometers (59.5 miles). Channels 14–69 87.7 kilometers (54.5 miles).

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

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

MINIMUM DISTANCE SEPARATION FROM FM CHANNEL 253 (98.5 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

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[28 FR 13660, Dec. 14, 1963, as amended at 37 FR 25842, Dec. 5, 1972; 44 FR 65765, Nov. 15, 1979; 47 FR 35990, Aug. 18, 1982; 50 FR 23698, June 5, 1985; 51 FR 44070, Dec. 8, 1986; 54 FR 14964, Apr. 14, 1989; 54 FR 16368, Apr. 24, 1989; 54 FR 35340, Aug. 25, 1989]

§ 73.611 Reference points and distance computations.

(a) In considering petitions to amend the Table of Allotments (§ 73.606(b)), the following reference points shall be used by the Commission in determining assignment separations between communities:

(1) Where transmitter sites for the pertinent channels have been authorized in communities involved in a petition to amend the Table of Allotments, separations between such communities shall be determined by the distance between the coordinates of the authorized transmitter sites in the respective communities as set forth in the Commission's authorizations therefor.

(2) Where an authorized transmitter site is available for use as a reference point in one community but not in the other for the pertinent channels, separations shall be determined by the distance between the coordinates of the transmitter site as set forth in the FCC's authorization therefor and the coordinates of the other community as set forth in the publication of the United States Department of the Interior entitled, Index to *The National Atlas of the United States of America*. If this publication does not contain the coordinates for said other community, the coordinates of the main post office thereof shall be used.

(3) Where no authorized transmitter sites are available for use as reference points in both communities for the pertinent channels, the distance between the two communities listed in the above publication shall be used. If said publication does not contain such distance, the separation between the two communities shall be determined by the distance between the coordinates thereof as set forth in the publication. Where such coordinates are not contained in the publication, the coordinates of the main post offices of said communities shall be used.

(4) Where the distance between the reference point in a community to which a channel is proposed to be assigned and the reference point in another community or communities does not meet the minimum separation requirements of § 73.610, the channel may be assigned to such community upon a showing that a transmitter site is available that would meet the minimum separation requirements of § 73.610 and the minimum field strength requirements of § 73.685. In such cases, where a station is not authorized in the community or communities to which measurements from the proposed channel assignment must be made pursuant to § 73.610 a showing should also be made that the distance between suitable transmitter sites in such other community or communities and the proposed transmitter site for the new channel meet the Commission's minimum spacing and coverage requirements.

(b) Station separations in licensing proceedings shall be determined by the distance between the coordinates of the proposed transmitter site in one community and

(1) The coordinates of an authorized transmitter site for the pertinent channel in the other community; or, where such transmitter site is not available for use as a reference point,

(2) The coordinates of the other community as set forth in the Index to *The National Atlas of the United States of America;* or if not contained therein,

(3) The coordinates of the main post office of such other community.

(4) In addition, where there are pending applications in other communities which, if granted, would have to be considered in determining station separations, the coordinates of the transmitter sites proposed in such applications must be used to determine whether the requirements with respect to minimum separations between the proposed stations in the respective cities have been met.

(c) In measuring assignment and station separations involving cities listed in the Table in combination, where there is no authorized transmitter site in any of the combination cities on the channel involved, separation measurements shall be made from the reference point which will result in the lowest separation.

(d) To calculate the distance between two reference points see paragraph (c), §73.208. However, distances shall be rounded to the nearest tenth of a kilometer.

[52 FR 11655, Apr. 10, 1987]

§73.612 Protection from interference.

(a) Permittees and licensees of TV broadcast stations are not protected from any interference which may be caused by the grant of a new station or of authority to modify the facilities of an existing station in accordance with the provisions of this subpart. The nature and extent of the protection from interference accorded to TV broadcast stations is limited solely to the protection which results from the minimum allotment and station separation requirements and the rules and regulations with respect to maximum powers and antenna heights set forth in this subpart.

(b) When the Commission determines that grant of an application would serve the public interest, convenience, and necessity and the instrument of authorization specifies an antenna location in a designated antenna farm area which results in distance separation less than those specified in this subpart, TV broadcast station permittees and licensees shall be afforded protection from interference equivalent to the protection afforded under the minimum distance separations specified in this subpart.

NOTE: The nature and extent of the protection from interference accorded to TV broadcast stations which were authorized prior to April 14, 1952, and which were operating on said date is limited not only as specified above but is further limited by any smaller separations existing between such stations on said date. Where, as a result of the adoption of the Table of Allotments or of changes in transmitter sites made by such stations after said date, separations smaller than the required minimum are increased but still remain lower than the required minimum, protection accorded such stations will be limited to the new separations.

[28 FR 13660, Dec. 14, 1963, as amended at 32 FR 8814, June 21, 1967; 50 FR 23698, June 5, 1985; 51 FR 44070, Dec. 8, 1986]

§73.613 Protection of Class A TV stations.

(a) An application for a new TV broadcast station or for changes in the operating facilities of an existing TV broadcast station will not be accepted for filing if it fails to comply with the requirements specified in this section.

NOTE TO §73.613(a): Licensees and permittees of TV broadcast stations that were authorized on November 29, 1999 (and applicants for new TV stations that had been cutoff without competing applications or that were the winning bidder in a TV broadcast station auction as of that date, or that were the proposed remaining applicant in a group of mutually exclusive applications for which a settlement agreement was on file as of that date) may continue to operate with facilities that do not protect Class A TV stations. Applications filed on or before November 29, 1999 for a change in the operating facilities of such stations also are not required to protect Class A TV stations under the provisions of this section.

(b) Due to the frequency spacing which exists between TV channels 4 and 5, between channels 6 and 7, and between channels 13 and 14, first-adjacent channel protection standards shall not be applicable to these pairs of channels. Some interference protection requirements of this section only apply to stations transmitting on the UHF TV channels 14 through 51 (See §73.603(a) of this part).

(c) A UHF TV broadcast station application will not be accepted if it specifies a site less than 100 kilometers from the transmitter site of a UHF Class A TV station operating on a channel which is the seventh channel above the requested channel. Compliance with this requirement shall be determined based on a distance computation rounded to the nearest kilometer.

(d) A UHF TV broadcast station application will not be accepted if it specifies a site less than 32 kilometers from the transmitter site of a UHF Class A TV station that is authorized an effective radiated power of more than 50 kilowatts and operating on a channel which is the second, third, or fourth channel above or below the requested channel. Compliance with this requirement shall be determined based on a distance computation rounded to the nearest kilometer.

(e) In cases where a TV broadcast station has been authorized facilities that do not meet the distance separation requirements of this section, an application to modify such a station's facilities will not be accepted if it decreases that separation.

(f) New interference must not be caused to Class A TV stations authorized pursuant to Subpart J of this part, within the protected contour defined in §73.6010 of this part. For this prediction, the TV broadcast station field strength is calculated from the proposed effective radiated power and the antenna height above average terrain in pertinent directions using the methods in §73.684 of this part.

(1) For co-channel protection, the field strength is calculated using the appropriate F(50,10) chart from Figure 9a, 10a, or 10c of §73.699 of this part.

(2) For TV broadcast stations that do not specify the same channel as the Class A TV station to be protected, the field strength is calculated using the appropriate F(50,50) chart from Figure 9, 10, or 10b of §73.699 of this part.

(g) A TV broadcast station application will not be accepted if the ratio in dB of its field strength to that of the Class A TV station at the Class A TV station's protected contour fails to meet the following:

(1) −45 dB for co-channel operations where the Class A TV station does not specify an offset carrier frequency or where the TV broadcast and Class A TV stations do not specify different offset carrier frequencies (zero, plus or minus) or −28 dB for offset carrier frequency operation where the TV broadcast and Class A TV stations specify different offset carrier frequencies.

(2) 6 dB when the protected Class A TV station operates on a VHF channel that is one channel above the requested channel.

(3) 12 dB when the protected Class A TV station operates on a VHF channel that is one channel below the requested channel.

(4) 15 dB when the protected Class A TV station operates on a UHF channel that is one channel above or below the requested channel.

(5) 23 dB when the protected Class A TV station operates on a UHF channel that is fourteen channels below the requested channel.

(6) 6 dB when the protected Class A TV station operates on a UHF channel that is fifteen channels below the requested channel.

(h) New interference must not be caused to digital Class A TV stations authorized pursuant to Subpart J of this part, within the protected contour defined in §73.6010 of this part. A TV broadcast station application will not be accepted if the ratio in dB of the field strength of the digital Class A TV station at the digital Class A TV station's protected contour to the field strength resulting from the facilities proposed in the TV broadcast station application fails to meet the D/U signal ratios for ''analog TV-into-DTV'' specified in §§73.623(c)(2) and 73.623(c)(3) of this part. For digital Class A TV station protection, the TV broadcast station field strength is calculated from the proposed effective radiated power and the antenna height above average terrain in pertinent directions using the methods in §73.684 of this part and using the appropriate F(50,10) chart from Figure 9a, 10a, or 10c of §73.699 of this part.

(i) In cases where a TV broadcast station has been authorized facilities that do not meet the interference protection

requirements of this section, an application to modify such a station's facilities will not be accepted if it is predicted to cause new interference within the protected contour of the Class A TV or digital Class A TV station.

(j) In support of a request for waiver of the interference protection requirements of this section, an applicant for a TV broadcast station may make full use of terrain shielding and Longley-Rice terrain dependent propagation methods to demonstrate that the proposed facility would not be likely to cause interference to Class A TV stations. Guidance on using the Longely-Rice methodology is provided in *OET Bulletin No. 69*, which is available through the Internet at *http://www.fcc.gov/oet/info/documents/bulletins/#69*.

[65 FR 3001, May 10, 2000]

§ 73.614 Power and antenna height requirements.

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

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

(1) Channels 2–6 in Zone I:

$ERP_{Max} = 102.57–33.24*Log_{10}(HAAT)$

And,

$-10 \text{ dBk} \leq ERP_{Max} \leq 20 \text{ dBk}$

(2) Channels 2–6 in Zones II and III:

$ERP_{Max} = 67.57–17.08* Log_{10} (HAAT)$

And,

$10 \text{ dBk} \leq ERP_{Max} \leq 20 \text{ dBk}$

(3) Channels 7–13 in Zone I:

$ERP_{Max} = 107.57–33.24* Log_{10} (HAAT)$

And,

$-4.0 \text{ dBk} \leq ERP_{Max} \leq 25 \text{ dBk}$

(4) Channels 7–13 in Zones II and III:

$ERP_{Max} = 72.57–17.08* Log_{10} (HAAT)$

And,

$15 \text{ dBk} \leq ERP_{Max} \leq 25 \text{ dBk}$

(5) Channels 14–69 in Zones I, II, and III:

$ERP_{Max} = 84.57–17.08* Log_{10} (HAAT)$

And,

$27 \text{ dBk} \leq ERP_{Max} \leq 37 \text{ dBk}$

Where:

ERP_{Max} = Maximum Effective Radiated Power measured in decibels above 1 kW (dBk).

HAAT = Height Above Average Terrain measured in meters.

The boundaries specified are to be used to determine the maximum possible combination of antenna height and ERP_{dBk}. When specifying an ERP_{dBk} less than that permitted by the lower boundary, any antenna HAAT can be used. Also, for values of antenna HAAT greater than 2,300 meters the maximum ERP is the lower limit specified for each equation.

(6) The effective radiated power in any horizontal or vertical direction may not exceed the maximum values permitted by this section.

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

[28 FR 13660, Dec. 14, 1963, as amended at 42 FR 20823, Apr. 22, 1977; 42 FR 48881, Sept. 26, 1977; 47 FR 35990, Aug. 18, 1982; 50 FR 23698, June 5, 1985; 56 FR 49707, Oct. 1, 1991; 58 FR 51250, Oct. 1, 1993]

§ 73.615 Administrative changes in authorizations.

In the issuance of television broadcast station authorizations, the Commission will specify the transmitter output power and effective radiated

power to the nearest 0.1 dBk. Power specified by kWs shall be obtained by converting dBk to kWs to 3 significant figures. Antenna heights above average terrain will be specified to the nearest meter. Midway figures will be authorized in the lower alternative.

[50 FR 23698, June 5, 1985]

§ 73.616 Post-transition DTV station interference protection.

(a) Applications seeking facilities that will operate prior to the end of the DTV transition must also comply with § 73.623.

(b) A petition to add a new channel to the post-transition DTV Table of Allotments contained in § 73.622(i) of this subpart will not be accepted unless it meets: the DTV-to-DTV geographic spacing requirements of § 73.623(d) with respect to all existing DTV allotments in the post-transition DTV Table; the principle community coverage requirements of § 73.625(a); the Class A TV and digital Class A TV protection requirements in paragraph (f) of this section; the land mobile protection requirements of § 73.623(e); and the FM radio protection requirement of § 73.623(f).

(c) The reference coordinates of a post-transition DTV allotment shall be the authorized transmitter site, or, where such a transmitter site is not available for use as a reference point, the coordinates as designated in the FCC order creating or modifying the post-transition DTV Table of Allotments.

(d) The protected facilities of a post-transition DTV allotment shall be the facilities (effective radiated power, antenna height and antenna directional radiation pattern, if any) authorized by a construction permit or license, or, where such an authorization is not available for establishing reference facilities, the facilities designated in the FCC order creating or modifying the post-transition DTV Table of Allotments.

(e) An application will not be accepted if it is predicted to cause interference to more than an additional 0.5 percent of the population served by another post-transition DTV station. For this purpose, the population served by the station receiving additional interference does not include portions of the population within the noise-limited service contour of that station that are predicted to receive interference from the post-transition DTV allotment facilities of the applicant or portions of that population receiving masking interference from any other station.

(1) For evaluating compliance with the requirements of this paragraph, interference to populations served is to be predicted based on the 2000 census population data and otherwise according to the procedure set forth in OET Bulletin No. 69: ''Longley-Rice Methodology for Evaluating TV Coverage and Interference'' (February 6, 2004) (incorporated by reference, see § 73.8000), including population served within service areas determined in accordance with § 73.622(e), consideration of whether F(50,10) undesired signals will exceed the following desired-to-undesired (D/U) signal ratios, assumed use of a directional receiving antenna, and use of the terrain dependent Longley-Rice point-to-point propagation model. Applicants may request the use of a cell size other than the default of 2.0 km per side, but only requests for cell sizes of 1.0 km per side or 0.5 km per side will be considered. The threshold levels at which interference is considered to occur are:

(i) For co-channel stations, the D/U ratio is + 15 dB. This value is only valid at locations where the signal-to-noise ratio is 28 dB or greater. At the edge of the noise-limited service area, where the signal-to-noise (S/N) ratio is 16 dB, this value is + 23 dB. At locations where the S/N ratio is greater than 16 dB but less than 28 dB, D/U values are computed from the following formula:

$$D/U = 15 + 10\log_{10}[1.0/(1.0 - 10^{-x/10})]$$

Where x = S/N–15.19 (minimum signal to noise ratio)

(ii) For interference from a lower first-adjacent channel, the D/U ratio is −28 dB.

(iii) For interference from an upper first-adjacent channel, the D/U ratio is −26 dB.

(2) Due to the frequency spacing that exists between Channels 4 and 5, between Channels 6 and 7, and between

Channels 13 and 14, the minimum adjacent channel technical criteria specified in this section shall not be applicable to these pairs of channels (see § 73.603(a)).

(f) A petition to add a new channel to the post-transition DTV Table or a post-transition DTV station application that proposes to expand its allotted or authorized coverage area in any direction will not be accepted if it is predicted to cause interference to a Class A TV station or to a digital Class A TV station authorized pursuant to subpart J of this part, within the protected contour defined in § 73.6010.

(1) Interference is predicted to occur if the ratio in dB of the field strength of a Class A TV station at its protected contour to the field strength resulting from the facilities proposed in the DTV application (calculated using the appropriate F(50,10) chart from Figure 9a, 10a, or 10c of § 73.699) fails to meet the D/U signal ratios for ''DTV-into-analog TV'' specified in § 73.623(c)(2).

(2) Interference is predicted to occur if the ratio in dB of the field strength of a digital Class A TV station at its protected contour to the field strength resulting from the facilities proposed in the DTV application (calculated using the appropriate F(50,10) chart from Figure 9a, 10a, or 10c of § 73.699) fails to meet the D/U signal ratios specified in paragraph (e) of this section.

(3) In support of a request for waiver of the interference protection requirements of this section, an applicant for a post-transition DTV broadcast station may make full use of terrain shielding and Longley-Rice terrain dependent propagation methods to demonstrate that the proposed facility would not be likely to cause interference to Class A TV stations. Guidance on using the Longley-Rice methodology is provided in OET Bulletin No. 69, which is available through the Internet at *http://www.fcc.gov/oet/info/documents/bulletins/#69*.

NOTE TO § 73.616: When this rule was adopted, the filing freeze announced in an August 2004 public notice (19 FCC Rcd 14810 (MB 2004)) remained in effect. For a short period of time after the filing freeze is lifted, until a date to be announced by a Media Bureau public notice, applicants must protect Appendix B facilities in addition to any authorized facilities required to be protected pursuant to this rule section.

[73 FR 5682, Jan. 30, 2008]

§ 73.621 Noncommercial educational TV stations.

In addition to the other provisions of this subpart, the following shall be applicable to noncommercial educational television broadcast stations:

(a) Except as provided in paragraph (b) of this section, noncommercial educational broadcast stations will be licensed only to nonprofit educational organizations upon a showing that the proposed stations will be used primarily to serve the educational needs of the community; for the advancement of educational programs; and to furnish a nonprofit and noncommercial television broadcast service.

(1) In determining the eligibility of publicly supported educational organizations, the accreditation of their respective state departments of education shall be taken into consideration.

(2) In determining the eligibility of privately controlled educational organizations, the accreditation of state departments of education or recognized regional and national educational accrediting organizations shall be taken into consideration.

(b) Where a municipality or other political subdivision has no independently constituted educational organization such as, for example, a board of education having autonomy with respect to carrying out the municipality's educational program, such municipality shall be eligible for a noncommercial educational television broadcast station. In such circumstances, a full and detailed showing must be made that a grant of the application will be consistent with the intent and purpose of the Commission's rules and regulations relating to such stations.

(c) Noncommercial educational television broadcast stations may transmit educational, cultural and entertainment programs, and programs designed for use by schools and school systems in connection with regular school courses, as well as routine and administrative material pertaining thereto.

(d) A noncommercial educational television station may broadcast programs produced by or at the expense of, or furnished by persons other than the licensee, if no other consideration than the furnishing of the program and the costs incidental to its production and broadcast are received by the licensee. The payment of line charges by another station, network, or someone other than the licensee of a noncommercial educational television station, or general contributions to the operating costs of a station, shall not be considered as being prohibited by this paragraph.

(e) Each station shall furnish a nonprofit and noncommercial broadcast service. Noncommercial educational television stations shall be subject to the provisions of § 73.1212 to the extent that they are applicable to the broadcast of programs produced by, or at the expense of, or furnished by others. No *promotional* announcements *on behalf of for profit entities* shall be broadcast at any time in exchange for the receipt, in whole or in part, of consideration to the licensee, its principals, or employees. However, acknowledgements of contributions can be made. *The scheduling of any announcements and acknowledgements may not interrupt regular programming*, except as permitted under paragraph (f) of this section.

NOTE TO PARAGRAPH (e): Commission interpretation of this rule, including the acceptable form of acknowledgements, may be found in the *Second Report and Order* in Docket No. 21136 (Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations), 86 F.C.C. 2d 141 (1981); the *Memorandum Opinion and Order* in Docket No. 21136, 90 FCC 2d 895 (1982); the *Memorandum Opinion and Order* in Docket 21136, 49 FR 13534, April 5, 1984; and the *Report and Order* in Docket No. 12–106 (Noncommercial Educational Station Fundraising for Third-Party Non-Profit Organizations), FCC 17–41, April 20, 2017.

(f) A noncommercial educational television station may interrupt regular programming to conduct fundraising activities on behalf of a third-party non-profit organization, provided that all such fundraising activities conducted during any given year do not exceed one percent of the station's total annual airtime. A station may use the prior year's total airtime for purposes of determining how many hours constitute one percent of its total annual airtime. With respect to stations that multicast programming on two or more separate channels, the one-percent annual limit will apply separately to each individual programming stream. For purposes of this paragraph, a non-profit organization is an entity that qualifies as a non-profit organization under 26 U.S.C. 501(c)(3).

(1) *Audience disclosure.* A noncommercial educational television station that interrupts regular programming to conduct fundraising activities on behalf of a third-party non-profit organization must air a disclosure during such activities clearly stating that the fundraiser is not for the benefit of the station itself and identifying the entity for which it is fundraising. The station must air the audience disclosure at the beginning and the end of each fundraising program and at least once during each hour in which the program is on the air.

(2) *Reimbursement.* A noncommercial educational television station that interrupts regular programming to conduct fundraising activities on behalf of a third-party non-profit organization may accept reimbursement of expenses incurred in conducting third-party fundraising activities or airing third-party fundraising programs.

(3) *Exemption.* No noncommercial educational television station that receives funding from the Corporation for Public Broadcasting shall have the authority to interrupt regular programming to conduct fundraising activities on behalf of a third-party non-profit organization.

(g) Telecommunications Service on the Vertical Blanking Interval and in the Visual Signal. The provisions governing VBI and visual signal telecommunications service in § 73.646 are applicable to noncommercial educational TV stations.

(h) Non-program related data signals transmitted on Line 21 pursuant to § 73.682(a)(22)(ii) may be used for remunerative purposes.

(i) Mutually exclusive applications for noncommercial educational TV stations operating on reserved channels shall be resolved pursuant to the point system in subpart K.

(j) With respect to the provision of advanced television services, the requirements of this section will apply to the entire digital bitstream of noncommercial educational television stations, including the provision of ancillary or supplementary services.

[28 FR 13660, Dec. 14, 1963, as amended at 35 FR 7558, May 15, 1970; 47 FR 36179, Aug. 19, 1982; 48 FR 27068, June 13, 1983; 49 FR 29069, July 18, 1984; 50 FR 4664, Feb. 1, 1985; 50 FR 4684, Feb. 1, 1985; 61 FR 36304, July 10, 1996; 65 FR 36378, June 8, 2000; 66 FR 58982, Nov. 26, 2001; 82 FR 21135, May 5, 2017]

EFFECTIVE DATE NOTE: At 82 FR 21135, May 5, 2017, §73.621 was amended by adding new paragraph (f). Paragraph (f)(1) contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget. Paragraph (f)(1) has been approved by the Office of Management and Budget and will become effective on Nov. 13, 2017.

§ 73.622 Digital television table of allotments.

(a) *General.* The following table of allotments contains the digital television (DTV) channel allotments designated for the listed communities in the United States, its Territories, and possessions. The initial DTV Table of Allotments was established on April 3, 1997, to provide a second channel for DTV service for all eligible analog television broadcasters. Requests for addition of new DTV allotments, or requests to change the channels allotted to a community must be made in a petition for rule making to amend the DTV Table of Allotments. A request to amend the DTV table to change the channel of an allotment in the DTV table will be evaluated for technical acceptability using engineering criteria set forth in §73.623(c). A request to amend the DTV table to add a new allotment will be evaluated for technical acceptability using the geographic spacing criteria set forth in §73.623(d). DTV allotments designated with an asterisk are assigned for use by non-commercial educational broadcast stations only. Stations operating on DTV allotments designated with a ''c'' are required to comply with paragraph (g) of this section. Rules governing noncommercial educational TV stations are contained in §73.621. Where there is only one technically available channel available in a community, an entity that would be eligible to operate a noncommercial educational broadcast station may, prior to application, initiate a rulemaking proceeding requesting that an unoccupied or new channel in the community be changed or added as reserved only for noncommercial educational broadcasting upon demonstrating that the noncommercial educational proponent would provide a first or second noncommercial educational TV service to 2,000 or more people who constitute 10% of the population within the proposed allocation's noise limited contour.

(1) Petitions requesting the addition of a new allotment must specify a channel in the range of channels 2–51.

(2) Petitions requesting a change in the channel of an initial allotment must specify a channel in the range of channels 2–58.

(b) *DTV Table of Allotments.*

ALABAMA

Community	Channel No.
Anniston	9
Bessemer	18c
Birmingham	30, 36, 50, 52, *53
Demopolis	*19
Dothan	21, 36
Dozier	*11
Florence	14, 20, *22
Gadsden	26, 45c
Homewood	28
Huntsville	*24, 32c, 41, 49c, 59
Louisville	*44c
Mobile	9, 18, 20, 27, *41, 47
Montgomery	14, 16, *27, 46c, 51
Mount Cheaha	*56
Opelika	31
Ozark	33
Selma	55
Troy	48
Tuscaloosa	5
Tuskegee	24

ALASKA

Community	Channel No.
Anchorage	6c, *8c, 10c, 12c, 20, *26, 28, 32
Bethel	*3
Dillingham	*9
Fairbanks	18, 22, *24, 26, 28
Juneau	*10, 11
Ketchikan	*8, 13
North Pole	20
Sitka	2

ARIZONA

Community	Channel No.
Flagstaff	18, 22, 27, 32
Green Valley	47c
Kingman	19, *46
Mesa	36
Phoenix	17, 20, 24, 26, *29, 31, 34c, 49, 56
Prescott	25
Sierra Vista	44
Tolleson	52c
Tucson	19c, 23, 25, *28c, *30, 32, 35, 42
Yuma	16, 41

ARKANSAS

Community	Channel No.
Arkadelphia	*13
El Dorado	*12, 27
Fayetteville	*9, 15
Fort Smith	18, 21, 27
Hot Springs	14
Jonesboro	9c, *20c, 49c
Little Rock	*5, 12c, 22, 30, 32, 44
Mountain View	*13
Newark	*27
Pine Bluff	24, 39c
Rogers	50
Springdale	39

CALIFORNIA

Community	Channel No.
Anaheim	32
Arcata	22
Avalon	47c
Bakersfield	10, 25, 33, 55
Barstow	44
Blythe	*4
Calipatria	50
Ceres	*15c
Chico	36, 43
Clovis	44c
Coalinga	*22
Concord	63c
Corona	39
Cotati	*23c
El Centro	22, 48
Eureka	*11, 16, 17, 28
Fort Bragg	15
Fresno	7, 9, 34, 38, *40
Hanford	20
Huntington Beach	*48
Long Beach	61c
Los Angeles	31c, 35c, 36, *41c, 42, 43, 53c, *59c, 60, 65c, 66
Merced	5
Modesto	18
Monterey	31, 32
Novato	47
Oakland	56
Ontario	29c
Oxnard	24
Palm Springs	46, 52
Paradise	20
Porterville	48
Rancho Palos Verdes	51c
Redding	*18, 34
Riverside	68
Sacramento	21, 35, *43, 48, *53, 55, 61
Salinas	10, 13

CALIFORNIA—Continued

Community	Channel No.
San Bernardino	*26, 38
San Diego	18, 19, 25, *30, 40c, 55
San Francisco	19, 24, 27c, 29, *30, *33c, 39c, 45c, 51, 57
San Jose	12c, 41, 49c, *50, 52
San Luis Obispo	15, 34c
San Mateo	*43
Sanger	36
Santa Ana	23c
Santa Barbara	21, 27
Santa Maria	19
Santa Rosa	54
Stockton	25, 46, 62
Twentynine Palms	23
Vallejo	34
Ventura	49
Visalia	28, *50c
Watsonville	*58

COLORADO

Community	Channel No.
Boulder	15c
Broomfield	*38
Castle Rock	45
Colorado Springs	10, 22c, 24
Craig	*48
Denver	16, 17, *18, 19, 32c, 34, 35, *40, 43, 51c
Durango	15
Fort Collins	21
Glenwood Springs	23, *39
Grand Junction	2, 7, 12c, 15, *17
Greeley	45
La Junta	*30
Lamar	*50
Leadville	*49
Longmont	29
Montrose	13
Pueblo	*26, 42
Steamboat Springs	10
Sterling	23

CONNECTICUT

Community	Channel No.
Bridgeport	42, *52
Hartford	31, *32, 33, 46
New Britain	35
New Haven	6, 10, *39
New London	34
Norwich	*45
Waterbury	12

DELAWARE

Community	Channel No.
Seaford	*44
Wilmington	31, *55

DISTRICT OF COLUMBIA

Community	Channel No.
Washington	*27c, *33c, 34, 35, 36, 39, 48, 51c

FLORIDA

Community	Channel No.
Apalachicola	3
Boca Raton	*40
Bradenton	*5, 42
Cape Coral	35
Clearwater	21
Clermont	17
Cocoa	*30, 53c
Daytona Beach	11, 49
Fort Lauderdale	52c
Fort Myers	9, 15, *31c
Fort Pierce	*38, 50
Fort Walton Beach	40, 49, 50
Gainesville	16, *36
High Springs	28
Hollywood	47
Jacksonville	13c, 19, 32, 34, *38, 42, *44
Key West	3, 12
Lake Worth	36
Lakeland	19
Leesburg	40, *46c
Live Oak	48
Marathon	*34
Melbourne	20, 48
Miami	8c, 9, *18c, 19, *20, 22, 24c, 26, 31, 32, 46c
Naples	41, 45
New Smyrna Beach	*33
Ocala	31
Orange Park	10
Orlando	14, 22, *23, 39, 41, 58
Palm Beach	49
Panama City	8, 9, 19, *38
Panama City Beach	47c
Pensacola	17, *31, 34c, 45c
Sarasota	52
St. Petersburg	24, 57, 59
Tallahassee	2, 22, *32
Tampa	7, 12, 29c, *34, 47, *54
Tequesta	16
Tice	33
Venice	25
West Palm Beach	13c, *27, 28, 55

GEORGIA

Community	Channel No.
Albany	12, 17
Athens	*12c, 48
Atlanta	10, 19, 20, *21, 25, 27, 39, *41, 43
Augusta	30, 31, 42, 51
Bainbridge	50c
Baxley	35c
Brunswick	24
Chatsworth	*33
Cochran	*7
Columbus	15, *23, 35, 47, 9
Cordele	51
Dalton	16
Dawson	*8
Macon	4, 16, 40, 45
Monroe	44
Pelham	*5
Perry	32
Rome	51
Savannah	*13, 15, 23c, 39
Thomasville	46
Toccoa	24
Valdosta	43
Waycross	*9c
Wrens	*2

HAWAII

Community	Channel No.
Hilo	8, 18, *19, 21, 22, 23, *31, *39c
Honolulu	8, *10c, *18, 19, 22, 23, 27c, 31, 33c, 35, 40, *43
Kailua Kona	25
Kaneohe	41
Lihue	*7, *12, *28c, *45
Wailuku	16c, 24, *28c, 29, *30, *34c, 36, 45

IDAHO

Community	Channel No.
Boise	*21, 26, 28
Burley	*48
Caldwell	10c
Coeur D'alene	*45
Filer	*18
Idaho Falls	9c, 36
Lewiston	32
Moscow	*12
Nampa	13c, 24
Pocatello	*17, 23
Twin Falls	16, *22, 34
Weiser	*34

ILLINOIS

Community	Channel No.
Aurora	59
Bloomington	28
Carbondale	*40
Champaign	41, 48
Charleston	*50
Chicago	3c, 19, *21c, 27c, 29, 31, 43, 45c, *47, 52
Decatur	18c, 22
East St. Louis	47c
Freeport	41
Harrisburg	34
Jacksonville	*15c
Joliet	53
Lasalle	10
Macomb	*21
Marion	17
Moline	*23, 38
Mount Vernon	21
Olney	*19
Peoria	30, 39, 40, *46, 57
Quincy	32, *34, 54
Rock Island	58
Rockford	16, 42, 54
Springfield	36, 42, 44, 53
Urbana	*9, 26

INDIANA

Community	Channel No.
Angola	12
Bloomington	*14, 27, 48, 56
Elkhart	58
Evansville	*12, 28, 45c, 46, 59
Fort Wayne	19, 24, 31, 36, *40c
Gary	*17, 51c
Hammond	36
Indianapolis	9c, 16, *21c, 25, *44, 45, 46
Kokomo	54
Lafayette	11
Marion	32

INDIANA—Continued

Community	Channel No.
Muncie	52
Richmond	39
Salem	51
South Bend	30, *35c, 42, 48
Terre Haute	24, 36, 39c
Vincennes	*52

IOWA

Community	Channel No.
Ames	59
Burlington	41
Cedar Rapids	27, 47, 51, 52
Centerville	*44
Council Bluffs	*33c
Davenport	*34, 49, 56
Des Moines	16, 19, 26, 31, *50, 56
Dubuque	43
Fort Dodge	*25
Iowa City	25, *45
Mason City	*18, 42
Ottumwa	14
Red Oak	*35
Sioux City	*28c, 30, 39, 41, 49
Waterloo	*35, 55

KANSAS

Community	Channel No.
Colby	17, *19
Derby	46
Ensign	5
Fort Scott	40
Garden City	16, 18, *42
Goodland	14
Great Bend	22
Hays	*16, 20
Hutchinson	19, *29, 35
Lakin	*8
Lawrence	36
Oakley	*40
Pittsburg	13
Salina	17
Topeka	*23, 28c, 44, 48
Wichita	21, 26, 31, 45

KENTUCKY

Community	Channel No.
Ashland	*26c, 44
Beattyville	7
Bowling Green	16, *18, 33, *48
Campbellsville	19
Covington	*24
Danville	4
Elizabethtown	*43
Harlan	51
Hazard	12, *16
Lexington	13, 39, 40, *42
Louisville	8, *17, 26, *38, 47, 49, 55
Madisonville	20c, *42
Morehead	*15, 21
Murray	*36
Newport	29
Owensboro	30
Owenton	*44
Paducah	32, 41, 50c

KENTUCKY—Continued

Community	Channel No.
Pikeville	*24
Somerset	*14

LOUISIANA

Community	Channel No.
Alexandria	*26c, 32c, 35
Baton Rouge	13, *25, 34c, 45c, 46
Columbia	57
Hammond	42
Lafayette	16c, *23, 28, 56
Lake Charles	8c,*20, 30c
Monroe	7, *19
New Orleans	*11, 15, 21c, 29, *31, 36, 40, 43, 50c
Shreveport	17, *25c, 28, 34c, 44
Slidell	24
West Monroe	36, 38

MAINE

Community	Channel No.
Augusta	*17
Bangor	14, 19, 25
Biddeford	*45
Calais	*10
Lewiston	28
Orono	*9
Poland Spring	46
Portland	38, 43, 44
Presque Isle	16, *20

MARYLAND

Community	Channel No.
Annapolis	*42
Baltimore	*29, 38, 40, 41, 46c, 52, 59
Frederick	*28
Hagerstown	16, *44, 55
Oakland	*54
Salisbury	21, 53, *56

MASSACHUSETTS

Community	Channel No.
Adams	36
Boston	*19, 20, 30, 31, 32, 39c, 42, *43
Cambridge	41
Lawrence	18
Marlborough	23
New Bedford	22, 49
Norwell	52
Springfield	11, 55, *58c
Vineyard Haven	40
Worcester	29, *47

MICHIGAN

Community	Channel No.
Alpena	13, *57
Ann Arbor	33
Bad Axe	*15
Battle Creek	20, 44c
Bay City	22

MICHIGAN—Continued

Community	Channel No.
Cadillac	*17, 40, 47
Calumet	11
Cheboygan	35
Detroit	14, 21c, 41, *43, 44, 45, 58
East Lansing	*55
Escanaba	48
Flint	16, 36, *52
Grand Rapids	7, *11, 19, 39
Iron Mountain	22
Jackson	34
Kalamazoo	2, *5, 45
Lansing	38, 51, 59
Manistee	*58
Marquette	*33, 3
Mount Clemens	39c
Mount Pleasant	*56
Muskegon	24
Onondaga	57
Saginaw	30, 48
Sault Ste. Marie	9c, 49
Traverse City	*23, 31, 50
University Center	*18
Vanderbilt	59

MINNESOTA

Community	Channel No.
Alexandria	24, 36
Appleton	*31
Austin	*20, 33
Bemidji	*18
Brainerd	*28
Crookston	*16
Duluth	17, 33, *38, 43
Hibbing	*31, 36, *51
Mankato	38
Minneapolis	21, 22, *26, 32, 35, *44
Redwood Falls	27
Rochester	36, 46
St. Cloud	40
St. Paul	*16, *34, 50
Thief River Falls	32
Walker	20
Worthington	*15

MISSISSIPPI

Community	Channel No.
Biloxi	*16, 39
Booneville	*55
Bude	*18c
Columbus	35
Greenville	17
Greenwood	*25, 32
Gulfport	48
Hattiesburg	58
Holly Springs	41c
Jackson	9, *20, 21, 41c, 52
Laurel	28
Meridian	26, 31c, *44, 49
Mississippi State	*10
Natchez	49c
Oxford	*36
Tupelo	57
West Point	16

MISSOURI

Community	Channel No.
Birch Tree	*7
Bowling Green	*50
Cape Girardeau	22, 57
Columbia	22, 36
Hannibal	29
Jefferson City	12, 20
Joplin	*25, 43, 46
Kansas City	7, *18, 24, 31, 34, 42c, 47, 51c
Kirksville	33
Poplar Bluff	18
Sedalia	15
Springfield	19, *23, 28c, 44, 52
St. Joseph	21, 53
St. Louis	14, 26, 31c, 35, *39, 43, 56

MONTANA

Community	Channel No.
Billings	10, 11, *16, 18
Bozeman	*8, 13
Butte	5, 19c, 33
Glendive	10
Great Falls	7, 8, *21, 45
Hardin	22
Helena	14, 29
Kalispell	38, *46
Miles City	13, *39
Missoula	7, *27, 36, 40

NEBRASKA

Community	Channel No.
Albion	23
Alliance	*24
Bassett	*15
Grand Island	19, 32
Hastings	21, *28
Hayes Center	18
Kearney	36
Lexington	*26
Lincoln	25, 31, *40
McCook	12
Merriman	*17
Norfolk	*16
North Platte	*16, 22
Omaha	*17, 20, 22, 38, 43c, 45
Scottsbluff	7, 29
Superior	34

NEVADA

Community	Channel No.
Elko	8, *15
Henderson	9
Las Vegas	2, 7, *11c, 12, 16c, 22c, 29
Laughlin	32
Paradise	40c
Reno	7, 9c, 13, *15, 20, 22c, 26, 44
Winnemucca	12

NEW HAMPSHIRE

Community	Channel No.
Berlin	*15
Concord	33

NEW HAMPSHIRE—Continued

Community	Channel No.
Derry	35
Durham	*57
Keene	*49
Littleton	*48
Manchester	59
Merrimack	34

NEW JERSEY

Community	Channel No.
Atlantic City	44, 49
Burlington	27
Camden	*22
Linden	36
Montclair	*51c
New Brunswick	*18
Newark	53c, 61
Newton	8c
Paterson	40
Secaucus	38
Trenton	*43
Vineland	66c
West Milford	*29
Wildwood	36

NEW MEXICO

Community	Channel No.
Albuquerque	16, *17, 21, 24c, 26, *35, 42c, 45
Carlsbad	19
Clovis	20
Farmington	8, 17
Hobbs	16, *47
Las Cruces	*23c, 47
Portales	*32
Roswell	28c, *31, 38, 41
Santa Fe	10, 27, 29
Silver City	12, *33
Socorro	*31

NEW YORK

Community	Channel No.
Albany	7, 12, 26
Amsterdam	50
Batavia	53
Binghamton	4, 7, 8, *42
Buffalo	14, *32, 33, 34, 38, 39, *43
Carthage	35
Corning	50
Elmira	2, 55
Garden City	*22c
Jamestown	27c
Kingston	48
New York	*24, 28, 30, 33, 44, 45, 56
North Pole	14
Norwood	*23
Plattsburgh	*38
Poughkeepsie	27
Riverhead	57
Rochester	*16, 28, 45, 58, 59
Schenectady	*34, 39, 43
Smithtown	23
Springville	46
Syracuse	17, 19, *25c, 44c, 47, 54
Utica	27, 29, 30
Watertown	21, *41

NORTH CAROLINA

Community	Channel No.
Asheville	*25, 45, 56, 57
Belmont	47c
Burlington	14
Chapel Hill	*59
Charlotte	*11, 22, 23, 27, 34
Concord	*44
Durham	27, 52
Edenton	*20
Fayetteville	36, 38
Goldsboro	55
Greensboro	33, 43, 51
Greenville	10c, 21, *23
Hickory	40
High Point	35
Jacksonville	*18, 34
Kannapolis	50
Lexington	19
Linville	*54
Lumberton	*25
Morehead City	24
New Bern	48
Raleigh	49, 53, 57
Roanoke Rapids	*39
Rocky Mount	15
Washington	32
Wilmington	*29, 30, 44, 46
Wilson	42
Winston-Salem	29, 31, *32

NORTH DAKOTA

Community	Channel No.
Bismarck	16, *22, 23, 31
Devils Lake	*25, 59
Dickinson	18, 19, *20
Ellendale	*20c
Fargo	19, 21, *23, 44
Grand Forks	*56
Jamestown	18
Minot	15c, *40, 45, 58
Pembina	15
Valley City	38
Williston	14, *51, 52

OHIO

Community	Channel No.
Akron	30, *50c, 59
Alliance	*46c
Athens	*27
Bowling Green	*56
Cambridge	*35
Canton	39, 47
Chillicothe	46
Cincinnati	10c, 31, 33, *34, 35
Cleveland	2, 15, *26c, 31, 34
Columbus	13, 14, 21, 36, *38
Dayton	30, 41, 50, 51, *58
Lima	8, 47
Lorain	28
Mansfield	12
Newark	24
Oxford	*28
Portsmouth	17, *43c
Sandusky	42
Shaker Heights	10
Springfield	18
Steubenville	57

OHIO—Continued

Community	Channel No.
Toledo	5, 17, 19, *29, 46, 49
Youngstown	20, 36, 41
Zanesville	40

OKLAHOMA

Community	Channel No.
Ada	26
Bartlesville	15
Cheyenne	*8
Claremore	*36c
Enid	18
Eufaula	*31
Guymon	*29
Lawton	11
Oklahoma City	7, 15c, 24, 27, *32, 33, 39, 40, 50, 51
Okmulgee	28
Shawnee	29
Tulsa	10, 22, *26, *38, 42c, 48c, 49, 55, 56

OREGON

Community	Channel No.
Bend	*11, 18
Coos Bay	21, 22
Corvallis	*39
Eugene	17c, 25, *29c, 31, 44
Klamath Falls	13, 29, *33,
La Grande	*5
Medford	15, 27c, 35, 38, *42
Pendleton	8
Portland	*27, 30, 40, 43, 45, 6
Roseburg	18, 19, 45
Salem	4, 33c

PENNSYLVANIA

Community	Channel No.
Allentown	46, *62
Altoona	24c, 32, 46
Bethlehem	9
Clearfield	*15
Erie	16, 22, *50, 52, 58
Greensburg	50
Harrisburg	4, 10, *36
Hazleton	45c
Jeannette	49
Johnstown	29, 34
Lancaster	23, 58
Philadelphia	26, 32, *34, 42, 54, 64, 67
Pittsburgh	25, 26, *38, 42, 43, 48, 51
Reading	25
Red Lion	30
Scranton	13, 31, 32, *41, 49
Wilkes-Barre	11
Williamsport	29
York	47

RHODE ISLAND

Community	Channel No.
Block Island	17
Providence	13c, *21, 51, 54c

SOUTH CAROLINA

Community	Channel No.
Allendale	*33
Anderson	14
Beaufort	*44
Charleston	34, 35, 40, 47, *49, 50
Columbia	8, 17, *32, 41, 48
Conway	*9
Florence	16c, 20, *45, 56
Georgetown	*38
Greenville	*9, 35, 57, 59
Greenwood	*18
Hardeeville	27
Myrtle Beach	18
Rock Hill	15, 39
Spartanburg	43, 53
Sumter	*28c, 39

SOUTH DAKOTA

Community	Channel No.
Aberdeen	*17c, 28
Brookings	*18
Eagle Butte	*25
Florence	2
Huron	22
Lead	10, 29
Lowry	*15
Martin	*23
Mitchell	26
Pierre	19, *21
Rapid City	2, 16c, 18, *26
Reliance	13
Sioux Falls	7, *24c, 29, 32, 47c, 51
Vermillion	*34

TENNESSEE

Community	Channel No.
Chattanooga	13, *29, 35, 40, 47
Cleveland	42
Cookeville	36, *52
Crossville	50
Greeneville	38
Hendersonville	51c
Jackson	39, 43
Jellico	23
Johnson City	58
Kingsport	27
Knoxville	7, *17, 26, 30, 31, 34
Lebanon	44
Lexington	*47
Memphis	25c, 28, *29, 31c, 51c, 52, 53
Murfreesboro	38
Nashville	10, 15, 21, 23, 27, *46, 56
Sneedville	*41

TEXAS

Community	Channel No.
Abilene	24, 29
Alvin	36
Amarillo	*8c, 9, 15c, 19, 23
Arlington	42
Austin	21, *22, 33, 43c, 49, 56
Baytown	41
Beaumont	21, *33, 50
Belton	38
Big Spring	33

TEXAS—Continued

Community	Channel No.
Brownsville	24c
Bryan	29c, 50
College Station	*12
Conroe	5, 42
Corpus Christi	8, 13, 18, *23, 27
Dallas	9c, *14, 32, 35, 36, 40c, 45
Decatur	30c
Del Rio	28
Denton	*43
Eagle Pass	18
El Paso	15c, 16, 17, 18, 25, *30, *39c, 51
Fort Worth	18, 19, 41, 51
Galveston	*23c, 48c
Garland	24c
Greenville	46
Harlingen	31, *34, 38
Houston	*9c, 19, *24, 27c, 31, 32, 35, 38, 44
Irving	48
Jacksonville	22
Katy	52c
Kerrville	32
Killeen	13
Lake Dallas	54
Laredo	15, 19, 31
Llano	27
Longview	31
Lubbock	9, 25, 27, 35c, *39, 40
Lufkin	11
McAllen	49
Midland	26
Nacogdoches	18
Odessa	13, 23, 31, *38, 43c
Port Arthur	40
Rio Grande City	20
Rosenberg	46c
San Angelo	11, 16, 19
San Antonio	*8, *16, 30c, 38, 39, 48, 55, 58
Sherman	20
Snyder	10
Sweetwater	20
Temple	9
Texarkana	15, *50
Tyler	10
Victoria	11, 15
Waco	*20, 26c, 53, 57
Weslaco	13
Wichita Falls	15, 22, 28

UTAH

Community	Channel No.
Cedar City	14, 44
Monticello	*41
Ogden	29, *34
Provo	17c, *39
Salt Lake City	27, 28, 35, 38, 40, *42
St. George	9

VERMONT

Community	Channel No.
Burlington	13, *32, 43, 53
Hartford	25
Rutland	*9
St. Johnsbury	*18
Windsor	*24

VIRGINIA

Community	Channel No.
Arlington	15c
Ashland	47
Bristol	28
Charlottesville	32, *46
Danville	41
Fairfax	*57c
Front Royal	*21
Goldvein	*30
Grundy	49
Hampton	41
Hampton-Norfolk	*16c
Harrisonburg	49
Lynchburg	20, 34
Manassas	43c
Marion	*42
Norfolk	38, 40, 46,
Norton	*32
Petersburg	22
Portsmouth	31, 50
Richmond	*24c, 25, 26, *42, *44, 54
Roanoke	*3, 17, 18, 30, 36
Staunton	*11
Virginia Beach	29

WASHINGTON

Community	Channel No.
Bellevue	32, 50
Bellingham	19, 35
Centralia	*19
Everett	31
Kennewick	44
Medical Lake	51
Pasco	18
Pullman	*17
Richland	26c, *38
Seattle	25, 38, 39, *41, 44, 48
Spokane	*8, 13, 15, 20, 30, 36
Tacoma	14, 18, *27, 36, *42
Vancouver	48
Wenatchee	46
Yakima	14, 16, *21, 33

WEST VIRGINIA

Community	Channel No.
Bluefield	14, 46
Charleston	19, 39, 41, 52
Clarksburg	10, 52
Grandview	*53
Huntington	23, *34c, 47
Lewisburg	8
Martinsburg	12
Morgantown	*33
Oak Hill	50
Parkersburg	49
Weston	6
Wheeling	32

WISCONSIN

Community	Channel No.
Appleton	27c
Chippewa Falls	49c
Eagle River	28
Eau Claire	15, 39
Fond Du Lac	44

WISCONSIN—Continued

Community	Channel No.
Green Bay	23, 39c, 41, *42, 51
Janesville	32
Kenosha	40
La Crosse	14, 17, *30, 41
Madison	11, 19, *20, 26, 50
Manitowoc	19
Mayville	43
Menomonie	*27
Milwaukee	*8, 22, 25c, 28, 33, 34, *35, 46, 61
Park Falls	*47
Racine	48
Rhinelander	16
Superior	19
Suring	21
Wausau	*24, 29, 40

WYOMING

Community	Channel No.
Casper	15c, 17, 18
Cheyenne	11, 28c, 30
Jackson	4
Lander	7, *8
Rawlins	9
Riverton	16
Rock Springs	21
Sheridan	13

GUAM

Community	Channel No.
Agana	2, 4, 5
Tamuning	17

PUERTO RICO

Community	Channel No.
Aguada	62
Aguadilla	17c, *34, 69
Arecibo	53, 61c
Bayamon	59c
Caguas	56, *57
Carolina	51
Fajardo	*16, 33
Guayama	45
Humacao	49
Mayaguez	23c, 29, 35, 63
Naranjito	65c
Ponce	8c, 15c, 19, *25, 43c, 47
San Juan	21, 27c, 28, 31c, 32, *55c
San Sebastian	39c
Yauco	41c

VIRGIN ISLANDS

Community	Channel No.
Charlotte Amalie	*44, 48, 50
Christiansted	20, 23

(c)(1) *Availability of channels.* Applications may be filed to construct DTV broadcast stations only on the channels designated in the DTV Table of Allotments set forth in paragraph (b) of this section, and only in the communities listed therein. Applications that fail to comply with this requirement, whether or not accompanied by a petition to amend the DTV Table, will not be accepted for filing. However, applications specifying channels that accord with publicly announced FCC Orders changing the DTV Table of Allotments will be accepted for filing even if such applications are tendered before the effective dates of such channel change. An application for authority to construct a DTV station on an allotment in the initial DTV table may only be filed by the licensee or permittee of the analog TV station with which that initial allotment is paired, as set forth in Appendix B of the *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order* in MM Docket 87–268, FCC 98–24 (*Memorandum Opinion and Order*) adopted January 29, 1998. Copies of the *Memorandum Opinion and Order* may be inspected during normal business hours at the: Federal Communications Commission, Room CY-C203, 445 12th Street, SW., Reference Information Center, Washington, DC, 20554. This document is also available through the Internet on the *FCC Home Page* at *http://www.fcc.gov*. Applications may also be filed to implement an exchange of channel allotments between two or more licensees or permittees of analog TV stations in the same community, the same market, or in adjacent markets provided, however, that the other requirements of this section and §73.623 are met with respect to each such application.

(2) Notwithstanding paragraph (c)(1) of this section, an application may be filed for a channel or community not listed in the DTV Table of Allotments if it is consistent with the rules and policies established in the Third Report and Order in WT Docket 99–168 (FCC 01–25), adopted January 18, 2001. Where such a request is approved, the Media Bureau will change the DTV Table of Allotments to reflect that approval.

(d) *Reference points and distance computations.* (1) The reference coordinates of a DTV allotment included in the initial DTV Table of Allotments are the

coordinates of the authorized transmitting antenna site of the associated analog TV station, as set forth in Appendix B of the *Memorandum Opinion and Order* (referenced above). An application for authority to construct or modify DTV facilities on such an allotment may specify an alternate location for the DTV transmitting antenna that is within 5 kilometers of the DTV allotment reference coordinates without consideration of electromagnetic interference to other DTV or analog TV broadcast stations, allotments or applications, provided the application complies with paragraph (f)(2) of this section. Location of the transmitting antenna of such a station at a site more than 5 kilometers from the DTV allotment reference coordinates must comply with the provisions of section 73.623(c). In the case where a DTV station has been granted authority to construct more than 5 kilometers from its reference coordinates pursuant to section 73.623(c), and its authorized coverage area extends in any azimuthal direction beyond the DTV coverage area determined for the DTV allotment reference facilities, then the coordinates of such authorized site are to be used in addition to the coordinates of the DTV allotment to determine protection from new DTV allotments pursuant to §73.623(d) and from subsequent DTV applications filed pursuant to §73.623(c).

(2) The reference coordinates of a DTV allotment not included in the initial DTV Table of Allotments shall be the authorized transmitter site, or, where such a transmitter site is not available for use as a reference point, the coordinates as designated in the FCC order modifying the DTV Table of Allotments.

(e) *DTV Service Areas.* (1) The service area of a DTV station is the geographic area within the station's noise-limited F(50,90) contour where its signal strength is predicted to exceed the noise-limited service level. The noise-limited contour is the area in which the predicted F(50,90) field strength of the station's signal, in dB above 1 microvolt per meter (dBu) as determined using the method in section 73.625(b) exceeds the following levels (these are the levels at which reception of DTV service is limited by noise):

	dBu
Channels 2–6	28
Channels 7–13	36
Channels 14–69	41

(2) Within this contour, service is considered available at locations where the station's signal strength, as predicted using the terrain dependent Longley-Rice point-to-point propagation model, exceeds the levels above. Guidance for evaluating coverage areas using the Longley-Rice methodology is provided in *OET Bulletin No. 69.* Copies of *OET Bulletin No. 69* may be inspected during normal business hours at the Federal Communications Commission, 445 12th Street, S.W, Dockets Branch (Room CY A09257), Washington, DC 20554. This document is also available through the Internet on the *FCC Home Page* at *http://www.fcc.gov.*

NOTE TO PARAGRAPH (e)(2): During the transition, in cases where the assigned power of a UHF DTV station in the initial DTV Table is 1000 kW, the Grade B contour of the associated analog television station, as authorized on April 3, 1997, shall be used instead of the noise-limited contour of the DTV station in determining the DTV station's service area. In such cases, the DTV service area is the geographic area within the station's analog Grade B contour where its DTV signal strength is predicted to exceed the noise-limited service level, *i.e.,* 41 dB, as determined using the Longley-Rice methodology.

(3) For purposes of determining whether interference is caused to a DTV station's service area, the maximum technical facilities, *i.e.,* antenna height above average terrain (antenna HAAT) and effective radiated power (ERP), specified for the station's allotment are to be used in determining its service area.

(f) *DTV maximum power and antenna heights.* (1) The maximum, or reference, effective radiated power (ERP) and antenna height above average terrain (antenna HAAT) for an allotment included in the initial DTV Table of Allotments are set forth in Appendix B of the *Memorandum Opinion and Order* (referenced in paragraph (c) of this section). In each azimuthal direction, the

reference ERP value is based on the antenna HAAT of the corresponding analog TV station and achieving predicted coverage equal to that analog TV station's predicted Grade B contour, as defined in section 73.683.

(2) An application for authority to construct or modify DTV facilities will not be subject to further consideration of electromagnetic interference to other DTV or analog TV broadcast stations, allotments or applications, provided that:

(i) The proposed ERP in each azimuthal direction is equal to or less than the reference ERP in that direction; and

(ii) The proposed antenna HAAT is equal to or less than the reference antenna HAAT or the proposed antenna HAAT exceeds the reference antenna HAAT by 10 meters or less and the reference ERP in paragraph (f)(2)(i) of this section is adjusted in accordance with paragraph (f)(3) of this section; and

(iii) The application complies with the location provisions in paragraph (d)(1) of this section.

(3)(i) A DTV station may increase its antenna HAAT by up to 10 meters from that specified in Appendix B if it reduces its DTV power to a level at or below the level of adjusted DTV power computed in the following formula:

$$\text{ERP adjustment in dB} = 20\log(H_1/H_2)$$

Where H_1 = Reference antenna HAAT specified in the DTV Table, and H_2 = Actual antenna HAAT

(ii) Alternatively, a DTV application that specifies an antenna HAAT within 25 meters below that specified in Appendix B may adjust its power upward to a level at or below the adjusted DTV power in accordance with the formula in paragraph (f)(3)(i) of this section without an interference showing. For a proposed antenna more than 25 meters below the reference antenna HAAT, the DTV station may increase its ERP up to the level permitted for operation with an antenna that is 25 meters below the station's reference antenna HAAT.

(4) UHF DTV stations may request an increase in power, up to a maximum of 1000 kW ERP, to enhance service within their authorized service area.

(5) Licensees and permittees assigned a DTV channel in the initial DTV Table of Allotments may request an increase in either ERP in some azimuthal direction or antenna HAAT, or both, that exceed the initial technical facilities specified for the allotment in Appendix B of the *Memorandum Opinion and Order* (referenced in paragraph (c) of this section), up to the maximum permissible limits on DTV power and antenna height set forth in paragraph (f)(6), (f)(7), or (f)(8) of this section, as appropriate, or up to that needed to provide the same geographic coverage area as the largest station within their market, whichever would allow the largest service area. Such requests must be accompanied by a technical showing that the increase complies with the technical criteria in §73.623(c), and thereby will not result in new interference exceeding the *de minimis* standard set forth in that section, or statements agreeing to the change from any co-channel or adjacent channel stations that might be affected by potential new interference, in accordance with §73.623(f). In the case where a DTV station has been granted authority to construct pursuant to §73.623(c), and its authorized coverage area extends in any azimuthal direction beyond the DTV coverage area determined for the DTV allotment reference facilities, then the authorized DTV facilities are to be used in addition to the assumed facilities of the initial DTV allotment to determine protection from new DTV allotments pursuant to §73.623(d) and from subsequent DTV applications filed pursuant to §73.623(c). The provisions of this paragraph regarding increases in the ERP or antenna height of DTV stations on channels in the initial DTV Table of Allotments shall also apply in cases where the licensee or permittee seeks to change the station's channel as well as alter its ERP and antenna HAAT. Licensees and permittees are advised that where a channel change is requested, it may, in fact, be necessary in specific cases for the station to operate with reduced power, a lower antenna, or a directional antenna to avoid causing new interference to another station.

(6) A DTV station that operates on a channel 2–6 allotment created subsequent to the initial DTV Table will be allowed a maximum ERP of 10 kW if its antenna HAAT is at or below 305 meters and it is located in Zone I or a maximum ERP of 45 kW if its antenna HAAT is at or below 305 meters and it is located in Zone II or Zone III. A DTV station that operates on a channel 2–6 allotment included in the initial DTV Table of Allotments may request an increase in power and/or antenna HAAT up to these maximum levels, provided the increase also complies with the provisions of paragraph (f)(5) of this section.

(i) At higher HAAT levels, such DTV stations will be allowed to operate with lower maximum ERP levels in accordance with the following table and formulas (the allowable maximum ERP for intermediate values of HAAT is determined using linear interpolation based on the units employed in the table):

MAXIMUM ALLOWABLE ERP AND ANTENNA HEIGHT FOR DTV STATIONS IN ZONES II OR III ON CHANNELS 2–6

Antenna HAAT (meters)	ERP (kW)
610	10
580	11
550	12
520	14
490	16
460	19
425	22
395	26
365	31
335	37
305	45

(ii) For DTV stations located in Zone I that operate on channels 2–6 with an HAAT that exceeds 305 meters, the allowable maximum ERP expressed in decibels above 1 kW (dBk) is determined using the following formula, with HAAT expressed in meters:

$ERP_{max} = 92.57–33.24*\log_{10}(HAAT)$

(iii) For DTV stations located in Zone II or III that operate on channels 2–6 with an HAAT that exceeds 610 meters, the allowable maximum ERP expressed in decibels above 1 kW (dBk) is determined using the following formula, with HAAT expressed in meters:

$ERP_{max} = 57.57–17.08*\log_{10}(HAAT)$

(7) A DTV station that operates on a channel 7–13 allotment created subsequent to the initial DTV Table will be allowed a maximum ERP of 30 kW if its antenna HAAT is at or below 305 meters and it is located in Zone I or a maximum ERP of 160 kW if its antenna HAAT is at or below 305 meters and it is located in Zone II or Zone III. A DTV station that operates on a channel 7–13 allotment included in the initial DTV Table of Allotments may request an increase in power and/or antenna HAAT up to these maximum levels, provided the increase also complies with the provisions of paragraph (f)(5) of this section.

(i) At higher HAAT levels, such DTV stations will be allowed to operate with lower maximum ERP levels in accordance with the following table and formulas (the allowable maximum ERP for intermediate values of HAAT is determined using linear interpolation based on the units employed in the table):

MAXIMUM ALLOWABLE ERP AND ANTENNA HEIGHT FOR DTV STATIONS IN ZONES II OR III ON CHANNELS 7–13

Antenna HAAT (meters)	ERP (kW)
610	30
580	34
550	40
520	47
490	54
460	64
425	76
395	92
365	110
335	132
305	160

(ii) For DTV stations located in Zone I that operate on channels 7–13 with an HAAT that exceeds 305 meters, the allowable maximum ERP expressed in decibels above 1 kW (dBk) is determined using the following formula, with HAAT expressed in meters:

$ERP_{max} = 97.35–33.24*\log_{10}(HAAT)$

(iii) For DTV stations located in Zone II or III that operate on channels 7–13 with an HAAT that exceeds 610 meters, the allowable maximum ERP expressed in decibels above 1 kW (dBk) is determined using the following formula, with HAAT expressed in meters:

$ERP_{max} = 62.34–17.08*\log_{10}(HAAT)$

(8) A DTV station that operates on a channel 14–59 allotment created subsequent to the initial DTV Table will be allowed a maximum ERP of 1000 kW if their antenna HAAT is at or below 365 meters. A DTV station that operates on a channel 14–59 allotment included in the initial DTV Table of Allotments may request an increase in power and/or antenna HAAT up to these maximum levels, provided the increase also complies with the provisions of paragraph (f)(5) of this section.

(i) At higher HAAT levels, such DTV stations will be allowed to operates with lower maximum ERP levels in accordance with the following table and formulas (the allowable maximum ERP for intermediate values of HAAT is determined using linear interpolation based on the units employed in the table):

MAXIMUM ALLOWABLE ERP AND ANTENNA HEIGHT FOR DTV STATIONS ON CHANNELS 14–59, ALL ZONES

Antenna HAAT (meters)	ERP (kW)
610	316
580	350
550	400
520	460
490	540
460	630
425	750
395	900
365	1000

(ii) For DTV stations located in Zone I, II or III that operate on channels 14–59 with an HAAT that exceeds 610 meters, the allowable maximum ERP expressed in decibels above 1 kW (dBk) is determined using the following formula, with HAAT expressed in meters:

$ERP_{max} = 72.57–17.08*\log_{10}(HAAT)$

(g) *DTV stations operating on channels above an analog TV station.* (1) DTV stations operating on a channel allotment designated with a ''c'' in paragraph (b) of this section must maintain the pilot carrier frequency of the DTV signal 5.082138 MHz above the visual carrier frequency of any analog TV broadcast station that operates on the lower adjacent channel and is located within 88 kilometers. This frequency difference must be maintained within a tolerance of ±3 Hz.

(2) Unless it conflicts with operation complying with paragraph (g)(1) of this section, where a low power television station or TV translator station is operating on the lower adjacent channel within 32 km of the DTV station and notifies the DTV station that it intends to minimize interference by precisely maintaining its carrier frequencies, the DTV station shall cooperate in locking its carrier frequency to a common reference frequency and shall be responsible for any costs relating to its own transmission system in complying with this provision.

(h)(1) The power level of emissions on frequencies outside the authorized channel of operation must be attenuated no less than the following amounts below the average transmitted power within the authorized channel. In the first 500 kHz from the channel edge the emissions must be attenuated no less than 47 dB. More than 6 MHz from the channel edge, emissions must be attenuated no less than 110 dB. At any frequency between 0.5 and 6 MHz from the channel edge, emissions must be attenuated no less than the value determined by the following formula:

Attenuation in dB = $-11.5(\Delta f + 3.6)$;

Where: Δf = frequency difference in MHz from the edge of the channel.

(2) This attenuation is based on a measurement bandwidth of 500 kHz. Other measurement bandwidths may be used as long as appropriate correction factors are applied. Measurements need not be made any closer to the band edge than one half of the resolution bandwidth of the measuring instrument. Emissions include sidebands, spurious emissions and radio frequency harmonics. Attenuation is to be measured at the output terminals of the transmitter (including any filters that may be employed). In the event of interference caused to any service, greater attenuation may be required.

(i) *Post-Transition Table of DTV Allotments.*

Community	Channel No.
ALABAMA	
Anniston	9
Bessemer	18

Community	Channel No.
Birmingham	*10, 13, 30, 36, 50
Demopolis	*19
Dothan	21, 36
Dozier	*10
Florence	14, 20, *22
Gadsden	26, 45
Gulf Shores	25
Homewood	28
Huntsville	19, *24, 32, 41, 48
Louisville	*44
Mobile	9, 15, 20, 23, 27, *41
Montgomery	12, 20, *27, 31, 46
Mount Cheaha	*7
Opelika	30
Ozark	33
Selma	29, 42
Troy	48
Tuscaloosa	6, 33
Tuskegee	22
ALASKA	
Anchorage	5, *8, 10, 12, 20, *26, 28, 33
Bethel	*3
Fairbanks	7, *9, 18, 26
Juneau	*10, 11
Ketchikan	13
North Pole	20
Sitka	7
ARIZONA	
Douglas	36
Flagstaff	13, 18, 22, 32
Green Valley	46
Holbrook	*11
Kingman	19
Mesa	12
Phoenix	*8, 10, 15, 17, 20, 24, 26, 33, 39, 49
Prescott	7
Sierra Vista	44
Tolleson	31
Tucson	9, 19, 23, 25, *28, *30, 32, 40
Yuma	11, 13
ARKANSAS	
Arkadelphia	*13
Camden	49
El Dorado	*10, 27, 43
Eureka Springs	34
Fayetteville	*9, 15
Fort Smith	18, 21, 27
Harrison	31
Hot Springs	26
Jonesboro	8, *20, 48
Little Rock	*7, 12, 22, 30, 32, *36, 44
Mountain View	*13
Pine Bluff	24, 39
Rogers	50
Springdale	39
CALIFORNIA	
Anaheim	32
Arcata	22
Avalon	47, 47c
Bakersfield	10, 25, 33, 45
Barstow	44
Bishop	20
Calipatria	36
Ceres	*15
Chico	24, 43
Clovis	43
Concord	14
Corona	39
Cotati	*23
El Centro	9, 22
Eureka	3, *11, 17, 28
Fort Bragg	8
Fresno	7, 30, 34, 38, *40
Hanford	20
Huntington Beach	*48
Long Beach	18
Los Angeles	7, 9, 11, 13, *28, 31, 34, 36, *41, 42, 43
Merced	11
Modesto	18
Monterey	31, 32
Novato	47
Oakland	44
Ontario	29
Oxnard	24
Palm Springs	42, 46
Paradise	20
Porterville	48
Rancho Palos Verdes	51

Community	Channel No.
Redding	7, *9
Riverside	35
Sacramento	*9, 10, 21, 35, 40, 48
Salinas	8, 13
San Bernardino	*26, 38
San Diego	8, 10, 18, 19, *30, 40
San Francisco	7, 19, 27, 29, *30, *33, 38, 39, 45, 51
San Jose	12, 36, 41, 49, *50
San Luis Obispo	15, 34
San Mateo	*43
Sanger	36
Santa Ana	33
Santa Barbara	21, 27
Santa Maria	19
Santa Rosa	32
Stockton	25, 26, 46
Twentynine Palms	23
Vallejo	34
Ventura	49
Visalia	28, *50
Watsonville	*25
COLORADO	
Boulder	15
Broomfield	*13
Castle Rock	46
Colorado Springs	22, 24, 49
Denver	7, 9, *18, 19, 26, 32, 34, 35, *40, 43
Durango	15, *20, 33
Fort Collins	21
Glenwood Springs	23
Grand Junction	2, 7, 12, 15, *18
Greeley	38
Longmont	29
Montrose	13
Pueblo	*8, 42, 48
Steamboat Springs	10
Sterling	23
CONNECTICUT	
Bridgeport	42, *49
Hartford	31, 33, *45, 46
New Britain	35
New Haven	10, 39, *41
New London	26
Norwich	*9
Waterbury	20
DELAWARE	
Dover	5
Seaford	*44
Wilmington	2, *12, 31
DISTRICT OF COLUMBIA	
Washington	7, 9, *27, *33, 35, 36, 48, 50
FLORIDA	
Boca Raton	*40
Bradenton	42
Cape Coral	35
Clearwater	21
Clermont	17
Cocoa	*30, 51
Daytona Beach	11, 49
Destin	48
Fort Lauderdale	30
Fort Myers	15, *31, 50
Fort Pierce	34, *38
Fort Walton Beach	40, 49, 50
Gainesville	9, 16, *36
High Springs	28
Hollywood	47
Jacksonville	*7, 13, 19, 32, 34, 42, *44
Key West	3, 8
Lake Worth	36
Lakeland	19
Leesburg	40, *46
Live Oak	48
Marianna	51
Melbourne	43, 48
Miami	7, 10, *18, 19, *20, 22, 23, 31, 32, 35, 46
Naples	41, 45
New Smyrna Beach	*33
Ocala	31
Orange Park	10

Community	Channel No.
Orlando	22, *23, 26, 27, 39, 41
Palm Beach	49
Panama City	9, 13, 18, *38
Panama City Beach	47
Pensacola	17, *31, 34, 45
Sarasota	24
St. Petersburg	10, 32, 44
Stuart	42
Tallahassee	24, 27, *32, 40
Tampa	7, 12, *13, 29, *34, 47
Tequesta	16
Tice	33
Venice	25
West Palm Beach	12, 13, *27, 28
GEORGIA	
Albany	10, 12
Athens	*8, 48
Atlanta	10, 19, 20, *21, 25, 27, 39, *41, 43
Augusta	12, 30, 31, 42
Bainbridge	50
Baxley	35
Brunswick	24
Chatsworth	*33
Cochran	*7
Columbus	11, 15, *23, 35, 49
Cordele	22
Dalton	16
Dawson	*8
Macon	13, 16, 40, 45
Monroe	44
Pelham	*6
Perry	32
Rome	31
Savannah	*9, 11, 22, 39
Thomasville	46
Toccoa	24
Valdosta	43
Waycross	*8
Wrens	*6
HAWAII	
Hilo	*9, 11, 13, 22, 23
Honolulu	8, *11, 19, 22, 23, 27, 31, 33, 35, *38, 40, *43
Kailua	50
Kailua Kona	25
Kaneohe	41
Wailuku	7, *10, 12, 16, 21, 24
Waimanalo	15
IDAHO	
Boise	7, 9, *21, 39
Caldwell	10
Coeur d'Alene	*45
Filer	*18
Idaho Falls	8, 20, 36
Lewiston	32
Moscow	*12
Nampa	13, 24
Pocatello	15, *17, 23, 31
Sun Valley	5
Twin Falls	11, *22, 34
ILLINOIS	
Aurora	50
Bloomington	28
Carbondale	*8
Champaign	41, 48
Charleston	*50
Chicago	12, 19, *21, 27, 29, 31, 43, 44, 45, *47
Decatur	17, 22
East St. Louis	47
Freeport	41
Galesburg	8
Harrisburg	34
Jacksonville	*15
Joliet	38
LaSalle	10
Macomb	*21
Marion	17
Moline	*23, 38
Mount Vernon	11
Olney	*19
Peoria	19, 25, 30, 39, *46
Quincy	10, 32, *34

Community	Channel No.
Rock Island	4
Rockford	13, 16, 42
Springfield	13, 42, 44
Urbana	*9, 26
INDIANA	
Angola	12
Bloomington	*14, 27, 42, 48
Elkhart	28
Evansville	7, *9, 28, 45, 46
Fort Wayne	18, 24, 31, 36, *40
Gary	*17, 51
Hammond	36
Indianapolis	9, 13, 20, *21, 25, *44, 45
Kokomo	29
Lafayette	11
Marion	32
Muncie	23
Richmond	39
Salem	51
South Bend	22, *35, 42, 48
Terre Haute	10, 36, 39
Vincennes	*22
IOWA	
Ames	5, 23, *34
Burlington	41
Cedar Rapids	9, 27, 29, 47
Council Bluffs	*33
Davenport	*34, 36, 49
Des Moines	8, *11, 13, 16, 19
Dubuque	43
Fort Dodge	*25
Iowa City	*12, 25
Mason City	*18, 42
Newton	39
Ottumwa	15
Red Oak	*35
Sioux City	9, *28, 39, 41, 49
Waterloo	7, 22, *35
KANSAS	
Colby	17, 19
Derby	31
Dodge City	*21
Ensign	6
Garden City	11, 13
Goodland	10
Great Bend	22
Hays	7, *16
Hoisington	14
Hutchinson	*8, 19, 35
Lakin	*8
Lawrence	41
Pittsburg	7, 13
Salina	17
Topeka	*11, 12, 13, 27, 49
Wichita	10, 12, 26, 45
KENTUCKY	
Ashland	*26, 44
Beattyville	7
Bowling Green	13, 16, *18, *48
Campbellsville	19
Covington	*24
Danville	31
Elizabethtown	*43
Harlan	51
Hazard	12, *16
Lexington	36, 39, 40, *42
Louisville	8, 11, *17, 26, *38, 47, 49
Madisonville	20, *42
Morehead	*15, 21
Murray	*36
Newport	29
Owensboro	30
Owenton	*44
Paducah	32, 41, 49
Pikeville	*24
Somerset	*14
LOUISIANA	
Alexandria	*26, 31, 35, 41
Baton Rouge	9, 13, *25, 34, 45
Columbia	11
Hammond	42
Lafayette	10, 16, *23, 28
Lake Charles	7, *20, 30
Minden	21
Monroe	8, *13
New Iberia	50
New Orleans	*11, 15, 21, 26, 29, *31, 36, 43, 50
Shreveport	17, *24, 28, 34, 44

Community	Channel No.
Slidell	24
West Monroe	36, 38
MAINE	
Augusta	*10
Bangor	2, 7, 13
Biddeford	*45
Calais	*10
Lewiston	35
Orono	*9
Poland Spring	8
Portland	38, 43, 44
Presque Isle	8, *10, 47
Waterville	23
MARYLAND	
Annapolis	*42
Baltimore	11, 13, *29, 38, 40, 41, 46,
Frederick	*28
Hagerstown	26, 39, *44
Oakland	*36
Salisbury	21, *28, 47
MASSACHUSETTS	
Adams	36
Boston	*19, 20, 30, 31, 32, 39, 42, *43
Cambridge	41
Lawrence	18
Marlborough	27
New Bedford	22, 49
Norwell	10
Pittsfield	13
Springfield	11, *22, 40
Vineyard Haven	40
Worcester	29, *47
MICHIGAN	
Alpena	11, *24
Ann Arbor	50
Bad Axe	*15
Battle Creek	20, 44
Bay City	22, 46
Cadillac	9, *17, 32
Calumet	5
Cheboygan	35
Detroit	7, 14, 21, 41, *43, 44, 45
East Lansing	*40
Escanaba	48
Flint	12, 16, *28
Grand Rapids	7, *11, 13, 19
Iron Mountain	8
Ishpeming	10
Jackson	34
Kalamazoo	*5, 8, 45
Lansing	36, 38, 25
Manistee	*21
Marquette	*13, 19, 35
Mount Clemens	39
Mount Pleasant	*26
Muskegon	24
Onondaga	10
Saginaw	30, 48
Sault Ste. Marie	8, 10
Traverse City	29, 47
Vanderbilt	45
MINNESOTA	
Alexandria	7, 42
Appleton	*10
Austin	*20, 36
Bemidji	*9, 26
Brainerd	*28
Chisholm	11
Crookston	*16
Duluth	*8, 10, 17, 27, 33
Hibbing	13, *31
Mankato	12
Minneapolis	9, 11, 22, 29, 32, 45
Redwood Falls	27
Rochester	10, 46
St. Cloud	40
St. Paul	*23, *34, 35
Thief River Falls	10
Walker	12
Worthington	*15
MISSISSIPPI	
Biloxi	*16, 39
Booneville	*12
Bude	*18
Columbus	35, *43
Greenville	15
Greenwood	*25, 32
Gulfport	48
Hattiesburg	22
Holly Springs	41
Houston	45
Jackson	12, *20, 21, 23, 30, 40
Laurel	7
Magee	34
Meridian	11, 24, 31, *44
Mississippi State	*10
Natchez	49

Community	Channel No.
Oxford	*36
Tupelo	8
Vicksburg	41
West Point	16
MISSOURI	
Cape Girardeau	12, 22
Columbia	8, 17
Hannibal	7
Jefferson City	12, 20
Joplin	*25, 43, 46
Kansas City	*18, 24, 29, 31, 34, 42, 47, 30
Kirksville	33
Osage Beach	49
Poplar Bluff	15
Sedalia	15
Springfield	10, 19, *23, 28, 44
St. Joseph	7, 21
St. Louis	14, 24, 26, 31, 35, *39, 43
MONTANA	
Billings	10, 11, 18
Bozeman	*8, 13
Butte	5, 6, 19, 24
Glendive	5
Great Falls	7, 8, 26, 45
Hardin	22
Havre	9
Helena	12, 29
Kalispell	9, *46
Lewistown	13
Miles City	3
Missoula	7, *11, 13, 17, 23
NEBRASKA	
Alliance	*13
Bassett	*7
Grand Island	11, 16
Hastings	5, *28
Hayes Center	6
Kearney	13
Lexington	*26
Lincoln	8, 10, *12, 15
McCook	12
Merriman	*12
Norfolk	*19
North Platte	2, *9
Omaha	*17, 20, 22, 38, 43, 45
Scottsbluff	17, 29
Sidney	7
Superior	4
NEVADA	
Elko	10
Ely	27
Goldfield	50
Henderson	9
Las Vegas	2, 7, *11, 13, 16, 22, 29
Laughlin	32
Paradise	40
Reno	7, 8, 13, *15, 20, 26, 44
Tonopah	9
Winnemucca	7
NEW HAMPSHIRE	
Concord	33
Derry	35
Durham	*11
Keene	*49
Littleton	*48
Manchester	9
Merrimack	34
NEW JERSEY	
Atlantic City	4, 44, 49
Burlington	27
Camden	*22
Linden	36
Middletown Township	3
Montclair	*51
New Brunswick	*8
Newark	13, 30
Newton	18
Paterson	40
Secaucus	38
Trenton	*43
Vineland	29
West Milford	*29
Wildwood	36
NEW MEXICO	
Albuquerque	7, 13, *17, 22, 24, 26, *35, 42, 45
Carlsbad	19, 25
Clovis	12
Farmington	8, 12
Hobbs	29
Las Cruces	*23, 47
Portales	*32
Roswell	8, 10, 21, 27
Santa Fe	*8, 10, 27, 29
Silver City	10, 12

Community	Channel No.
NEW YORK	
Albany	7, 12, 26
Amsterdam	50
Batavia	23
Bath	14
Binghamton	7, 8, 34, *42
Buffalo	14, 32, 33, 38, 39, *43, 49
Carthage	7
Corning	*30, 48
Elmira	18, 36
Garden City	*21
Ithaca	20
Jamestown	26
Kingston	48
New York	7, 11, *24, 28, 31, 33, 44
Norwood	*23
Plattsburgh	14, *38
Poughkeepsie	27
Riverhead	47
Rochester	10, 13, *16, 28, 45
Saranac Lake	40
Schenectady	6, *34, 43
Smithtown	23
Springville	7
Syracuse	15, 17, 19, 24, *25, 44, 47
Utica	27, 29, 30
Watertown	21, *41
NORTH CAROLINA	
Asheville	13, *25, 45
Belmont	47
Burlington	14
Chapel Hill	*25
Charlotte	*11, 22, 23, 27, 34
Concord	*44
Durham	11, 28
Edenton	*20
Fayetteville	36, 38
Goldsboro	17
Greensboro	33, 43, 51
Greenville	10, *23, 26, 47
Hickory	40
High Point	35
Jacksonville	*19, 34
Kannapolis	50
Lexington	19
Linville	*17
Lumberton	*31
Manteo	9
Morehead City	8
New Bern	12
Raleigh	27, 48, 49
Roanoke Rapids	*36
Rocky Mount	15
Washington	32
Wilmington	*29, 30, 44, 46
Wilson	42
Winston Salem	29, 31, *32
NORTH DAKOTA	
Bismarck	12, 17, *22, 26, 31
Devils Lake	8, *25
Dickinson	7, *9, 19
Ellendale	*20
Fargo	*13, 19, 21, 44
Grand Forks	*15, 27
Jamestown	7
Minot	10, 13, 14, 24, *40
Pembina	12
Valley City	38
Williston	8, *11, 14
OHIO	
Akron	23, 30, *50
Alliance	*45
Athens	*27
Bowling Green	*27
Cambridge	*35
Canton	47, 49
Chillicothe	46
Cincinnati	12, 22, 33, *34, 35
Cleveland	8, 15, 17, *26, 34
Columbus	14, 21, 36, *38, 48
Dayton	*16, 18, 30, 41, 50
Lima	8, 44
Lorain	28
Mansfield	12
Newark	24
Oxford	*28
Portsmouth	17, *43
Sandusky	42
Shaker Heights	10
Springfield	26
Steubenville	9

Community	Channel No.
Toledo	5, 11, 13, *29, 46, 49
Youngstown	20, 36, 41
Zanesville	40
OKLAHOMA	
Ada	26
Bartlesville	17
Cheyenne	*8
Claremore	*36
Eufaula	*31
Lawton	11
Muskogee	20
Norman	46
Oklahoma City	7, *13, 15, 23, 24, 27, 33, 39, 40, 50
Okmulgee	28
Shawnee	29
Tulsa	8, 10, *11, 22, 42, 45, 47, 49
Woodward	35
OREGON	
Bend	*11, 21, 18
Coos Bay	11, 22
Corvallis	*7
Eugene	9, 13, 17, *29, 31
Grants Pass	30
Klamath Falls	13, 29, *33
La Grande	*13, 16
Medford	5, *8, 10, 12, 26
Pendleton	11
Portland	8, *10, 12, 40, 43, 45
Roseburg	18, 19, 45
Salem	22, 33
PENNSYLVANIA	
Allentown	*39, 46
Altoona	24, 32, 46
Bethlehem	9
Clearfield	*15
Erie	12, 16, 22, 24, *50
Greensburg	50
Harrisburg	10, 21, *36
Hazleton	45
Jeannette	11
Johnstown	8, 34
Lancaster	8, 23
Philadelphia	6, 17, 26, 32, 34, *35, 42
Pittsburgh	*13, 25, 38, 42, 43, 48, 51
Reading	25
Red Lion	30
Scranton	13, 31, 32, *41, 50
Wilkes Barre	11
Williamsport	29
York	47
RHODE ISLAND	
Block Island	17
Providence	12, 13, *21, 50
SOUTH CAROLINA	
Allendale	*33
Anderson	14
Beaufort	*44
Charleston	*7, 24, 34, 36, 47, 50
Columbia	8, 10, 17, *32, 47, 48
Conway	*9
Florence	13, 16, 21, *45
Georgetown	*38
Greenville	*9, 16, 21, 36
Greenwood	*18
Hardeeville	28
Myrtle Beach	18, 32
Rock Hill	15, 39
Spartanburg	7, 43
Sumter	*28, 39
SOUTH DAKOTA	
Aberdeen	9, *17
Brookings	*8
Eagle Butte	*13
Florence	3
Huron	12
Lead	5, 10
Lowry	*11
Martin	*8
Mitchell	26
Pierre	*10, 19

Community	Channel No.
Rapid City	2, 7, 16, 21, *26
Reliance	13
Sioux Falls	7, 11, 13, *24, 36, 47
Vermillion	*34
TENNESSEE	
Chattanooga	9, 12, 13, *29, 40
Cleveland	42
Cookeville	*22, 36
Crossville	20
Greeneville	38
Hendersonville	33
Jackson	39, 43
Jellico	23
Johnson City	11
Kingsport	27
Knoxville	7, 10, *17, 26, 30, 34
Lebanon	44
Lexington	*47
Memphis	5, *10, 13, *23, 25, 28, *29, 31, 51
Murfreesboro	38
Nashville	*8, 10, 15, 21, 23, 25, 27
Sneedville	*41
Tazewell	48
TEXAS	
Abilene	15, 24, 29
Alvin	36
Amarillo	7, *9, 10, 15, 19
Arlington	42
Austin	7, 21, *22, 33, 43, 49
Baytown	41
Beaumont	12, 25, *33
Belton	46
Big Spring	33
Blanco	18
Borger	31
Brownsville	24
Bryan	28, 50
College Station	*12
Conroe	32, 42
Corpus Christi	8, 10, 13, *23, 27, 38
Dallas	8, *14, 32, 35, 36, 40, 45
Decatur	30
Del Rio	28
Denton	*43
Eagle Pass	24
El Paso	*13, 15, 16, 17, 18, 25, *39, 51
Farwell	18
Fort Worth	9, 19, 29, 41
Fredericksburg	5
Galveston	*23, 48
Garland	23
Greenville	46
Harlingen	31, *34, 38
Houston	*8, 11, 13, 19, *24, 26, 35, 38, 44
Irving	48
Jacksonville	22
Katy	47
Kerrville	32
Killeen	13
Lake Dallas	39
Laredo	8, 13, 19
Llano	27
Longview	31, 26
Lubbock	11, 16, 27, 35, *39, 40
Lufkin	9
Mcallen	49
Midland	18, 26
Nacogdoches	18
Odessa	7, 9, 23, 30, *38, 42
Port Arthur	40
Rio Grande City	40
Rosenberg	45
San Angelo	11, 16, 19
San Antonio	*9, 12, *16, 30, 38, 39, 41, 48,
Sherman	12
Snyder	17

Community	Channel No.
Sweetwater	20
Temple	9
Texarkana	15
Tyler	7
Uvalde	26
Victoria	11, 15
Waco	10, *20, 26, 44
Weslaco	13
Wichita Falls	15, 22, 28
Wolfforth	43
UTAH	
Cedar City	14
Logan	12
Ogden	24, *36, 48
Price	11
Provo	29, 32, *44
Richfield	*19
Salt Lake City	20, 28, 34, 38, 40, *42, 46
St. George	9, *18
Vernal	16
VERMONT	
Burlington	13, 22, *32, 43
Hartford	25
Rutland	*9
St. Johnsbury	*18
Windsor	*24
VIRGINIA	
Arlington	15
Ashland	47
Bristol	5
Charlottesville	19, 32, *46
Danville	24
Fairfax	*24
Front Royal	*21
Goldvein	*30
Grundy	49
Hampton	13
Hampton Norfolk	*16
Harrisonburg	49
Lynchburg	13, 20
Manassas	34
Marion	*42
Norfolk	33, 40, 46
Norton	*32
Petersburg	22
Portsmouth	31, 50
Richmond	12, 25, 26, *42, *44
Roanoke	*3, 17, 18, 30, 36
Staunton	*11
Virginia Beach	7, 29
WASHINGTON	
Bellevue	33, 50
Bellingham	19, 35
Centralia	*19
Everett	31
Kennewick	44
Pasco	18
Pullman	*10, 24
Richland	26, *38
Seattle	*9, 25, 38, 39, 44, 48
Spokane	*7, 13, 15, 20, 28, 34, 36
Tacoma	11, 13, 14, *27, *42
Vancouver	30
Walla Walla	9
Yakima	14, 16, *21, 33
WEST VIRGINIA	
Bluefield	40, 46
Charleston	19, 39, 41
Clarksburg	10, 12
Grandview	*10
Huntington	13, 23, *34
Lewisburg	8
Martinsburg	12
Morgantown	*33
Oak Hill	50
Parkersburg	49
Weston	5
Wheeling	7
WISCONSIN	
Antigo	46
Appleton	27
Chippewa Falls	49
Crandon	12
Eagle River	28
Eau Claire	15, 38
Fond Du Lac	5
Green Bay	11, 23, 39, 41, *42
Janesville	32
Kenosha	40
La Crosse	8, 17, *30, 48
Madison	19, *20, 26, 49, 50
Mayville	43
Menomonie	*27

Community	Channel No.
Milwaukee	*8, 18, 22, 25, 28, 33, 34, *35, 46
Park Falls	*36
Racine	48
Rhinelander	16
Superior	19
Suring	21
Wausau	7, 9, *24
Wittenberg	31
WYOMING	
Casper	*8, 12, 14, 17, 20
Cheyenne	11, 27, 30
Jackson	11
Lander	7, *8
Laramie	*8
Rawlins	9
Riverton	10
Rock Springs	13
Sheridan	7, 13
GUAM	
Agana	8, 12
Tamuning	14
PUERTO RICO	
Aguada	50
Aguadilla	12, 17, *34
Arecibo	14, 46
Bayamon	30
Caguas	11, *48
Carolina	51
Fajardo	13, *16, 33
Guayama	45
Humacao	49
Mayaguez	22, 23, 29, 35
Naranjito	18
Ponce	7, 9, 15, 19, *25, 47
San Juan	21, 27, 28, 31, 32, *43
San Sebastian	39
Yauco	41
VIRGIN ISLANDS	
Charlotte Amalie	17, 43, *44
Christiansted	15, 20, 23

[62 FR 26712, May 14, 1997]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 73.622, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§ 73.623 DTV applications and changes to DTV allotments.

(a) *General.* This section contains the technical criteria for evaluating applications requesting DTV facilities that do not conform to the provisions of § 73.622 and petitions for rule making to amend the pre-transition DTV Table of Allotments (§ 73.622(b)). Petitions to amend the DTV Table (other than those also expressly requesting amendment of this section) and applications for new DTV broadcast stations or for changes in authorized DTV stations filed pursuant to this section will not be accepted for filing if they fail to comply with the requirements of this section. Petitions for rule making and applications seeking facilities that will operate after the end of the DTV transition must also comply with § 73.616.

(b) In considering petitions to amend the DTV Table and applications filed pursuant to this section, the Commission will use geographic coordinates defined in § 73.622(d) as reference points in determining allotment separations and evaluating interference potential.

(c) *Minimum technical criteria for modification of DTV allotments included in the initial DTV Table of Allotments and for applications filed pursuant to this section.* No petition to modify a channel allotment included in the initial DTV Table of Allotments or application for authority to construct or modify a DTV station assigned to such an allotment, filed pursuant to this section, will be accepted unless it shows compliance with the requirements of this paragraph.

(1) Requests filed pursuant to this paragraph must demonstrate compliance with the principal community coverage requirements of section 73.625(a).

(2) Requests filed pursuant to this paragraph must demonstrate that the requested change would not result in more than an additional 2 percent the population served by another station being subject to interference; provided, however, that no new interference may be caused to any station that already

experiences interference to 10 percent or more of its population or that would result in a station receiving interference in excess of 10 percent of its population. The station population values for existing NTSC service and DTV service contained in Appendix B of the *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order* in MM Docket No. 87–268, FCC 98–24, adopted January 29, 1998, referenced in §73.622(c), are to be used for the purposes of determining whether a power increase or other change is permissible under this de minimis standard. For evaluating compliance with this requirement, interference to populations served is to be predicted based on the procedure set forth in *OET Bulletin No. 69*, including population served within service areas determined in accordance with section 73.622(e), consideration of whether F(50,10) undesired signals will exceed the following desired-to-undesired (D/U) signal ratios, assumed use of a directional receiving antenna, and use of the terrain dependent Longley-Rice point-to-point propagation model. Copies of *OET Bulletin No. 69* may be inspected during normal business hours at the: Federal Communications Commission, Room CY-C203, 445 12th Street, SW., Reference Information Center, Washington, DC 20554. These documents are also available through the Internet on the *FCC Home Page* at *http://www.fcc.gov*. The threshold levels at which interference is considered to occur are:

	D/U Ratio
Co-channel:	
DTV-into-analog TV	+ 34
Analog TV-into-DTV	+ 2
DTV-into-DTV	+ 15
First Adjacent Channel:	
Lower DTV-into-analog TV	−14
Upper DTV-into-analog TV	−17
Lower analog TV-into-DTV	−48
Upper analog TV-into-DTV	−49
Lower DTV-into-DTV	−28
Upper DTV-into-DTV	−26
Other Adjacent Channel (Channels 14–69 only)	
DTV-into-analog TV, where N = analog TV channel and DTV Channel:	
N–2	−24
N + 2	−28
N–3	−30
N + 3	−34
N–4	−34
N + 4	−25
N–7	−35
N + 7	−43
N–8	−32
N + 8	−43
N + 14	−33
N + 15	−31

(3) The values in paragraph (c)(2) of this section for co-channel interference to DTV service are only valid at locations where the signal-to-noise ratio is 28 dB or greater for interference from DTV and 25 dB or greater for interference from analog TV service. At the edge of the noise-limited service area, where the signal-to-noise (S/N) ratio is 16 dB, these values are 21 dB and 23 dB for interference from analog TV and DTV, respectively. At locations where the S/N ratio is greater than 16 dB but less than 28 dB, D/U values for co-channel interference to DTV are as follows:

(i) For DTV-to-DTV interference, the minimum D/U ratios are computed from the following formula:

$$D/U = 15 + 10\log_{10}[1.0/(1.0 - 10^{-x/10})]$$

Where x = S/N–15.19 (minimum signal to noise ratio)

(ii) For analog-to-DTV interference, the minimum D/U ratios are found from the following Table (for values between measured values, linear interpolation can be used):

Signal-to-noise ratio (dB)	Desired-to-undesired ratio (dB)
16.00	21.00
16.35	19.94
17.35	17.69
18.35	16.44
19.35	7.19
20.35	4.69
21.35	3.69
22.35	2.94
23.35	2.44
25.00	2.00

(4) Due to the frequency spacing that exists between Channels 4 and 5, between Channels 6 and 7, and between Channels 13 and 14, the minimum adjacent channel technical criteria specified in paragraph (c)(2) of this section shall not be applicable to these pairs of channels (see §73.603(a)).

(5) A DTV station application that proposes to expand the DTV station's allotted or authorized coverage area in any direction will not be accepted if it is predicted to cause interference to a Class A TV station or to a digital Class

A TV station authorized pursuant to Subpart J of this part, within the protected contour defined in §73.6010 of this part. This paragraph applies to all DTV applications filed after May 1, 2000, and to DTV applications filed between December 31, 1999 and April 30, 2000 unless the DTV station licensee or permittee notified the Commission of its intent to ''maximize'' by December 31, 1999.

(i) Interference is predicted to occur if the ratio in dB of the field strength of a Class A TV station at its protected contour to the field strength resulting from the facilities proposed in the DTV application (calculated using the appropriate F(50,10) chart from Figure 9a, 10a, or 10c of §73.699 of this part) fails to meet the D/U signal ratios for ''DTV-into-analog TV'' specified in paragraph (c)(2) of this section.

(ii) Interference is predicted to occur if the ratio in dB of the field strength of a digital Class A TV station at its protected contour to the field strength resulting from the facilities proposed in the DTV application (calculated using the appropriate F(50,10) chart from Figure 9a, 10a, or 10c of §73.699 of this part) fails to meet the D/U signal ratios for ''DTV-into-DTV'' specified in paragraphs (c)(2) and (c)(3) of this section.

(iii) In support of a request for waiver of the interference protection requirements of this section, an applicant for a DTV broadcast station may make full use of terrain shielding and Longley-Rice terrain dependent propagation methods to demonstrate that the proposed facility would not be likely to cause interference to Class A TV stations. Guidance on using the Longely-Rice methodology is provided in *OET Bulletin No. 69*, which is available through the Internet at *http://www.fcc.gov/oet/info/documents/bulletins/#69*.

(d) *Minimum geographic spacing requirements for DTV allotments not included in the initial DTV Table of Allotments*. No petition to add a new channel to the DTV Table of Allotments or modify an allotment not included in the initial DTV Table will be accepted unless it shows compliance with the requirements of this paragraph.

(1) Requests filed pursuant to this paragraph must demonstrate compliance with the principle community coverage requirements of section 73.625(a).

(2) Requests filed pursuant to this paragraph must meet the following requirements for geographic spacing with regard to all other DTV stations, DTV allotments and analog TV stations:

Channel relationship	Separation requirement
VHF Channels 2–13:	
Co-channel, DTV to DTV	Zone I: 244.6 km. Zones II & III: 273.6 km.
Co-channel, DTV to analog TV	Zone I: 244.6 km. Zone II & III: 273.6 km.
Adjacent Channel:	
DTV to DTV	No allotments permitted between: Zone I: 20 km and 110 km. Zones II & III: 23 km and 110 km.
DTV to analog TV	No allotments permitted between: Zone I: 9 km and 125 km. Zone II & III: 11 km and 125 km.
UHF Channels:	
Co-channel, DTV to DTV	Zone I: 196.3 km. Zone II & III: 223.7 km.
Co-channel, DTV to analog TV	Zone I: 217.3 km. Zone II & III: 244.6 km.
Adjacent Channel:	
DTV to DTV	No allotments permitted between: All Zones: 24 km and 110 km.
DTV to analog TV	No allotments permitted between: All Zones: 12 km and 106 km.
Taboo Channels, DTV to analog TV only (DTV channels ±2, ±3, ±4, ±7, ±8, and 14 or 15 channels above the analog TV channel).	No allotments permitted between: Zone I: 24.1 km and 80.5 km. Zone II & III: 24.1 km and 96.6 km.

(3) Zones are defined in §73.609. The minimum distance separation between a DTV station in one zone and an analog TV or DTV station in another zone shall be that of the zone requiring the lower separation.

(4) Due to the frequency spacing that exists between Channels 4 and 5, between Channels 6 and 7, and between Channels 13 and 14, the minimum geographic spacing requirements specified in paragraph (d)(3) of this section shall not be applicable to these pairs of channels (§73.603(a)).

(e) *Protection of land mobile operations on channels 14–20.* The Commission will not accept petitions to amend the DTV Table of Allotments, applications for new DTV stations, or applications to change the channel or location of authorized DTV stations that would use channels 14–20 where the distance between the DTV reference point as defined in section 73.622(d), would be located less than 250 km from the city center of a co-channel land mobile operation or 176 km from the city center of an adjacent channel land mobile operation. Petitions to amend the DTV Table, applications for new DTV stations, or requests to modify the DTV Table that do not meet the minimum DTV-to-land mobile spacing standards will, however, be considered where all affected land mobile licensees consent to the requested action. Land mobile operations are authorized on these channels in the following markets:

City	Channels	Latitude	Longitude
Boston, MA	14, 16	42°21′24″	71°03′25″
Chicago, IL	14, 15	41°52′28″	87°38′22″
Cleveland, OH	14, 15	41°29′51.2″	81°41′49.5″
Dallas, TX	16	32°47′09″	96°47′37″
Detroit, MI	15, 16	42°19′48.1″	83°02′56.7″
Houston, TX	17	29°45′26″	95°21′37″
Los Angeles, CA	14, 16, 20	34°03′15″	118°14′28″
Miami, FL	14	25°46′37″	80°11′32″
New York, NY	14, 15, 16	40°45′06″	73°59′39″
Philadelphia, PA	19, 20	39°56′58″	75°09′21″
Pittsburgh, PA	14, 18	40°26′19″	80°00′00″
San Francisco, CA	16, 17	37°46′39″	122°24′40″
Washington, DC	17, 18	38°53′51″	77°00′33″

(f) Parties requesting new allotments on channel 6 be added to the DTV Table must submit an engineering study demonstrating that no interference would be caused to existing FM radio stations on FM channels 200–220.

(g) *Negotiated agreements on interference.* Notwithstanding the minimum technical criteria for DTV allotments specified above, DTV stations operating on allotments that are included in the initial DTV Table may: operate with increased ERP and/or antenna HAAT that would result in additional interference to another DTV station or an analog TV station if that station agrees, in writing, to accept the additional interference; and/or implement an exchange of channel allotments between two or more licensees or permittees of TV stations in the same community, the same market, or in adjacent markets provided, however, that the other requirements of this section and of section 73.622 are met with respect to each such application. Such agreements must be submitted with the application for authority to construct or modify the affected DTV station or stations. The larger service area resulting from a negotiated change in ERP and/or antenna HAAT will be protected in accordance with the provisions of paragraph (c) of this section. Negotiated agreements under this paragraph can include the exchange of money or other considerations from one station to another, including payments to and from noncommercial television stations assigned reserved channels. Applications submitted pursuant to the provisions of this paragraph will be granted only if the Commission finds that such action is consistent with the public interest.

(h) *DTV application processing.* (1) DTV applications for a construction permit or a modified construction permit pending as of January 18, 2001:

(i) Shall be afforded the interference protection set forth in paragraph (c) or (d) of this section, as applicable:

(A) By all NTSC minor change applications;

(B) By NTSC new station applications, except those covered by paragraphs (h)(1)(ii)(G) and (h)(1)(iii)(D) of this section;

(C) By all rulemaking petitions to amend the NTSC TV table of allotments;

(D) By DTV applications filed after January 18, 2001; and

(E) By rulemaking petitions to amend the DTV table of allotments filed after January 18, 2001;

(ii) Must demonstrate the requisite interference protection set forth in paragraph (c) or (d) of this section, as applicable, to:

(A) DTV licensed stations;

(B) DTV construction permits;

(C) Existing DTV allotments;

(D) Rulemaking petitions to amend the DTV table of allotments for which a Notice of Proposed Rule Making has been released and the comment deadline specified therein has passed prior to the filing date of the DTV application;

(E) NTSC stations with licenses covering construction permits that were granted before the DTV application was filed;

(F) NTSC construction permits that were granted before the DTV application was filed;

(G) Applications for new NTSC television stations that were in groups of mutually exclusive applications on file prior to July 1, 1997, regardless of whether they are the only applications that remain pending from their group.

(iii) That do not provide the requisite interference protection set forth in paragraph (c) or (d) of this section, as applicable, to the following applications and petitions will be deemed mutually exclusive with those applications and petitions:

(A) Other DTV applications pending as of January 18, 2001;

(B) Rulemaking petitions to amend the DTV table of allotments filed on or before January 18, 2001 for which a Notice of Proposed Rule Making had been released and the comment deadline specified therein had not passed prior to the filing date of the DTV application;

(C) Rulemaking petitions to amend the DTV table of allotments filed on or before January 18, 2001 for which a Notice of Proposed Rule Making had not been released; and

(D) Applications for new NTSC stations that are not covered by paragraph (h)(1)(ii)(G) of this section and were filed and accepted for filing on or before January 18, 2001 that:

(*1*) Were filed by post-auction winners pursuant to § 73.5005.

(*2*) Are part of a settlement agreement on-file with the Commission that would result in the grant of the NTSC application; or

(*3*) Are cut-off singletons.

(2) DTV applications for a construction permit or a modified construction permit filed after January 18, 2001:

(i) Shall be afforded the interference protection set forth in paragraph (c) or (d) of this section, as applicable:

(A) By all NTSC minor change applications;

(B) By NTSC new station applications, except those covered by paragraph (h)(2)(ii)(H) and (I) of this section;

(C) By all rulemaking petitions to amend the NTSC TV table of allotments except those filed by NTSC applicants in those groups defined in (h)(2)(ii)(I) of this section for which a Notice of Proposed Rule Making has been released and the comment deadline specified therein has passed prior to the filing date of the DTV application;

(D) By later-filed DTV applications; and

(E) By later-filed rulemaking petitions to amend the DTV table of allotments;

(ii) Must demonstrate the requisite interference protection set forth in paragraph (c) or (d) of this section, as applicable, to:

(A) DTV licensed stations;

(B) DTV construction permits;

(C) Earlier-filed DTV applications;

(D) Existing DTV allotments;

(E) Rulemaking petitions to amend the DTV table of allotments for which a Notice of Proposed Rule Making has been released and the comment deadline specified therein has passed prior

to the filing date of the DTV application;

(F) NTSC stations with licenses covering construction permits that were granted before the DTV application was filed;

(G) NTSC construction permits that were granted before the DTV application was filed; and

(H) Earlier-filed and accepted for filing applications for new NTSC stations that are not covered by paragraph (h)(2)(ii)(I) of this section, and that:

(*1*) Were filed by post-auction winners pursuant to §73.5005.

(*2*) Are part of a settlement agreement on-file with the Commission that would result in the grant of the NTSC application; or

(*3*) Are cut-off singletons;

(I) Applications for new NTSC television stations that were in groups of mutually exclusive applications on file prior to July 1, 1997, regardless of whether they are the only applications that remain pending from their group;

(J) Rulemaking petitions to amend the NTSC table of allotments filed by applicants defined in (h)(2)(ii)(I) of this section for which a Notice of Proposed Rule Making has been released and the comment deadline specified therein has passed prior to the filing of the DTV application.

(iii) That do not provide the requisite interference protection set forth in paragraph (c) or (d) of this section, as applicable, to the following applications and petitions will be deemed mutually exclusive with those applications and petitions:

(A) Other DTV applications filed the same day;

(B) Rulemaking petitions to amend the DTV table of allotments for which a Notice of Proposed Rule Making had been released and the comment deadline specified therein had not passed prior to the filing date of the DTV application; and

(C) Earlier-filed rulemaking petitions to amend the DTV table of allotments for which a Notice of Proposed Rule Making had not been released.

(3) DTV applicants, DTV applicants and NTSC applicants, or DTV applicants and DTV rulemaking petitioners that are mutually exclusive pursuant to this section will be notified by Public Notice and provided with a 90-day period of time to resolve their mutual exclusivity via engineering amendment or settlement. Those applications and petitions that remain mutually exclusive upon conclusion of the 90-day settlement period will be dismissed.

[62 FR 26719, May 14, 1997, as amended at 63 FR 13560, Mar. 20, 1998; 64 FR 4327, Jan. 28, 1999; 65 FR 30002, May 10, 2000; 65 FR 58467, Sept. 29, 2000; 66 FR 9984, Feb. 13, 2001; 66 FR 65134, Dec. 18, 2001; 69 FR 31906, June 8, 2004; 73 FR 5683, Jan. 30, 2008]

§73.624 Digital television broadcast stations.

(a) Digital television (''DTV'') broadcast stations are assigned channels 6 MHz wide. Initial eligibility for licenses for DTV broadcast stations is limited to persons that, as of April 3, 1997, are licensed to operate a full power television broadcast station or hold a permit to construct such a station (or both).

(b) DTV broadcast station permittees or licensees must transmit at least one over-the-air video program signal at no direct charge to viewers on the DTV channel. Until such time as a DTV station permittee or licensee ceases analog transmissions and returns that spectrum to the Commission, and except as provided in paragraph (b)(1) of this section, at any time that a DTV broadcast station permittee or licensee transmits a video program signal on its analog television channel, it must also transmit at least one over-the-air video program signal on the DTV channel. The DTV service that is provided pursuant to this paragraph must be at least comparable in resolution to the analog television station programming transmitted to viewers on the analog channel.

(1) DTV broadcast station permittees and licensees required to construct and operate a DTV station by May 1, 2002, or May 1, 2003, pursuant to paragraph (d) of this section must, at a minimum, beginning on the date on which the DTV station is required to be constructed, provide a digital video program signal, of the quality described in paragraph (b) of this section, during prime time hours as defined in §79.3(a)(6) of this chapter. These licensees and permittees must also comply

with the minimum operating hours requirements in paragraph (f) of this section.

(2) DTV licensees or permittees that choose to commence digital operation before the construction deadline set forth in paragraph (d) of this section are not subject to any minimum schedule for operation on the DTV channel.

(c) Provided that DTV broadcast stations comply with paragraph (b) of this section, DTV broadcast stations are permitted to offer services of any nature, consistent with the public interest, convenience, and necessity, on an ancillary or supplementary basis. The kinds of services that may be provided include, but are not limited to computer software distribution, data transmissions, teletext, interactive materials, aural messages, paging services, audio signals, subscription video, and any other services that do not derogate DTV broadcast stations' obligations under paragraph (b) of this section. Such services may be provided on a broadcast, point-to-point or point-to-multipoint basis, provided, however, that any video broadcast signal provided at no direct charge to viewers shall not be considered ancillary or supplementary.

(1) DTV licensees that provide ancillary or supplementary services that are analogous to other services subject to regulation by the Commission must comply with the Commission regulations that apply to those services, provided, however, that no ancillary or supplementary service shall have any rights to carriage under §§614 or 615 of the Communications Act of 1934, as amended, or be deemed a multichannel video programming distributor for purposes of section 628 of the Communications Act of 1934, as amended.

(2) In all arrangements entered into with outside parties affecting service operation, the DTV licensee or permittee must retain control over all material transmitted in a broadcast mode via the station's facilities, with the right to reject any material in the sole judgement of the permitte or licensee. The license or permittee is also responsible for all aspects of technical operation involving such telecommunications services.

(3) In any application for renewal of a broadcast license for a television station that provides ancillary or supplementary services, a licensee shall establish that all of its program services on the analog and the DTV spectrum are in the public interest. Any violation of the Commission's rules applicable to ancillary or supplementary services will reflect on the licensee's qualifications for renewal of its license.

(d) Digital television broadcast facilities that comply with the FCC DTV Standard (section 73.682(d)), shall be constructed in the following markets by the following dates:

(1)(i) May 1, 1999: all network-affiliated television stations in the top ten television markets;

(ii) November 1, 1999: all network-affiliated television stations not included in category (1)(i) and in the top 30 television markets;

(iii) May 1, 2002: all remaining commercial television stations;

(iv) May 1, 2003: all noncommercial television stations.

(v) May 18, 2008 in all markets for completion of construction of post-transition (DTV) facilities for all commercial and noncommercial television stations that will use the same channel used for pre-transition operation for post-transition operation and that, as of December 31, 2007, have a construction permit for facilities that conform to the facilities defined by the new DTV Table of Allotments and accompanying Appendix B, established by the Seventh Report and Order in MB Docket No. 87–268 and codified at 47 CFR 73.622(i).

(vi) August 18, 2008 in all markets for completion of construction of post-transition (DTV) facilities for all commercial and noncommercial television stations that will use the same channel used for pre-transition operation for post-transition operation but which, as of December 31, 2007, do not have a construction permit for facilities that conform to the facilities defined by the new DTV Table of Allotments and accompanying Appendix B, established by the Seventh Report and Order in MB Docket No. 87–268 and codified at 47 CFR 73.622(i).

(vii) June 12, 2009 in all markets for completion of construction of post-

transition (DTV) facilities for all commercial and noncommercial television stations whose post-transition digital channel is different from their pre-transition digital channel and for those stations whose post-transition channel is the same as their pre-transition channel but that are subject to a unique technical challenge that has been specifically recognized as such by the Commission.

(2) For the purposes of paragraph (d)(1):

(i) The term, ''network,'' is defined to include the ABC, CBS, NBC, and Fox television networks;

(ii) The term, ''television market,'' is defined as the Designated Market Area or DMA as defined by Nielsen Media Research as of April 3, 1997; and

(iii) The terms, ''network-affiliated'' or ''network-affiliate,'' are defined to include those television stations affiliated with at least one of the four networks designated in paragraph (d)(2)(i) as of April 3, 1997. In those DMAs in which a network has more than one network affiliate, paragraphs (d)(1) (i) and (ii) of this section shall apply to its network affiliate with the largest audience share for the 9 a.m. to midnight time period as measured by Nielsen Media Research in its Nielsen Station Index, Viewers in Profile, as of February, 1997.

(3) *Authority delegated.* (i) Authority is delegated to the Chief, Media Bureau to grant an extension of time of up to six months beyond the relevant construction deadline specified in paragraph (d)(1) of this section upon demonstration by the DTV licensee or permittee that failure to meet that construction deadline is due to circumstances that are either unforeseeable or beyond the licensee's control where the licensee has taken all reasonable steps to resolve the problem expeditiously.

(ii) For construction deadlines occurring prior to June 13, 2009, the following circumstances may include, but shall not be limited to:

(A) Inability to construct and place in operation a facility necessary for transmitting digital television, such as a tower, because of delays in obtaining zoning or FAA approvals, or similar constraints; or

(B) Where the licensee or permittee is currently the subject of a bankruptcy or receivership proceeding, or is experiencing severe financial hardship as defined by negative cash flow for the past three years.

(iii) For construction deadlines occurring after June 12, 2009, the tolling provisions of § 73.3598 shall apply.

(iv) The Bureau may grant no more than two extension requests upon delegated authority. Subsequent extension requests shall be referred to the Commission. The Bureau may deny extension requests upon delegated authority.

(v) Applications for extension of time shall be filed no earlier than 90 and no later than 60 days prior to the relevant construction deadline, absent a showing of sufficient reasons for filing within less than 60 days of the relevant construction deadline.

(e) The application for construction permit must be filed on Form 301 (except for noncommercial stations, which must file on Form 340) on or before the date on which half of the construction period has elapsed. Thus, for example, for applicants in category (d)(1)(i), the application for construction period must be filed by May 1, 1998.

(f)(1) Commencing on April 1, 2003, DTV television licensees and permittees required to construct and operate a DTV station by May 1, 2002, or May 1, 2003, must transmit at least one over-the-air video program signal at no direct charge to viewers on their DTV channel at least 50 percent of the time they are transmitting a video program signal on their analog channel.

(2) Commencing on April 1, 2004, DTV licensees and permittees described in paragraph (f)(1) of this section must transmit a video program signal as described in paragraph (f)(1) of this section on the DTV channel at least 75 percent of the time they are transmitting a video program signal on the analog channel.

(3) Commencing on April 1, 2005, DTV licensees and permittees described in paragraph (f)(1) of this section must transmit a video program signal as described in paragraph (f)(1) of this section on the DTV channel at least 100 percent of the time they are transmitting a video program signal on the analog channel.

(4) The minimum operating hours requirements imposed in paragraphs (f)(1) through (3) of this section will terminate when the analog channel terminates operation and a 6 MHz channel is returned by the DTV licensee or permittee to the Commission.

(g) Commercial and noncommercial DTV licensees and permittees, and low power television, TV translator and Class A television stations DTV licensees and permittees, must annually remit a fee of five percent of the gross revenues derived from all ancillary and supplementary services, as defined by paragraph (b) of this section, which are *feeable,* as defined in paragraphs (g)(2)(i) and through (ii) of this section.

(1)(i) All ancillary or supplementary services for which payment of a subscription fee or charge is required in order to receive the service are feeable. The fee required by this provision shall be imposed on any and all revenues from such services, including revenues derived from subscription fees and from any commercial advertisements transmitted on the service.

(ii) Any ancillary or supplementary service for which no payment is required from consumers in order to receive the service is feeable if the DTV licensee directly or indirectly receives compensation from a third party in return for the transmission of material provided by that third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required). The fee required by this provision shall be imposed on any and all revenues from such services, other than revenues received from a third party in return for the transmission of commercial advertisements used to support broadcasting for which a subscription fee is not required.

(2) *Payment of fees.* (i) Each December 1, all commercial and noncommercial DTV licensees and permittees will electronically report whether they provided ancillary or supplementary services in the 12-month period ending on the preceding September 30. Licensees and permittees will further report, for the applicable period:

(A) A brief description of the services provided;

(B) Which services were feeable ancillary or supplementary services;

(C) Whether any ancillary or supplementary services provided were not subject to a fee;

(D) Gross revenues received from all feeable ancillary and supplementary services provided during the applicable period; and

(E) The amount of bitstream used to provide ancillary or supplementary services during the applicable period. Licensees and permittees will certify under penalty of perjury the accuracy of the information reported. Failure to file regardless of revenues from ancillary or supplementary services or provision of such services may result in appropriate sanctions.

(ii) If a commercial or noncommercial DTV licensee or permittee has provided feeable ancillary or supplementary services at any point during a 12-month period ending on September 30, the licensee or permittee must additionally file the FCC's standard remittance form (Form 159) on the subsequent December 1. Licensees and permittees will certify the amount of gross revenues received from feeable ancillary or supplementary services for the applicable 12-month period and will remit the payment of the required fee.

(iii) The Commission reserves the right to audit each licensee's or permittee's records which support the calculation of the amount specified on line 23A of Form 159. Each licensee or permittee, therefore, is required to retain such records for three years from the date of remittance of fees.

[62 FR 26989, May 16, 1997, as amended at 63 FR 15784, Apr. 1, 1998; 63 FR 69216, Dec. 16, 1998; 64 FR 4327, Jan. 28, 1999; 66 FR 58982, Nov. 26, 2001; 66 FR 65135, Dec. 18, 2001; 67 FR 13232, Mar. 21, 2002; 67 FR 38423, June 4, 2002; 69 FR 59535, Oct. 4, 2004; 73 FR 5683, Jan. 30, 2008; 74 FR 8878, Feb. 27, 2009; 76 FR 44827, July 27, 2011]

§ 73.625 DTV coverage of principal community and antenna system.

(a) *Transmitter location.* (1) The DTV transmitter location shall be chosen so that, on the basis of the effective radiated power and antenna height above average terrain employed, the following minimum F(50,90) field strength in dB above one uV/m will be provided

over the entire principal community to be served:

Channels 2–6	35 dBu
Channels 7–13	43 dBu
Channels 14–69	48 dBu

NOTE TO PARAGRAPH (a)(1): These requirements above do not become effective until December 31, 2004 for commercial television licensees and December 31, 2005 for noncommercial television licensees. Prior to those dates, the following minimum F(50,90) field strength in dB above one uV/m must be provided over the entire principal community to be served:

Channels 2–6	28 dBu
Channels 7–13	36 dBu
Channels 14–69	41 dBu

(2) The location of the antenna must be so chosen that there is not a major obstruction in the path over the principal community to be served.

(3) For the purposes of this section, coverage is to be determined in accordance with paragraph (b) of this section. Under actual conditions, the true coverage may vary from these estimates because the terrain over any specific path is expected to be different from the average terrain on which the field strength charts were based. Further, the actual extent of service will usually be less than indicated by these estimates due to interference from other stations. Because of these factors, the predicted field strength contours give no assurance of service to any specific percentage of receiver locations within the distances indicated.

(b) *Determining coverage.* (1) In predicting the distance to the field strength contours, the F (50,50) field strength charts (Figures 9, 10 and 10b of §73.699 of this part) and the F (50,10) field strength charts (Figures 9a, 10a and 10c of §73.699 of this part) shall be used. To use the charts to predict the distance to a given F (50,90) contour, the following procedure is used: Convert the effective radiated power in kilowatts for the appropriate azimuth into decibel value referenced to 1 kW (dBk). Subtract the power value in dBk from the contour value in dBu. Note that for power less than 1 kW, the difference value will be greater than the contour value because the power in dBk is negative. Locate the difference value obtained on the vertical scale at the left edge of the appropriate F (50,50) chart for the DTV station's channel. Follow the horizontal line for that value into the chart to the point of intersection with the vertical line above the height of the antenna above average terrain for the appropriate azimuth located on the scale at the bottom of the chart. If the point of intersection does not fall exactly on a distance curve, interpolate between the distance curves below and above the intersection point. The distance values for the curves are located along the right edge of the chart. Using the appropriate F (50,10) chart for the DTV station's channel, locate the point where the distance coincides with the vertical line above the height of the antenna above average terrain for the appropriate azimuth located on the scale at the bottom of the chart. Follow a horizontal line from that point to the left edge of the chart to determine the F (50,10) difference value. Add the power value in dBk to this difference value to determine the F (50,10) contour value in dBu. Subtract the F (50,50) contour value in dBu from this F (50,10) contour value in dBu. Subtract this difference from the F (50,50) contour value in dBu to determine the F (50,90) contour value in dBu at the pertinent distance along the pertinent radial.

(2) The effective radiated power to be used is that radiated at the vertical angle corresponding to the depression angle between the transmitting antenna center of radiation and the radio horizon as determined individually for each azimuthal direction concerned. In cases where the relative field strength at this depression angle is 90% or more of the maximum field strength developed in the vertical plane containing the pertaining radial, the maximum radiation shall be used. The depression angle is based on the difference in elevation of the antenna center of radiation above the average terrain and the radio horizon, assuming a smooth spherical earth with a radius of 8,495.5 kilometers (5,280 miles) and shall be determined by the following equation:

A = 0.0277 square root of H

Where:

A is the depression angle in degrees.

H is the height in meters of the transmitting antenna radiation center above average terrain of the 3.2–16.1 kilometers (2–10 miles) sector of the pertinent radial.

This formula is empirically derived for the limited purpose specified here. Its use for any other purpose may be inappropriate.

(3) Applicants for new DTV stations or changes in the facilities of existing DTV stations must submit to the FCC a showing as to the location of their stations' or proposed stations' contour. This showing is to include a map showing this contour, except where applicants have previously submitted material to the FCC containing such information and it is found upon careful examination that the contour locations indicated therein would not change, on any radial, when the locations are determined under this section. In the latter cases, a statement by a qualified engineer to this effect will satisfy this requirement and no contour maps need be submitted.

(4) The antenna height to be used with these charts is the height of the radiation center of the antenna above the average terrain along the radial in question. In determining the average elevation of the terrain, the elevations between 3.2–16.1 kilometers (2–10 miles) from the antenna site are employed. Profile graphs shall be drawn for 8 radials beginning at the antenna site and extending 16.1 kilometers (10 miles) therefrom. The radials should be drawn for each 45 degrees of azimuth starting with True North. At least one radial must include the principal community to be served even though such community may be more than 16.1 kilometers (10 miles) from the antenna site. However, in the event none of the evenly spaced radials include the principal community to be served and one or more such radials are drawn in addition to the 8 evenly spaced radials, such additional radials shall not be employed in computing the antenna height above average terrain. Where the 3.2–16.1 kilometers (2–10 mile) portion of a radial extends in whole or in part over large bodies of water (such as ocean areas, gulfs, sounds, bays, large lakes, etc., but not rivers) or extends over foreign territory but the contour encompasses land area within the United States beyond the 16.1 kilometers (10 mile) portion of the radial, the entire 3.2–16.1 kilometers (2–10 mile) portion of the radial shall be included in the computation of antenna height above average terrain. However, where the contour does not so encompass United States land area and (1) the entire 3.2–16.1 kilometers (2–10 mile) portion of the radial extends over large bodies of water or foreign territory, such radial shall be completely omitted from the computation of antenna height above average terrain, and (2) where a part of the 3.2–16.1 kilometers (2–10 mile) portion of a radial extends over large bodies of water or over foreign territory, only that part of the radial extending from the 3.2 kilometer (2 mile) sector to the outermost portion of land area within the United States covered by the radial shall be employed in the computation of antenna height above average terrain. The profile graph for each radial should be plotted by contour intervals of from 12.2–30.5 meters (40–100 feet) and, where the data permits, at least 50 points of elevation (generally uniformly spaced) should be used for each radial. In instances of very rugged terrain where the use of contour intervals of 30.5 meters (100 feet) would result in several points in a short distance, 61.0–122.0 meter (200–400 foot) contour intervals may be used for such distances. On the other hand, where the terrain is uniform or gently sloping the smallest contour interval indicated on the topographic map (see paragraph (b)(5) of this section) should be used, although only relatively few points may be available. The profile graphs should indicate the topography accurately for each radial, and the graphs should be plotted with the distance in kilometers as the abscissa and the elevation in meters above mean sea level as the ordinate. The profile graphs should indicate the source of the topographical data employed. The graph should also show the elevation of the center of the radiating system. The graph may be plotted either on rectangular coordinate paper or on special paper which shows the curvature of the earth. It is not necessary to take the curvature of the earth into consideration in this procedure, as this factor is taken care

of in the charts showing signal strengths. The average elevation of the 12.9 kilometer (8 miles) distance between 3.2–16.1 kilometers (2–10 miles) from the antenna site should then be determined from the profile graph for each radial. This may be obtained by averaging a large number of equally spaced points, by using a planimeter, or by obtaining the median elevation (that exceeded for 50% of the distance) in sectors and averaging those values. In directions where the terrain is such that negative antenna heights or heights below 30.5 meters (100 feet) for the 3.2 to 16.1 kilometers (2 to 10 mile) sector are obtained, an assumed height of 30.5 meters (100 feet) shall be used for the prediction of coverage. However, where the actual contour distances are critical factors, a supplemental showing of expected coverage must be included together with a description of the method employed in predicting such coverage. In special cases, the Commission may require additional information as to terrain and coverage.

(5) In the preparation of the profile graph previously described, and in determining the location and height above sea level of the antenna site, the elevation or contour intervals shall be taken from the United States Geological Survey Topographic Quadrangle Maps, United States Army Corps of Engineers' maps or Tennessee Valley Authority maps, whichever is the latest, for all areas for which such maps are available. If such maps are not published for the area in question, the next best topographic information should be used. Topographic data may sometimes be obtained from State and Municipal agencies. Data from Sectional Aeronautical Charts (including bench marks) or railroad depot elevations and highway elevations from road maps may be used where no better information is available. In cases where limited topographic data is available, use may be made of an altimeter in a car driven along roads extending generally radially from the transmitter site. United States Geological Survey Topographic Quadrangle Maps may be obtained from the United States Geological Survey, Department of the Interior, Washington, D.C. 20240. Sectional Aeronautical Charts are available from the United States Coast and Geodetic Survey, Department of Commerce, Washington, D.C. 20235. In lieu of maps, the average terrain elevation may be computer generated, except in the cases of dispute, using elevations from a 30 second point or better topographic data file. The file must be identified and the data processed for intermediate points along each radial using linear interpolation techniques. The height above mean sea level of the antenna site must be obtained manually using appropriate topographic maps.

(c) *Antenna system.* (1) The antenna system shall be designed so that 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.

(2) An antenna designed or altered to produce a noncircular radiation pattern in the horizontal plane is considered to be a directional antenna. Antennas purposely installed in such a manner as to result in the mechanical beam tilting of the major vertical radiation lobe are included in this category.

(3) Applications proposing the use of directional antenna systems must be accompanied by the following:

(i) Complete description of the proposed antenna system, including the manufacturer and model number of the proposed directional antenna.

(ii) Relative field horizontal plane pattern (horizontal polarization only) of the proposed directional antenna. A value of 1.0 should be used for the maximum radiation. The plot of the pattern should be oriented so that 0 degrees corresponds to true North. Where mechanical beam tilt is intended, the amount of tilt in degrees of the antenna vertical axis and the orientation of the downward tilt with respect to true North must be specified, and the horizontal plane pattern must reflect the use of mechanical beam tilt.

(iii) A tabulation of the relative field pattern required in paragraph (c)(3)(ii) of this section. The tabulation should use the same zero degree reference as the plotted pattern, and be tabulated

at least every 10 degrees. In addition, tabulated values of all maxima and minima, with their corresponding azimuths, should be submitted.

(iv) Horizontal and vertical plane radiation patterns showing the effective radiated power, in dBk, for each direction. Sufficient vertical plane patterns must be included to indicate clearly the radiation characteristics of the antenna above and below the horizontal plane. In cases where the angles at which the maximum vertical radiation varies with azimuth, a separate vertical radiation pattern must be provided for each pertinent radial direction.

(v) All horizontal plane patterns must be plotted to the largest scale possible on unglazed letter-size polar coordinate paper (main engraving approximately 18 cm × 25 cm (7 inches × 10 inches)) using only scale divisions and subdivisions of 1, 2, 2.5. or 5 times 10-nth. All vertical plane patterns must be plotted on unglazed letter-size rectangular coordinate paper. Values of field strength on any pattern less than 10 percent of the maximum field strength plotted on that pattern must be shown on an enlarged scale.

(vi) The horizontal and vertical plane patterns that are required are the patterns for the complete directional antenna system. In the case of a composite antenna composed of two or more individual antennas, this means that the patterns for the composite antenna, not the patterns for each of the individual antennas, must be submitted.

(4) Where simultaneous use of antennas or antenna structures is proposed, the following provisions shall apply:

(i) In cases where it is proposed to use a tower of an AM broadcast station as a supporting structure for a DTV broadcast antenna, an appropriate application for changes in the radiating system of the AM broadcast station must be filed by the licensee thereof. A formal application (FCC Form 301, or FCC Form 340 for a noncommercial educational station) will be required if the proposal involves substantial change in the physical height or radiation characteristics of the AM broadcast antennas; otherwise an informal application will be acceptable. (In case of doubt, an informal application (letter) together with complete engineering data should be submitted.) An application may be required for other classes of stations when the tower is to be used in connection with a DTV station.

(ii) When the proposed DTV antenna is to be mounted on a tower in the vicinity of an AM station directional antenna system and it appears that the operation of the directional antenna system may be affected, an engineering study must be filed with the DTV application concerning the effect of the DTV antenna on the AM directional radiation pattern. Field measurements of the AM stations may be required prior to and following construction of the DTV station antenna, and readjustments made as necessary.

(5) Applications proposing the use of electrical beam tilt pursuant to section 73.622(f)(4) must be accompanied by the following:

(i) Complete description of the proposed antenna system, including the manufacturer and model number. Vertical plane radiation patterns conforming with paragraphs (c)(3)(iv), (c)(3)(v) and (c)(3)(vi) of this section.

(ii) For at least 36 evenly spaced radials, including 0 degrees corresponding to true North, a determination of the depression angle between the transmitting antenna center of radiation and the radio horizon using the formula in paragraph (b)(2) of this section.

(iii) For each such radial direction, the ERP at the depression angle, taking into account the effect of the electrical beam tilt, mechanical beam tilt, if used, and directional antenna pattern if a directional antenna is specified.

(iv) The maximum ERP toward the radio horizon determined by this process must be clearly indicated. In addition, a tabulation of the relative fields representing the effective radiation pattern toward the radio horizon in the 36 radial directions must be submitted. A value of 1.0 should be used for the maximum radiation.

[62 FR 26990, May 16, 1997, as amended at 63 FR 13562, Mar. 20, 1998; 66 FR 9985, Feb. 13, 2001; 66 FR 65135, Dec. 18, 2001]

§ 73.626 DTV distributed transmission systems.

(a) A DTV station may be authorized to operate multiple synchronized transmitters on its assigned channel to provide service consistent with the requirements of this section. Such operation is called a distributed transmission system (DTS). Except as expressly provided in this section, DTV stations operating a DTS facility must comply with all rules applicable to DTV single-transmitter stations.

(b) For purposes of compliance with this section, a station's ''authorized service area'' is defined as the area within its predicted noise-limited service contour determined using the facilities authorized for the station in a license or construction permit for non-DTS, single-transmitter-location operation.

(c) *Table of Distances.* The following Table of Distances describes (by channel and zone) a station's maximum service area that can be obtained in applying for a DTS authorization.

Channel	Zone	F(50,90) field strength (dBU)	Distance from reference point
2–6	1	28	108 km. (67 mi.)
2–6	2 and 3	28	128 km. (80 mi.)
7–13	1	36	101 km. (63 mi.)
7–13	2 and 3	36	123 km. (77 mi.)
14–51	1, 2 and 3	41	103 km. (64 mi.)

(1) DTV station zones are defined in § 73.609.

(2) *DTS reference point.* A station's DTS reference point is established in the FCC Order that created or made final modifications to the Post-Transition DTV Table of Allotments, § 73.622(i), and the corresponding facilities for the station's channel assignment as set forth in that FCC Order.

(d) *Determining DTS coverage.* The coverage for each DTS transmitter is determined based on the F(50,90) field strength given in the Table of Distances (in paragraph (c) of this section), calculated in accordance with § 73.625(b). The combined coverage of a DTS station is the logical union of the coverage of all DTS transmitters.

(e) *DTS protection from interference.* A DTS station must be protected from interference in accordance with the criteria specified in § 73.616. To determine compliance with the interference protection requirements of § 73.616, the population served by a DTS station shall be the population within the station's combined coverage contour, excluding the population in areas that are outside both the DTV station's authorized service area and the Table of Distances area (in paragraph (c) of this section). Only population that is predicted to receive service by the method described in § 73.622(e)(2) from at least one individual DTS transmitter will be considered.

(f) *Applications for DTS.* An application proposing use of a DTS will not be accepted for filing unless it meets all of the following conditions:

(1) The combined coverage from all of the DTS transmitters covers all of the applicant's authorized service area;

(2) Each DTS transmitter's coverage is contained within either the DTV station's Table of Distances area (pursuant to paragraph (c) of this section) or its authorized service area, except where such extension of coverage beyond the station's authorized service area is of a minimal amount and necessary to meet the requirements of paragraph (f)(1) of this section;

(3) Each DTS transmitter's coverage is contiguous with at least one other DTS transmitter's coverage;

(4) The coverage from one or more DTS transmitter(s) is shown to provide principal community coverage as required in § 73.625(a);

(5) The ''combined field strength'' of all the DTS transmitters in a network does not cause interference to another station in excess of the criteria specified in § 73.616, where the combined field strength level is determined by a ''root-sum-square'' calculation, in which the combined field strength level at a given location is equal to the

square root of the sum of the squared field strengths from each transmitter in the DTS network at that location.

(6) Each DTS transmitter must be located within either the DTV station's Table of Distances area or its authorized service area.

[73 FR 74063, Dec. 5, 2008]

§ 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.

[28 FR 13660, Dec. 14, 1963]

§ 73.641 Subscription TV definitions.

(a) *Subscription television.* A system whereby subscription television programs are transmitted and received.

(b) *Subscription television program.* A television boadcast program intended to be received in intelligible form for a fee or charge.

[52 FR 6154, Mar. 2, 1987]

§ 73.642 Subscription TV service.

(a) Subscription TV service may be provided by:

(1) Licensees and permittees of commercial and noncommercial TV stations, and

(2) Licensees and permittees of low power TV stations.

(b) A licensee or permittee of a commercial or noncommercial TV station or a low power TV station may begin subscription TV service upon installation of encoding equipment having advance FCC approval. However, the licensee or permittee of a TV broadcast station (not applicable to low power TV stations) must send a letter to the FCC in Washington, DC, that subscription TV service will commence at least 30 days prior to commencement of such service. In that letter, to be entitled ''Notice of Commencement of STV Operations,'' the licensee or permittee is to state that it will comply with the provisions of paragraphs (e)(1) through (e)(3) and § 73.644(c) of this chapter and identify the make and type of encoding system to be used. A similar notice must be submitted if the licensee or permittee commences using another type of encoding system. (See section 644(h).) A notice must also be submitted to the FCC in Washington, DC, if encoded subscription TV service is to be discontinued, at least 30 days prior to such discontinuance.

(c) The station proof of system compliance measurement data (see § 73.644(c)) need not be submitted to the FCC, however, the measurement data must be available to the FCC upon request.

(d) The use of the visual vertical blanking interval or an aural subcarrier for transmitting subscriber decoder control code signals during periods of normal non-encoded programming may be used only upon specific FCC authorization. Letter requests to use either the video blanking intervals or aural subcarriers during periods of non-subscription programming are to be sent to the FCC in Washington, D.C.

(e) A licensee or permittee of a commercial or noncommercial TV broadcast or low power TV station may not transmit a subscription service if it has a contract, arrangement, or understanding expressed or implied, that:

(1) Prevents or hinders it from rejecting or refusing any subscription TV broadcast program that it reasonably believes to be unsatisfactory or unsuitable or contrary to the public interests; or substituting a subscription or conventional program that, in its opinion, is of greater local or national importance; or

(2) Delegates to any other person the right to schedule the hours of transmission of subscription programs. However, this rule does not prevent a licensee or permittee from entering into an agreement or arrangement whereby it agrees to schedule a specific subscription TV broadcast program at a specific time or to schedule a specific

number of hours of subscription programs during the broadcast day (or segments thereof) or weeks; or

(3) Deprives it of the right of ultimate decision concerning the maximum amount of any subscription program charge or fee.

(4) Has provisions that do not comply with the following policies of the FCC:

(i) Unless a satifactory signal is unavailable at the location where service is desired, subscription TV service must be provided to all persons desiring it within the Grade A contour of the station broadcasting subscription programs. Geographic or other reasonable patterns of installation for new subscription services is permitted and, for good cause, service may be terminated.

(ii) Charges, terms and conditions of service to subscribers must be applied uniformly. However, subscribers may be divided into reasonable classifications approved by the FCC, and the impositions of different sets of terms and conditions may be applied to subscribers in different classifications. Further, for good cause, within such classification, deposits may be required from some subscribers and not of others; and, also for good cause, if a subscription system generally uses a credit-type decoder, cash operated decoders may be installed for some subscribers.

[48 FR 56392, Dec. 21, 1983, as amended at 52 FR 6154, Mar. 2, 1987; 66 FR 58982, Nov. 26, 2001]

§ 73.643 Subscription TV operating requirements.

The non-technical rules and policies applicable to regular TV broadcast stations are applicable to subscription TV operations, except where specifically exempted in the provisions of those rules and policies.

[48 FR 56392, Dec. 21, 1983]

§ 73.644 Subscription TV transmission systems.

(a) Licensees and permittees of commercial and noncommercial TV broadcast and low power TV stations may conduct subscription operations only by using an encoding system that has been approved in advance by the FCC. Such advance approval may be applied for and granted in accordance with the procedures given in subpart M part 2 of the Rules.

(b) The criteria for advance approval of subscription TV transmitting systems by the FCC are as follows:

(1) Spectral energy in the transmitted signal must not exceed the limitations given in §73.687(e).

(2) No increase in width of the television broadcast channel (6 MHz.) is permitted.

(3) The technical system must enable stations to transmit encoded subscription TV programs without increasing the RMS output power from either the video or audio transmitters over that required to transmit the same program material using normal transmission standards.

(4) Modification of a type accepted TV broadcast or low power TV transmitter for encoded transmissions must not render transmitter incapable of operating in accordance with the operating specifications upon which type acceptance was granted. (See §2.1001 (b), (k))

(5) Interference to reception of conventional television either of co-channel or adjacent channel stations must not increase over that resulting from the transmission of programming with normal transmission standards.

(6) Subscriber decoder devices must meet the provisions, where required, of subpart H of part 15 of the FCC Rules for TV Interface Devices.

(c) Prior to commencing the transmission of encoded subscription programming, the licensee or permittee of a TV broadcast or low power TV station must perform such tests and measurements to determine that the transmitted encoded signal conforms to the radiated radio frequency and demodulated baseband and waveforms, transmitter operating power determination, and the occupied bandwidth limitations specified in the application for advance FCC approval of the system being used. A copy of the measurement data is to be maintained in the station files and made available to the FCC upon request.

(d) The licensee of a station transmitting an encoded subscription service must have at the transmitter control point the technical specifications for the system being used of both the

aural and visual baseband signals and the transmitted radiofrequency signals, and have the necessary measuring and monitoring equipment, including transmitter output power measuring equi'pment, to determine that the transmissions conform to the advance approval specifications on file with the FCC. Full operating specifications for the system must be available to representatives of the FCC upon request.

(e) The operating power of the transmitters during encoded operations must be determined and maintained according to the procedures given in the application for advance approval.

(f) A station using an encoding system in accordance with the specifications filed with the application for advance approval is deemed to be exempted from those technical regulations of this subpart and subpart H to the extent they are specifically detailed in the application.

(g) No protection from interference of any kind will be afforded to reception of encoded subscription programming over that afforded reception of non-encoded signals.

(h) A licensee or permittee may make no modifications on a subscription encoding system that would alter the characteristics of the transmitted aural or visual signal from those specified in the application for advance approval. A licensee or permittee of a station replacing its encoding system must perform the measurements required by paragraph (c) of this section. A TV broadcast station licensee or permittee must also send a letter advising the FCC of the new system being used as required by §73.642(b) of this chapter.

(i) The station licensee is fully responsible for all technical operations of the station during transmissions of encoded subscription programming, regardless of the supplier of the encoding equipment or subscription program service.

NOTE: Stations transmitting encoded subscription programming prior to October 1, 1983, must comply with all technical and operating requirements of this Section no later than April 1, 1984. Stations not having the information to comply with this Section must obtain such information from the manufacturer of the encoding system being used, and if necessary, by measurements of the station's transmission system.

(j) Upon request by an authorized representative of the FCC, the licensee of a TV station transmitting encoded programming must make available a receiving decoder to the Commission to carry out its regulatory responsibilities.

[48 FR 56392, Dec. 21, 1983, as amended at 57 FR 48333, Oct. 23, 1992; 66 FR 58982, Nov. 26, 2001]

§73.646 Telecommunications Service on the Vertical Blanking Interval and in the Visual Signal.

(a) Telecommunications services permitted on the vertical blanking interval (VBI) and in the visual signal include the transmission of data, processed information, or any other communication in either a digital or analog mode.

(b) Telecommunications service on the VBI and in the visual signal is of an ancillary nature and as such is an elective, subsidiary activity. No service guidelines, limitations, or performance standards are applied to it. The kinds of service that may be provided include, but are not limited to, teletext, paging, computer software and bulk data distribution, and aural messages. Such services may be provided on a broadcast, point-to-point, or point to multipoint basis.

(c) Telecommunications services that are common carrier in nature are subject to common carrier regulation. Licensees operating such services are required to apply to the Commission for the appropriate authorization and to comply with all policies and rules applicable to the particular service.

(d) Television licensees are authorized to lease their VBI and visual signal telecommunications facilities to outside parties. In all arrangements entered into with outside parties affecting telecommunications service operation, the licensee or permittee must retain control over all material transmitted in a broadcast mode via the station's facilities, with the right to reject any material that it deems inappropriate or undesirable. The licensee or permittee is also responsible for all aspects of technical operation involving such telecommunications services.

(e) The grant or renewal of a TV station license or permit will not be furthered or promoted by proposed or past VBI or visual signal telecommunications service operation; the licensee must establish that its broadcast operation serves the public interest wholly apart from such telecommunications service activities. (Violation of rules applicable to VBI and visual signal telecommunications services could, of course, reflect on a licensee's qualifications to hold its license or permit.)

(f) TV broadcast stations are authorized to transmit VBI and visual telecommunications service signals during any time period, including portions of the day when normal programming is not broadcast. Such transmissions must be in accordance with the technical provisions of § 73.682.

[50 FR 4663, Feb. 1, 1985, as amended at 50 FR 9035, Mar. 6, 1985; 61 FR 36304, July 10, 1996]

§ 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.

[54 FR 9806, Mar. 8, 1989]

§ 73.658 Affiliation agreements and network program practices; territorial exclusivity in non-network program arrangements.

(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 in this section includes national and regional network organizations. See ch. VII, J, of Report on Chain Broadcasting.)

(b) *Territorial exclusively.* 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 located in the same community from broadcasting the network's programs not taken by the former station, or which prevents or hinders another broadcast station located in a different community from broadcasting any program of the network organization. This section 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 programs 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 two or more persons or entities that, on February 8, 1996, were ''networks'' as defined in §73.3613(a)(1) of the Commission's regulations (that is, ABC, CBS, Fox, and NBC).

(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)–(l) [Reserved]

(m) *Territorial exclusivity in non-network arrangements.* (1) 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 other person, except that a television 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 Nielsen Media Research DMA Rankings 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 paragraph, the term ''community'' is defined as the community specified in the instrument of authorization as the location of the station.

(2) Notwithstanding paragraph (m)(1) of this section, 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 try-out 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.

(Sec. 5, 48 Stat. 1068 (47 U.S.C. 155))

[28 FR 13660, Dec. 14, 1963]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 73.658, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§§ 73.659–73.663 [Reserved]

§ 73.664 Determining operating power.

(a) The operating power of each TV visual transmitter shall normally be determined by the direct method.

(b) *Direct method, visual transmitter.* The direct method of power determination for a TV visual transmitter uses the indications of a calibrated transmission line meter (responsive to peak power) located at the RF output terminals of the transmitter. The indications of the calibrated meter are used to observe and maintain the authorized operating power of the visual transmitter. This meter must be calibrated whenever any component in the metering circuit is repaired or replaced and as often as necessary to ensure operation in accordance with the provisions of § 73.1560 of this part. The following calibration procedures are to be used:

(1) The transmission line meter is calibrated by measuring the average power at the output terminals of the transmitter, including any vestigial sideband and harmonic filters which may be used in normal operation. For this determination the average power output is measured while operating into a dummy load of substantially zero reactance and a resistance equal to the transmission line characteristic impedance. During this measurement the transmitter is to be modulated only by a standard synchronizing signal with blanking level set at 75% of peak amplitude as observed in an output waveform monitor, and with this blanketing level amplitude maintained throughout the time interval between synchronizing pulses.

(2) If electrical devices are used to determine the output power, such devices must permit determination of this power to within an accuracy of ±5% of the power indicated by the full scale reading of the electrical indicating instrument of the device. If temperature and coolant flow indicating devices are used to determine the power output, such devices must permit determination of this power to within an accuracy of ±4% of measured average power output. The peak power output is the power so measured in the dummy load multiplied by the factor 1.68. During this measurement the input voltage and current to the final radio frequency amplifier stage and the transmission line meter are to be read and compared with similar readings taken with the dummy load replaced by the antenna. These readings must be in substantial agreement.

(3) The meter must be calibrated with the transmitter operating at 80%, 100%, and 110% of the authorized power as often as may be necessary to maintain its accuracy and ensure correct transmitter operating power. In cases where the transmitter is incapable of operating at 110% of the authorized power output, the calibration may be made at a power output between 100% and 110% of the authorized power output. However, where this is done, the output meter must be marked at the point of calibration of maximum power output, and the station will be deemed to be in violation of this rule if that power is exceeded. The upper and lower limits of permissible power deviation as determined by the prescribed calibration, must be shown upon the meter either by means of adjustable red markers incorporated in the meter or by red marks placed upon the meter scale or glass face. These markings must be checked and changed, if necessary, each time the meter is calibrated.

(c) *Indirect method, visual transmitter.* The operating power is determined by the indirect method by applying an appropriate factor to the input power to the final radio-frequency amplifier stage of the transmitter using the following formula:

Transmitter output power = Ep × Ip × *F*

Where:

Ep = DC input voltage of the final radio-frequency amplifier stage.

Ip = DC input current of the final radio-frequency amplifier stage.

F = Efficiency factor.

(1) If the above formula is not appropriate for the design of the transmitter final amplifier, use a formula specified by the transmitter manufacturer with other appropriate operating parameters.

(2) The value of the efficiency factor, *F* established for the authorized transmitter output power is to be used for maintaining the operating power, even though there may be some variation in *F* over the power operating range of the transmitter.

(3) The value of *F* is to be determined and a record kept thereof by one of the following procedures listed in order of preference:

(i) Using the most recent measurement data for calibration of the transmission line meter according to the procedures described in paragraph (b) of this section or the most recent measurements made by the licensee establishing the value of F. In the case of composite transmitters or those in which the final amplifier stages have been modified pursuant to FCC approval, the licensee must furnish the FCC and also retain with the station records the measurement data used as a basis for determining the value of F.

(ii) Using measurement data shown on the transmitter manufacturer's test data supplied to the licensee, provided that measurements were made at the authorized carrier frequency and transmitter output power.

(iii) Using the transmitter manufacturer's measurement data submitted to the FCC for type acceptance as shown in the instruction book supplied to the licensee.

NOTE: Refer to §73.1560 for aural transmitter output power levels.

[44 FR 58732, Oct. 11, 1979, as amended at 48 FR 44805, Sept. 30, 1983; 49 FR 4210, Feb. 3, 1984; 49 FR 22092, May 25, 1984; 49 FR 49851, Dec. 24, 1984; 50 FR 26568, June 27, 1985; 54 FR 9806, Mar. 8, 1989. Redesignated at 58 FR 62555, Nov. 29, 1993]

§ 73.665 Use of TV aural baseband subcarriers.

Licensees of TV broadcast stations may transmit, without further authorization from the FCC, subcarriers and signals within the composite baseband for the following purposes:

(a) Stereophonic (biphonic, quadraphonic, etc.) sound programs under the provisions of §§73.667 and 73.669.

(b) Transmission of signals relating to the operation of TV stations, such as relaying broadcast materials to other stations, remote cueing and order messages, and control and telemetry signals for the transmitting system.

(c) Transmission of pilot or control signals to enhance the station's program service such as (but not restricted to) activation of noise reduction decoders in receivers, for any other receiver control purpose, or for program alerting and program identification.

(d) Subsidiary communications services.

[49 FR 18105, Apr. 27, 1984]

§ 73.667 TV subsidiary communications services.

(a) Subsidiary communications services are those transmitted within the TV aural baseband signal, but do not include services which enhance the main program broadcast service or exclusively relate to station operations (see §73.665(a), (b), and (c)). Subsidiary communications include, but are not limited to, services such as functional music, specialized foreign language programs, radio reading services, utility load management, market and financial data and news, paging and calling, traffic control signal switching, and point-to-point or multipoint messages.

(b) TV subsidiary communications services that are common carrier or private radio in nature are subject to common carrier or private radio regulation. Licensees operating such services are required to apply to the FCC for the appropriate authorization and to comply with all policies and rules

applicable to the service. Responsibility for making the initial determinations of whether a particular activity requires separate authority rests with the TV station licensee or permittee. Initial determinations by licensees or permittees are subject to FCC examination and may be reviewed at the FCC's discretion.

(c) Subsidiary communications services are of a secondary nature under the authority of the TV station authorization, and the authority to provide such communications services may not be retained or transferred in any manner separate from the station's authorization. The grant or renewal of a TV station permit or license is not furthered or promoted by proposed or past subsidiary communications services. The permittee or licensee must establish that the broadcast operation is in the public interest wholly apart from the subsidiary communications services provided.

(d) The station identification, delayed recording, and sponsor identification announcement required by §§ 73.1201, 73.1208, and 73.1212 are not applicable to leased communications services transmitted via services that are not of a general broadcast nature.

(e) The licensee or permittee must retain control over all material transmitted in a broadcast mode via the station's facilities, with the right to reject any material that it deems inappropriate or undesirable.

[49 FR 18105, Apr. 27, 1984, as amended at 49 FR 27147, July 2, 1984; 56 FR 49707, Oct. 1, 1991]

§ 73.669 TV stereophonic aural and multiplex subcarrier operation.

(a) A TV broadcast station may without specific authority from the FCC, transmit multichannel aural programs upon installation of multichannel sound equipment. Prior to commencement of multichannel broadcasting, the equipment shall be measured in accordance with § 73.1690(e).

(b) Multiplex subcarriers may be used by a TV station pursuant to the provisions of § 73.665 and may be transmitted on a secondary, non-interference basis to broadcast programming without specific authority from the FCC. Transmissions must be conducted in accordance with the technical standards given in § 73.682(c).

(c) In all arrangements entered into with outside parties affecting non-common carrier subcarrier operation, the licensee or permittee must retain control over all material transmitted over the station's facilities, with the right to reject any material which is deemed inappropriate or undesirable. Subchannel leasing arrangements must be kept in writing at the station and made available to the FCC upon request.

[49 FR 18106, Apr. 27, 1984]

§ 73.670 Commercial limits in children's programs.

(a) 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.

(b) The display of Internet Web site addresses during program material or promotional material not counted as commercial time is permitted only if the Web site:

(1) Offers a substantial amount of bona fide program-related or other noncommercial content;

(2) Is not primarily intended for commercial purposes, including either e-commerce or advertising;

(3) The Web site's home page and other menu pages are clearly labeled to distinguish the noncommercial from the commercial sections; and

(4) The page of the Web site to which viewers are directed by the Web site address is not used for e-commerce, advertising, or other commercial purposes (e.g., contains no links labeled ''store'' and no links to another page with commercial material).

(c) If an Internet address for a Web site that does not meet the test in paragraph (b) of this section is displayed during a promotion in a children's program, in addition to counting against the commercial time limits in paragraph (a) of this section the promotion must be clearly separated from program material.

(d)(1) Entities subject to commercial time limits under the Children's Television Act shall not display a Web site

address during or adjacent to a program if, at that time, on pages that are primarily devoted to free noncommercial content regarding that specific program or a character appearing in that program:

(i) Products are sold that feature a character appearing in that program; or

(ii) A character appearing in that program is used to actively sell products.

(2) The requirements of this paragraph do not apply to:

(i) Third-party sites linked from the companies' Web pages;

(ii) On-air third-party advertisements with Web site references to third-party Web sites; or

(iii) Pages that are primarily devoted to multiple characters from multiple programs.

NOTE 1: *Commercial matter* means air time sold for purposes of selling a product or service and promotions of television programs or video programming services other than children's or other age-appropriate programming appearing on the same channel or promotions for children's educational and informational programming on any channel.

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.

[70 FR 36, Jan. 3, 2005, as amended at 71 FR 64164, Nov. 1, 2006]

§ 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 program is identified as specifically designed to educate and inform children by the display on the television screen throughout the program of the symbol E/I;

(6) 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(e)(11)(iii); and

(7) 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.

(d) Until analog channels are returned to the Commission, the Commission will apply the following processing guideline to analog stations in assessing whether a television broadcast licensee has complied with the Children's Television Act of 1990 (''CTA'') on its analog channel. A licensee that has aired at least three hours per week of Core Programming (as defined in paragraph (c) of this section and as averaged over a six month period) will be deemed to have satisfied its obligation to air such programming and shall have the CTA portion of its license renewal application approved by the Commission staff. A licensee

will also be deemed to have satisfied this obligation and be eligible for such staff approval if the licensee demonstrates that it has aired a package of different types of educational and informational programming that, while containing somewhat less than three hours per week of Core Programming, demonstrates a level of commitment to educating and informing children that is at least equivalent to airing three hours per week of Core Programming. In this regard, specials, PSAs, short-form programs, and regularly scheduled non-weekly programs with a significant purpose of educating and informing children can count toward the three hour per week processing guideline. Licensees that do not meet these processing guidelines will be referred to the Commission, where they will have full opportunity to demonstrate compliance with the CTA (e.g., by relying in part on sponsorship of Core educational/informational programs on other stations in the market that increases the amount of Core educational and informational programming on the station airing the sponsored program and/or on special nonbroadcast efforts which enhance the value of children's educational and informational television programming).

(e) The Commission will apply the following processing guideline to digital stations in assessing whether a television broadcast licensee has complied with the Children's Television Act of 1990 (''CTA'') on its digital channel(s).

(1) A digital television licensee providing only one stream of free digital video programming will be subject to the 3 hour/week Core Programming processing guideline discussed in paragraph (d) of this section on that channel; *i.e.,* a licensee that has aired at least three hours per week of Core Programming (as defined in paragraph (c) of this section and as averaged over a six month period) on its main program stream will be deemed to have satisfied its obligation to air such programming and shall have the CTA portion of its license renewal application approved by the Commission staff. A licensee will also be deemed to have satisfied this obligation and be eligible for such staff approval if the licensee demonstrates that it has aired a package of different types of educational and informational programming that, while containing somewhat less than three hours per week of Core Programming, demonstrates a level of commitment to educating and informing children that is at least equivalent to airing three hours per week of Core Programming. In this regard, specials, PSAs, short-form programs, and regularly scheduled non-weekly programs with a significant purpose of educating and informing children can count toward the three hour per week processing guideline. Licensees that do not meet these processing guidelines will be referred to the Commission, where they will have full opportunity to demonstrate compliance with the CTA (e.g., by relying in part on sponsorship of Core educational/informational programs on other stations in the market that increases the amount of Core educational and informational programming on the station airing the sponsored program and/or on special nonbroadcast efforts which enhance the value of children's educational and informational television programming).

(2)(i) A digital television licensee providing streams of free digital video programming in addition to its main program stream will be subject to the processing guideline described in paragraph (e)(1) of this section on its main program stream and to the following guideline applied to the additional programming: ½ hour per week of additional Core Programming (as defined in paragraph (c) of this section and as averaged over a six month period) for every increment of 1 to 28 hours of free video programming provided in addition to the main program stream. Thus, digital broadcasters providing between 1 and 28 hours per week of free video programming in addition to their main program stream will have a guideline of ½ hour per week of core programming in addition to the 3 hours per week on the main program stream. Digital broadcasters providing between 29 and 56 hours per week of free video programming in addition to their main program stream will have a guideline of 1 hour per week of core programming in addition to the 3 hours per week on the main program stream. Digital broadcasters providing between

57 and 84 hours per week of free video programming in addition to their main program stream will have a guideline of 1½ hours per week of core programming in addition to the 3 hours per week on the main program stream. The guideline will continue to increase in this manner for additional hours of free video programming.

(ii) Broadcasters providing more than one stream of free digital video programming may air all of their additional core programming, apart from the 3 hours of core programming that must be aired on the main program stream, on one free video channel, or distribute it across multiple free video channels, at their discretion, as long as the stream on which the core programming is aired has comparable MVPD carriage as the stream whose programming generates the core programming obligation under the processing guideline described in paragraph (e)(2)(i) of this section.

(3) For purposes of the guideline described in paragraph (e)(2) of this section, at least 50 percent of the core programming counted toward meeting the additional programming guideline cannot consist of program episodes that had already aired within the previous seven days on either the station's main program stream or on another of the station's free digital program streams. This requirement does not apply to any program stream that merely time shifts the entire programming line-up of another program stream and, during the digital transition, to core programs aired on both the analog station and a digital program stream.

NOTE 1 TO §73.671: For purposes of determining under this section whether programming has a significant purpose of serving the educational and informational needs of children, the Commission will ordinarily rely on the good faith judgments of the licensee. Commission review of compliance with that element of the definition will be done only as a last resort.

[56 FR 19616, Apr. 29, 1991. Redesignated at 56 FR 28825, June 25, 1991, as amended at 61 FR 43997, Aug. 27, 1996; 70 FR 37, Jan. 3, 2005; 71 FR 64165, Nov. 1, 2006]

§73.672 [Reserved]

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

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.

[70 FR 9877, Mar. 1, 2005]

§73.674 Digital television transition notices by broadcasters.

(a) Each full-power commercial and noncommercial educational television broadcast station licensee or permittee must air an educational campaign about the transition from analog broadcasting to digital television (DTV). For each such commercial station, a licensee or permittee must elect by March 27, 2008, to comply with either paragraph (c) or (d) of this section. For each such noncommercial station, a licensee or permittee must elect, by March 27, 2008, to comply with paragraph (c), (d), or (e) of this section. A licensee or permittee must note their election via the filing of Form 388 as required by §§73.3526 and 73.3527.

(b) The following requirements apply to paragraphs (c), (d), and (e) of this section:

(1) The station must comply with the requirements of the paragraph it elects with respect to its analog channel and its primary digital stream.

(2) Any Public Service Announcement aired to comply with these requirements must be closed-captioned, notwithstanding §79.1(d)(6) of this chapter.

(3) The campaign must begin no later than March 27, 2008, and continue at least through the station's termination of analog service, not later than June 12, 2009, except for stations subject to the provisions of paragraph (b)(4) of this section.

(4) Any station that has filed a request for an extension of the deadline for construction of its full, authorized

post-transition digital facility, including a request for phased transition pursuant to the Third DTV Periodic Report and Order in MB Docket 07–91, or is operating under such an extension, must continue its DTV consumer education campaign until the station completes construction of its full, authorized post-transition digital facility. After the station terminates analog service, it must continue to comply with the requirements of the Consumer Education Campaign Option that it has elected, except that the content of all on-air education must be revised to provide information about the station's limited digital service area and the anticipated date for it to complete construction and commence operation of its full, authorized post-transition digital facility.

(5) *Service loss notices*—Beginning April 1, 2009, if the FCC's Signal Loss Report, available on *http://www.dtv.gov*, predicts that 2 percent or more of the population in a station's Grade B analog service contour will not receive the station's digital signal, the station must air service loss notices, as provided in this paragraph.

(i) Service loss notices may be no fewer than 30 seconds long, and must be aired at least once per day, between 8 a.m. and 11:35 p.m. At least three service loss notices per week must air between 8 p.m. and 11 p.m. in the Atlantic, Eastern and Pacific time zones, and between 7 p.m. and 10 p.m. in the Mountain, Central, and Alaskan time zones.

(ii) Service loss notices are in addition to the other obligations imposed by this section.

(iii) The service loss notices must include the FCC's Call Center number, 1–888–CALL–FCC, the FCC's TTY number, 1–888–TELL–FCC, and the Web site address for the FCC's online digital reception mapping tool, *http://www.DTV.gov/maps*.

(iv) The station must post service loss information on its Web site home page, including a link to the relevant coverage change maps on *http://www.DTV.gov* and the FCC's online digital reception mapping tool, *http://www.DTV.gov/maps*. This information must remain available on the station's Web site home page for at least 30 days after the station terminates its analog service, notwithstanding the termination of other consumer education requirements.

(v) The loss areas disclosed in the service loss notices must be based on the FCC's Signal Loss Report.

(vi) Service loss notices must disclose that some current viewers of the station's analog signal are predicted to experience a loss of service and describe the discrete geographic areas where there is likely to be a service loss.

(vii) If any predicted service loss is attributable to a change in the station's frequency from VHF to UHF, and the predicted losses cannot entirely be described with respect to discrete geographic areas, the station must, at a minimum, disclose that some analog viewers located in areas obstructed by hills or buildings are predicted to be unable to receive the station's digital signal. This is in addition to, and not in lieu of, descriptions of any discrete geographic areas where there is likely to be a service loss.

(6) *Antenna information notices*—Beginning April 1, 2009, all stations must include information about the use of antennas as part of their consumer education campaign, as provided in this paragraph.

(i) The antenna information notices should provide information about the types of antennas that their viewers may need, and how to install them.

(ii) Stations that have changed or are changing the frequency band in which they broadcast must inform their viewers of the change in frequencies and explain how the change affects the antenna they need to receive their signal.

(iii) Stations that are predicted by the FCC's Signal Loss Report to have any loss of viewers should consider whether their viewers can improve their ability to receive their signal by obtaining a different or better antenna, and if so, provide information concerning such antennas.

(iv) Antenna information notices must be no fewer than 15 seconds long, and must be aired at least once per day, between 8 a.m. and 11:35 p.m. At least three antenna information notices per week must air between 8 p.m. and 11 p.m. in the Atlantic, Eastern

and Pacific time zones, and between 7 p.m. and 10 p.m. in the Mountain, Central, and Alaskan time zones.

(v) Antenna information notices may be included as part of a station's DTV Consumer Education Initiative efforts, or may be discussed for at least 15 seconds during news programs, or broadcast in other ways that the station determines will be most helpful to consumers.

(vi) Notwithstanding the content requirements of paragraph (c) of this section, a licensee or permittee electing compliance with paragraph (c) of this section may replace up to 25 percent of their daily PSAs and crawls with antenna notices.

(7) *Rescanning notices*—Beginning April 1, 2009, all stations must include information in their consumer education campaigns to inform and remind viewers about the importance of periodically using the rescan function of their digital televisions and digital converter boxes, as provided in this paragraph.

(i) Rescanning notices should explain why rescanning is important in general and, in particular, if the station is changing channels or signal direction.

(ii) Rescanning notices must be no fewer than 15 seconds long, and must be aired at least once per day, between 8 a.m. and 11:35 p.m. At least three rescanning notices per week must air between 8 p.m. and 11 p.m. in the Atlantic, Eastern and Pacific time zones, and between 7 p.m. and 10 p.m. in the Mountain, Central, and Alaskan time zones.

(iii) Rescanning notices may be included as part of a station's DTV Consumer Education Initiative efforts, or may be discussed for at least 15 seconds during news programs, or broadcast in other ways that the station determines will be most helpful to consumers.

(iv) Notwithstanding the content requirements of paragraph (c) of this section, a licensee or permittee electing compliance with paragraph (c) of this section may replace up to 25 percent of their daily PSAs and crawls with rescanning notices.

(8) *Help center notices*—Beginning April 1, 2009, as part of its DTV consumer education campaign, every station must air notices providing the location and operating hours of walk-in DTV help centers in the station's market area; the FCC Call Center telephone number and TTY number; and the station's telephone number for receiving consumer referrals and calls from local viewers, as provided in this paragraph.

(i) Help center notices must be no fewer than 15 seconds long, and must be aired at least once per day, between 8 a.m. and 11:35 p.m. At least three help center notices per week must air between 8 p.m. and 11 p.m. in the Atlantic, Eastern and Pacific time zones, and between 7 p.m. and 10 p.m. in the Mountain, Central, and Alaskan time zones.

(ii) Help center notices may be included as part of a station's DTV Consumer Education Initiative efforts, or may be discussed for at least 15 seconds during news programs, or broadcast in other ways that the station determines will be most helpful to consumers.

(iii) Notwithstanding the content requirements of paragraph (c) of this section, a licensee or permittee electing compliance with paragraph (c) of this section may replace up to 25 percent of its daily PSAs and crawls with help center notices.

(c) *Consumer Education Campaign Option One:*

(1) From March 27, 2008 through the station's termination of analog service or, for stations subject to the provisions of paragraph (b)(4) of this section, until the station completes construction of its full, authorized post-transition digital facility, a licensee or permittee must, at a minimum, air one transition-related public service announcement (PSA), and one transition-related informative text crawl, in every quarter of every broadcast day. This minimum will increase to two of each, per quarter, from April 1, 2008 through September 30, 2008, and to three of each, per quarter, from October 1, 2008 through the conclusion of the campaign. At least one PSA and one informative text crawl per day must be aired between 8 p.m. and 11 p.m. in the Atlantic, Eastern and Pacific time zones, and between 7 p.m. and 10 p.m. in the Mountain, Central, and Alaskan time zones.

(2) For the purposes of this section, each broadcast day consists of four quarters; 6:01 a.m. to 12 p.m., 12:01 p.m. to 6 p.m., 6:01 p.m. to 12 a.m., and 12:01 a.m. to 6 a.m.

(3) Informative text crawls must:

(i) Air during programming;

(ii) Air for no fewer than 60 consecutive seconds;

(iii) Be displayed so that the text travels across the bottom or top of the viewing area at the same speed used for other informative text crawls concerning news, sports, and entertainment information;

(iv) Be presented in the same language as a majority of the programming carried by the station;

(v) Be displayed so that they do not block and are not blocked by closed-captioning or emergency information; and

(vi) Contain at least the following information, but may contain more, provided they contain no misleading or inaccurate statements:

(A) The nationwide switch to digital television broadcasting will be complete on June 12, 2009, but your local television stations may switch sooner. After the switch, analog-only television sets that receive TV programming through an antenna will need a converter box to continue to receive over-the-air TV. Watch your local stations to find out when they will turn off their analog signal and switch to digital-only broadcasting. Analog-only TVs should continue to work as before to receive low power, Class A or translator television stations and with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products.

(B) More information is available by phone and online, and provide appropriate contact information, including means of contacting the station or the network.

(4) Public service announcements must have a duration of no fewer than 15 consecutive seconds, and contain, at a minimum, the information described in paragraph (c)(3)(vi) of this section. They must also address the following topics at least once each during every calendar week:

(i) The steps necessary for an over-the-air viewer or a subscriber to a multichannel video programming distributor to continue viewing the station after the transition;

(ii) The channel on which the station can be viewed after the transition;

(iii) Whether the station will be providing multiple streams of free video programming during or after the transition;

(iv) Whether the station will be providing a High Definition signal during or after the transition;

(v) The exact date and time that the station will cease analog broadcasting; and

(vi) The exact date and time that the station will begin digital broadcasting on its post-transition channel, if it has not already done so.

(d) *Consumer Education Campaign Option Two:*

(1) A licensee or permittee must, at a minimum, air an average of sixteen (16) transition-related PSAs per week, and an average of sixteen (16) transition-related crawls, snipes, and/or tickers per week, over a calendar quarter.

(2) For the purposes of calculating the average number of PSAs aired, a 30-second PSA qualifies as a single PSA, and two 15-second PSAs count as a single PSA.

(3) PSAs, crawls, snipes, and/or tickers aired between the hours of 1 a.m. and 5 a.m. do not conform to the requirements of this section and will not count toward calculating the average number of transition-related education pieces aired.

(4) Over the course of each calendar quarter, 25 percent of all PSAs, and 25 percent of all crawls, snipes, and/or tickers, must air between 6 p.m. and 11:35 p.m. (Atlantic, Eastern and Pacific time zones) or between 5 p.m. and 10:35 p.m. (Mountain, Central, and Alaskan time zones).

(5) Stations must air a 30-minute informational program on the digital television (DTV) transition between 8 a.m.–11:35 p.m. on at least one day after April 1, 2009, and prior to the station's termination of analog service. The program must contain at least the following information:

(i) The fact that Congress has changed the deadline for the national DTV transition to June 12, 2009;

(ii) The date and approximate time of day when the station airing the informational video is terminating analog service;

(iii) The date and approximate time of day when all other full-power stations in the same market are terminating analog service;

(iv) For stations covered by paragraph (b)(5) of this section, the same service loss information required by paragraph (b)(5) of this section.

(6) Beginning on April 1, 2009, or sixty (60) days prior to the station's termination of analog service, whichever is later, the station must begin a 60-Day Countdown to its transition to digital-only service. During this period, the station must air at least one of the following per day:

(i) *Graphic display*. A graphic superimposed during programming content that reminds viewers graphically there are ''x number of days'' until the transition. They will be visually instructed to call a toll-free number and/or visit a Web site for details. The duration must be at least five (5) seconds.

(ii) *Animated graphic*. A moving or animated graphic that ends up as a countdown reminder. It would remind viewers that there are ''x number of days'' until the transition. They will be visually instructed to call a toll-free number and/or visit a Web site for details. The duration must be at least five (5) seconds.

(iii) *Graphic and audio display*. Option #1 or option #2 with an added audio component. The duration must be at least five (5) seconds.

(iv) *Longer form reminders*. Stations can choose from a variety of longer form options to communicate the countdown message. Examples might include an ''Ask the Expert'' segment where viewers can call in to a phone bank and ask knowledgeable people their questions about the transition. The duration must be at least two (2) minutes. (Some stations may also choose to include during newscasts DTV ''experts'' who may be asked questions by the anchor or reporter about the impending transition deadline.)

(e) *Consumer Education Campaign Option Three:*

(1) Only a licensee or permittee of a noncommercial television station may elect this option. Under this option, from March 27, 2008, through April 30, 2008, a noncommercial broadcaster must, at a minimum, air 60 seconds per day of transition-related education (PSAs), in variable timeslots, including at least 7.5 minutes per month between 6 p.m. and 12 a.m. From May 1, 2008, through October 31, 2008, a broadcaster must, at a minimum, air 120 seconds per day of transition-related education (PSAs), in variable timeslots, including at least 15 minutes per month between 6 p.m. and 12 a.m. From November 1, 2008, through the station's termination of analog service, or, for stations subject to the provisions of paragraph (b)(4) of this section, until the station completes construction of its full, authorized post-transition digital facility, a broadcaster must, at a minimum, air 180 seconds per day of transition-related education (PSAs), in variable timeslots, including at least 22.5 minutes per month between 6 p.m. and 12 a.m.

(2) Noncommercial stations must air a 30-minute informational program on the digital television (DTV) transition between 8 a.m.–11:35 p.m. on at least one day after April 1, 2009, and prior to the station's termination of analog service. The program must contain at least the following information:

(i) The fact that Congress has changed the deadline for the national DTV transition to June 12, 2009;

(ii) The date and approximate time of day when the station airing the informational video is terminating analog service;

(iii) The date and approximate time of day when all other full-power stations in the same market are terminating analog service;

(iv) For stations covered by paragraph (b)(5) of this section, the same service loss information required by paragraph (b)(5) of this section.

[74 FR 11315, Mar. 17, 2009]

§ 73.681 Definitions.

Amplitude modulation (*AM*). A system of modulation in which the envelope of the transmitted wave contains a component similar to the wave form of the signal to be transmitted.

Antenna electrical beam tilt. The shaping of the radiation pattern in the

vertical plane of a transmitting antenna by electrical means so that maximum radiation occurs at an angle below the horizontal plane.

Antenna height above average terrain. The average of the antenna heights above the terrain from approximately 3.2 (2 miles) to 16.1 kilometers (10 miles) from the antenna for the eight directions spaced evenly for each 45 degrees of azimuth starting with True North. (In general, a different antenna height will be determined in each direction from the antenna. The average of these various heights is considered the antenna height above the average terrain. In some cases less than 8 directions may be used. See §73.684(d)). Where circular or elliptical polarization is employed, the antenna height above average terrain shall be based upon the height of the radiation center of the antenna which transmits the horizontal component of radiation.

Antenna mechanical beam tilt. The intentional installation of a transmitting antenna so that its axis is not vertical, in order to change the normal angle of maximum radiation in the vertical plane.

Antenna power gain. The square of the ratio of the root-mean-square free space field strength produced at 1 kilometer in the horizontal plane, in millivolts per meter for one kW antenna input power to 221.4 mV/m. This ratio should be expressed in decibels (dB). (If specified for a particular direction, antenna power gain is based on the field strength in that direction only.)

Aspect ratio. The ratio of picture width to picture height as transmitted.

Aural center frequency. (1) The average frequency of the emitted wave when modulated by a sinusoidal signal; (2) the frequency of the emitted wave without modulation.

Aural transmitter. The radio equipment for the transmission of the aural signal only.

Auxiliary facility. An auxiliary facility is an antenna separate a from the main facility's antenna, permanently installed on the same tower or at a different location, from which a 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).

BTSC. Broadcast Television systems committee recommendation for multichannel television sound transmission and audio processing as defined in FCC Bulletin OET 60.

Baseband. Aural transmitter input signals between 0 and 120 kHz.

Blanking level. The level of the signal during the blanking interval, except the interval during the scanning synchronizing pulse and the chrominance subcarrier synchronizing burst.

Chrominance. The colorimetric difference between any color and a reference color of equal luminance, the reference color having a specific chromaticity.

Chrominance subcarrier. The carrier which is modulated by the chrominance information.

Color transmission. The transmission of color television signals which can be reproduced with different values of hue, saturation, and luminance.

Effective radiated power. The product of the antenna input power and the antenna power gain. This product should be expressed in kW and in dB above 1 kW (dBk). (If specified for a particular direction, effective radiated power is based on the antenna power gain in that direction only. The licensed effective radiated power is based on the maximum antenna power gain. When a station is authorized to use a directional antenna or an antenna beam tilt, the direction of the maximum effective radiated power will be specified.) Where circular or elliptical polarization is employed, the term effective radiated power is applied separately to the horizontally and vertically polarized components of radiation. For assignment purposes, only the effective radiated power authorized for the horizontally polarized component will be considered.

Equivalent isotropically radiated power (EIRP). The term ''equivalent isotropically radiated power'' (also known as ''effective radiated power above isotropic'') means the product of

the antenna input power and the antenna gain in a given direction relative to an isotropic antenna.

Field. Scanning through the picture area once in the chosen scanning pattern. In the line interlaced scanning pattern of two to one, the scanning of the alternate lines of the picture area once.

Frame. Scanning all of the picture area once. In the line interlaced scanning pattern of two to one, a frame consists of two fields.

Free space field strength. The field strength that would exist at a point in the absence of waves reflected from the earth or other reflecting objects.

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

Frequency deviation. The peak difference between the instantaneous frequency of the modulated wave and the carrier frequency.

Frequency modulation (*FM*). A system of modulation where the instantaneous radio frequency varies in proportion to the instantaneous amplitude of the modulating signal (amplitude of modulating signal to be measured after preemphasis, if used) and the instantaneous radio frequency is independent of the frequency of the modulating signal.

Frequency swing. The peak difference between the maximum and the minimum values of the instantaneous frequency of the carrier wave during modulation.

Interlaced scanning. A scanning process in which successively scanned lines are spaced an integral number of line widths, and in which the adjacent lines are scanned during successive cycles of the field frequency.

IRE standard scale. A linear scale for measuring, in IRE units, the relative amplitudes of the components of a television signal from a zero reference at blanking level, with picture information falling in the positive, and synchronizing information in the negative domain.

NOTE: When a carrier is amplitude modulated by a television signal in accordance with §73.682, the relationship of the IRE standard scale to the conventional measure of modulation is as follows:

Level	IRE standard scale (units)	Modulation percentage
Zero carrier	120	0
Reference white	100	12.5
Blanking	0	75
Synchronizing peaks (maximum carrier level)	−40	100

Luminance. Luminous flux emitted, reflected, or transmitted per unit solid angle per unit projected area of the source.

Main channel. The band of frequencies from 50 to 15,000 Hertz which frequency modulate the main aural carrier.

Monochrome transmission. The transmission of television signals which can be reproduced in gradations of a single color only.

Multichannel Television Sound (MTS). Any system of aural transmission that utilizes aural baseband operation between 15 kHz and 120 kHz to convey information or that encodes digital information in the video portion of the television signal that is intended to be decoded as audio information.

Multiplex Transmission (*Aural*). A subchannel added to the regular aural carrier of a television broadcast station by means of frequency modulated subcarriers.

Negative transmission. Where a decrease in initial light intensity causes an increase in the transmitted power.

Peak power. The power over a radio frequency cycle corresponding in amplitude to synchronizing peaks.

Percentage modulation. As applied to frequency modulation, the ratio of the actual frequency deviation to the frequency deviation defined as 100% modulation expressed in percentage. For the aural transmitter of TV broadcast stations, a frequency deviation of ±25 kHz is defined as 100% modulation.

Pilot subcarrier. A subcarrier used in the reception of TV stereophonic aural or other subchannel broadcasts.

Polarization. The direction of the electric field as radiated from the transmitting antenna.

Program related data signal. A signal, consisting of a series of pulses representing data, which is transmitted simultaneously with and directly related to the accompanying television program.

Reference black level. The level corresponding to the specified maximum excursion of the luminance signal in the black direction.

Reference white level of the luminance signal. The level corresponding to the specified maximum excursion of the luminance signal in the white direction.

Scanning. The process of analyzing successively, according to a predetermined method, the light values of picture elements constituting the total picture area.

Scanning line. A single continuous narrow strip of the picture area containing highlights, shadows, and halftones, determined by the process of scanning.

Standard television signal. A signal which conforms to the television transmission standards.

Synchronization. The maintenance of one operation in step with another.

Television broadcast band. The frequencies in the band extending from 54 to 806 megahertz which are assignable to television broadcast stations. These frequencies are 54 to 72 megahertz (channels 2 through 4), 76 to 88 megahertz (channels 5 and 6), 174 to 216 megahertz (channels 7 through 13), and 470 to 806 megahertz (channels 14 through 69).

Television broadcast station. A station in the television broadcast band transmitting simultaneous visual and aural signals intended to be received by the general public.

Television channel. A band of frequencies 6 MHz wide in the television broadcast band and designated either by number or by the extreme lower and upper frequencies.

Television transmission standards. The standards which determine the characteristics of a television signal as radiated by a television broadcast station.

Television transmitter. The radio transmitter or transmitters for the transmission of both visual and aural signals.

Vestigial sideband transmission. A system of transmission wherein one of the generated sidebands is partially attenuated at the transmitter and radiated only in part.

Visual carrier frequency. The frequency of the carrier which is modulated by the picture information.

Visual transmitter. The radio equipment for the transmission of the visual signal only.

Visual transmitter power. The peak power output when transmitting a standard television signal.

[28 FR 13660, Dec. 14, 1963]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 73.681, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§ 73.682 TV transmission standards.

(a) *Transmission standards*. (1) The width of the television broadcast channel shall be 6 MHz.

(2) The visual carrier frequency shall be nominally 1.25 MHz above the lower boundary of the channel.

(3) The aural center frequency shall be 4.5 MHz higher than the visual carrier frequency.

(4) The visual transmission amplitude characteristic shall be in accordance with the chart designated as Figure 5 of § 73.699: *Provided, however*, That for stations operating on Channel 15 through 69 and employing a transmitter with maximum peak visual power output of 1 kW or less the visual transmission amplitude characteristic may be in accordance with the chart designated as Figure 5a of § 73.699.

(5) The chrominance subcarrier frequency is 63/88 times precisely 5 MHz (3.57954545 . . . MHz). The tolerance is ±10 Hz and the rate of frequency drift must not exceed 0.1 Hz per second (cycles per second squared).

(6) For monochrome and color transmissions the number of scanning lines per frame shall be 525, interlaced two to one in successive fields. The horizontal scanning frequency shall be 2/455 times the chrominance subcarrier frequency; this corresponds nominally to 15,750 Hz with an actual value of 15,734.264 ±0.044 Hz). The vertical scanning frequency is 2/525 times the horizontal scanning frequency; this corresponds nominally to 60 Hz (the actual value is 59.94 Hz). For monochrome transmissions only, the nominal values of line and field frequencies may be used.

(7) The aspect ratio of the transmitted television picture shall be 4 units horizontally to 3 units vertically.

(8) During active scanning intervals, the scene shall be scanned from left to right horizontally and from top to bottom vertically, at uniform velocities.

(9) A carrier shall be modulated within a single television channel for both picture and synchronizing signals. The two signals comprise different modulation ranges in amplitude in accordance with the following:

(i) Monochrome transmissions shall comply with synchronizing waveform specifications in Figure 7 of § 73.699.

(ii) Color transmissions shall comply with the synchronizing waveform specifications in Figure 6 of § 73.699.

(iii) All stations operating on Channels 2 through 14 and those stations operating on Channels 15 through 69 licensed for a peak visual transmitter output power greater than one kW shall comply with the picture transmission amplitude characteristics shown in Figure 5 of § 73.699.

(iv) Stations operating on Channels 15 through 69 licensed for a peak visual transmitter output power of one kW or less shall comply with the picture transmission amplitude characteristic shown in Figure 5 or 5a of § 73.699.

(10) A decrease in initial light intensity shall cause an increase in radiated power (negative transmission).

(11) The reference black level shall be represented by a definite carrier level, independent of light and shade in the picture.

(12) The blanking level shall be transmitted at 75±2.5 percent of the peak carrier level.

(13) The reference white level of the luminance signal shall be 12.5±2.5 percent of the peak carrier level.

(14) It shall be standard to employ horizontal polarization. However, circular or elliptical polarization may be employed if desired, in which case clockwise (right hand) rotation, as defined in the IEEE Standard Definition 42A65–3E2, and transmission of the horizontal and vertical components in time and space quadrature shall be used. For either omnidirectional or directional antennas the licensed effective radiated power of the vertically polarized component may not exceed the licensed effective radiated power of the horizontally polarized component. For directional antennas, the maximum effective radiated power of the vertically polarized component shall not exceed the maximum effective radiated power of the horizontally polarized component in any specified horizontal or vertical direction.

(15) The effective radiated power of the aural transmitter must not exceed 22% of the peak radiated power of the visual transmitter.

(16) The peak-to-peak variation of transmitter output within one frame of video signal due to all causes, including hum, noise, and low-frequency response, measured at both scanning synchronizing peak and blanking level, shall not exceed 5 percent of the average scanning synchronizing peak signal amplitude. This provision is subject to change but is considered the best practice under the present state of the art. It will not be enforced pending a further determination thereof.

(17) The reference black level shall be separated from the blanking level by the setup interval, which shall be 7.5±2.5 percent of the video range from blanking level to the reference white level.

(18) For monochrome transmission, the transmitter output shall vary in substantially inverse logarithmic relation to the brightness of the subject. No tolerances are set at this time. This provision is subject to change but is considered the best practice under the present state of the art. It will not be enforced pending a further determination thereof.

(19) The color picture signal shall correspond to a luminance component transmitted as amplitude modulation of the picture carrier and a simultaneous pair of chrominance components transmitted as the amplitude modulation sidebands of a pair of suppressed subcarriers in quadrature.

(20) Equation of complete color signal.

(i) The color picture signal has the following composition:

$$E_M = E_Y' + [E_Q' \sin(\omega t + 33°) + E_I' \cos(\omega t + 33°)]$$

Where:

$E_Q' = 0.41(E_B' - E_Y') + 0.48(E_R' - E_Y')$.

$E_I' = -0.27(E_B' - E_Y') + 0.74(E_R' - E_Y')$.

$E_Y' = 0.30E_R' + 0.59E_G' + 0.-1E_B'$.

For color-difference frequencies below 500 kHz (see (iii) below), the signal can be represented by:

$E_M = E_Y' + [(1/1.14)[(1/1.78)(E_B' - E_Y') \sin \omega t + (E_R' - E_Y') \cos \omega t]]$

(ii) The symbols in paragraph (a)(20)(i) of this section have the following significance:

E_M is the total video voltage, corresponding to the scanning of a particular picture element, applied to the modulator of the picture transmitter.

E_Y' is the gamma-corrected voltage of the monochrome (black-and-white) portion of the color picture signal, corresponding to the given picture element.

NOTE: Forming of the high frequency portion of the monochrome signal in a different manner is permissible and may in fact be desirable in order to improve the sharpness on saturated colors.

E_Q' and E_I' are the amplitudes of two orthogonal components of the chrominance signal corresponding respectively to narrow-band and wide-band axes.

E_R', E_G', and E_B' are the gamma-corrected voltages corresponding to red, green, and blue signals during the scanning of the given picture element.

ω is the angular frequency and is 2 times the frequency of the chrominance subcarrier.

The portion of each expression between brackets in (i) represents the chrominance subcarrier signal which carries the chrominance information.

The phase reference in the E_M equation in (i) is the phase of the burst + 180°, as shown in Figure 8 of §73.699. The burst corresponds to amplitude modulation of a continuous sine wave.

(iii) The equivalent bandwidth assigned prior to modulation to the color difference signals E_Q' and E_I' are as follows:

Q-channel bandwidth:
At 400 kHz less than 2 dB down.
At 500 kHz less than 6 dB down.
At 600 kHz at least 6 dB down.
I-channel bandwidth:
At 1.3 MHz less than 2 dB down.
At 3.6 MHz at least 20 dB down.

(iv) The gamma corrected voltages E_R', E_G', and E_B' are suitable for a color picture tube having primary colors with the following chromaticities in the CIE system of specification:

	x	*y*
Red (R)	0.67	0.33
Green (G)	0.21	0.71
Blue (B)	0.14	0.08

and having a transfer gradient (gamma exponent) of 2.2 associated with each primary color. The voltages E_R', E_G', and E_B' may be respectively of the form $E_R^{1/\gamma}$, $E_G^{1/\gamma}$, and $E_B^{1/\gamma}$ although other forms may be used with advances in the state of the art.

NOTE: At the present state of the art it is considered inadvisable to set a tolerance on the value of gamma and correspondingly this portion of the specification will not be enforced.

(v) The radiated chrominance subcarrier shall vanish on the reference white of the scene.

NOTE: The numerical values of the signal specification assume that this condition will be reproduced as CIE Illuminant C ($x = 0.310$, $y = 0.316$).

(vi) E_Y', E_Q', E_I', and the components of these signals shall match each other in time to 0.05 μsecs.

(vii) The angles of the subcarrier measured with respect to the burst phase, when reproducing saturated primaries and their complements at 75 percent of full amplitude, shall be within ±10° and their amplitudes shall be within ±20 percent of the values specified above. The ratios of the measured amplitudes of the subcarrier to the luminance signal for the same saturated primaries and their complements shall fall between the limits of 0.8 and 1.2 of the values specified for their ratios. Closer tolerances may prove to be practicable and desirable with advance in the art.

(21) The interval beginning with line 17 and continuing through line 20 of the vertical blanking interval of each field may be used for the transmission of test signals, cue and control signals, and identification signals, subject to the conditions and restrictions set forth below. Test signals may include signals designed to check the performance of the overall transmission system or its individual components. Cue and control signals shall be related to the operation of the TV broadcast station. Identification signals may be transmitted to identify the broadcast material or its source, and the date and time of its origination. Figures 6 and 7 of §73.699 identify the numbered lines referred to in this paragraph.

(i) Modulation of the television transmitter by such signals shall be confined to the area between the reference white level and the blanking level, except where test signals include chrominance subcarrier frequencies, in which case positive excursions of chrominance components may exceed reference white, and negative excursions may extend into the synchronizing area. In no case may the modulation excursions produced by test signals extend beyond peak-of-sync, or to zero carrier level.

(ii) The use of such signals shall not result in significant degradation of the program transmission of the television broadcast station, nor produce emission outside of the frequency band occupied for normal program transmissions.

(iii) Such signals may not be transmitted during that portion of each line devoted to horizontal blanking.

(iv) Regardless of other provisions of this paragraph, after June 30, 1994, Line 19, in each field, may be used only for the transmission of the ghost-canceling reference signal described in OET Bulletin No. 68, which is available from the FCC Warehouse, 9300 East Hampton Drive, Capitol Heights, MD 20743. Notwithstanding the modulation limits contained in paragraph (a)(23)(i) of this section, the vertical interval reference signal formerly permitted on Line 19 and described in Figure 16 of §73.699, may be transmitted on any of lines 10 through 16 without specific Commission authorization, subject to the conditions contained in paragraphs (a)(21)(ii) and (a)(22)(ii) of this section.

(22)(i) Line 21, in each field, may be used for the transmission of a program-related data signal which, when decoded, provides a visual depiction of information simultaneously being presented on the aural channel (captions). Line 21, field 2 may be used for transmission of a program-related data signal which, when decoded, identifies a rating level associated with the current program. Such data signals shall conform to the format described in figure 17 of §73.699 of this chapter, and may be transmitted during all periods of regular operation. On a space available basis, line 21 field 2 may also be used for text-mode data and extended data service information.

NOTE: The signals on Fields 1 and 2 shall be distinct data streams, for example, to supply captions in different languages or at different reading levels.

(ii) At times when Line 21 is not being used to transmit a program related data signal, data signals which are not program related may be transmitted, *Provided:* the same data format is used and the information to be displayed is of a broadcast nature.

(iii) The use of Line 21 for transmission of other data signals conforming to other formats may be used subject to prior authorization by the Commission.

(iv) The data signal shall cause no significant degradation to any portion of the visual signal nor produce emissions outside the authorized television channel.

(v) Transmission of visual emergency messages pursuant to §73.1250 shall take precedence and shall be cause for interrupting transmission of data signals permitted under this paragraph.

(23) Specific scanning lines in the vertical blanking interval may be used for the purpose of transmitting telecommunications signals in accordance with §73.646, subject to certain conditions:

(i) Telecommunications may be transmitted on Lines 10–18 and 20, all of Field 2 and Field 1. Modulation level shall not exceed 70 IRE on lines 10, 11, and 12; and, 80 IRE on lines 13–18 and 20.

(ii) No observable degradation may be caused to any portion of the visual or aural signals.

(iii) Telecommunications signals must not produce emissions outside the authorized television channel bandwidth. Digital data pulses must be shaped to limit spectral energy to the nominal video baseband.

(iv) Transmission of emergency visual messages pursuant to §73.1250 must take precedence over, and shall be cause for interrupting, a service such as teletext that provides a visual depiction of information simultaneously transmitted on the aural channel.

(v) A reference pulse for a decoder associated adaptive equalizer filter designed to improve the decoding of telecommunications signals may be inserted on any portion of the vertical blanking interval authorized for data service, in accordance with the signal levels set forth in paragraph (a)(23)(i) of this section.

(vi) All lines authorized for telecommunications transmissions may be used for other purposes upon prior approval by the Commission.

(24) Licensees and permittees of TV broadcast and low power TV stations may insert non-video data into the active video portion of their TV transmission, subject to certain conditions:

(i) The active video portion of the visual signal begins with line 22 and continues through the end of each field, except it does not include that portion of each line devoted to horizontal blanking. Figures 6 and 7 of §73.699 identify the numbered line referred to in this paragraph;

(ii) Inserted non-video data may be used for the purpose of transmitting a telecommunications service in accordance with §73.646. In addition to a telecommunications service, non-video data can be used to enhance the station's broadcast program service or for purposes related to station operations. Signals relating to the operation of TV stations include, but are not limited to program or source identification, relay of broadcast materials to other stations, remote cueing and order messages, and control and telemetry signals for the transmitting system; and

(iii) A station may only use systems for inserting non-video information that have been approved in advance by the Commission. The criteria for advance approval of systems are as follows:

(A) The use of such signals shall not result in significant degradation to any portion of the visual, aural, or program-related data signals of the television broadcast station;

(B) No increase in width of the television broadcast channel (6 MHz) is permitted. Emissions outside the authorized television channel must not exceed the limitations given in §73.687(e). Interference to reception of television service either of co-channel or adjacent channel stations must not increase over that resulting from the transmission of programming without inserted data; and

(C) Where required, system receiving or decoding devices must meet the TV interface device provisions of Part 15, Subpart H of this chapter.

(iv) No protection from interference of any kind will be afforded to reception of inserted non-video data.

(v) Upon request by an authorized representative of the Commission, the licensee of a TV station transmitting encoded programming must make available a receiving decoder to the Commission to carry out its regulatory responsibilities.

(b) *Subscription TV technical systems.* The FCC may specify, as part of the advance approval of the technical system for transmitting encoded subscription programming, deviations from the power determination procedures, operating power levels, aural or video baseband signals, modulation levels or other characteristics of the transmitted signal as otherwise specified in this Subpart. Any decision to approve such operating deviations shall be solely at the discretion of the FCC.

(c) TV multiplex subcarrier/stereophonic aural transmission standards.

(1) The modulating signal for the main channel shall consist of the sum of the stereophonic (biphonic, quadraphonic, etc.) input signals.

(2) The instantaneous frequency of the baseband stereophonic subcarrier must at all times be within the range 15 kHz to 120 kHz. Either amplitude or frequency modulation of the stereophonic subcarrier may be used.

(3) One or more pilot subcarriers between 16 kHz and 120 kHz may be used to switch a TV receiver between the stereophonic and monophonic reception modes or to activate a stereophonic audio indicator light, and one or more subcarriers between 15 kHz and 120 kHz may be used for any other authorized purpose; except that stations employing the BTSC system of stereophonic sound transmission and audio processing may transmit a pilot subcarrier at 15,734 Hz, ±2 Hz. Other methods of multiplex subcarrier or stereophonic aural transmission systems must limit energy at 15,734 Hz, ±20 Hz,

to no more than ±0.125 kHz aural carrier deviation.

(4) Aural baseband information above 120 kHz must be attenuated 40 dB referenced to 25 kHz main channel deviation of the aural carrier.

(5) For required transmitter performance, all of the requirements of §73.687(b) shall apply to the main channel, with the transmitter in the multiplex subcarrier or stereophonic aural mode.

(6) For electrical performance standards of the transmitter, the requirements of §73.687(b) apply to the main channel.

(7) Multiplex subcarrier or stereophonic aural transmission systems must be capable of producing and must not exceed ±25 kHz main channel deviation of the aural carrier.

(8) The arithmetic sum of non-multiphonic baseband signals between 15 kHz and 120 kHz must not exceed ±50 kHz deviation of the aural carrier.

(9) Total modulation of the aural carrier must not exceed ±75 kHz.

(d) *Digital broadcast television transmission standard.* Effective October 11, 2011 transmission of digital broadcast television (DTV) signals shall comply with the standards for such transmissions set forth in ATSC A/52: ''ATSC Standard Digital Audio Compression (AC–3)'', ATSC A/53, Parts 1–4 and 6: 2007 ''ATSC Digital Television Standard,'' (January 3, 2007), and ATSC A/53 Part 5:2010 ''ATSC Digital Television Standard: Part 5—AC–3 Audio System Characteristic,'' (July 6, 2010), except for section 6.1.2 (''Compression Format Constraints'') of A/53 Part 4: 2007 (''MPEG–2 Video Systems Characteristics'') and the phrase ''see Table 6.2'' in section 6.1.1 Table 6.1 and section 6.1.3 Table 6.3, and ATSC A/65C: ''ATSC Program and System Information Protocol for Terrestrial Broadcast and Cable, Revision C With Amendment No. 1 dated May 9, 2006,'' (January 2, 2006) (all standards incorporated by reference, see §73.8000). Although not incorporated by reference, licensees may also consult ATSC A/54A: ''Recommended Practice: Guide to Use of the ATSC Digital Television Standard, including Corrigendum No. 1,'' (December 4, 2003, Corrigendum No. 1 dated December 20, 2006, and ATSC A/69: ''Recommended Practice PSIP Implementation Guidelines for Broadcasters,'' (June 25, 2002) (Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303)). ATSC A/54A and ATSC A/69 are available from Advanced Television Systems Committee (ATSC), 1750 K Street, NW., Suite 1200, Washington, DC 20006, or at the ATSC Web site: *http://www.atsc.org/standards.html*.

(e) *Transmission of commercial advertisements by television broadcast station.* (1) *Mandatory compliance with ATSC A/85 RP.* Effective December 13, 2012, television broadcast stations must comply with the ATSC A/85 RP incorporated by reference, see §73.8000), insofar as it concerns the transmission of commercial advertisements.

(2) *Commercials inserted by station.* A television broadcast station that installs, utilizes, and maintains in a commercially reasonable manner the equipment and associated software to comply with ATSC A/85 RP shall be deemed in compliance with respect to locally inserted commercials, which for the purposes of this provision are commercial advertisements added to a programming stream by a station prior to or at the time of transmission to viewers. In order to be considered to have installed, utilized and maintained the equipment and associated software in a commercially reasonable manner, a television broadcast station must:

(i) Install, maintain and utilize equipment to properly measure the loudness of the content and to ensure that the dialnorm metadata value correctly matches the loudness of the content when encoding the audio into AC–3 for transmitting the content to the consumer;

(ii) Provide records showing the consistent and ongoing use of this equipment in the regular course of business and demonstrating that the equipment has undergone commercially reasonable periodic maintenance and testing to ensure its continued proper operation;

(iii) Certify that it either has no actual knowledge of a violation of the ATSC A/85 RP, or that any violation of which it has become aware has been corrected promptly upon becoming aware of such a violation; and

(iv) Certify that its own transmission equipment is not at fault for any pattern or trend of complaints.

(3) *Embedded commercials—safe harbor.* With respect to embedded commercials, which, for the purposes of this provision, are those commercial advertisements placed into the programming stream by a third party (*i.e.*, programmer) and passed through by the station to viewers, a television broadcast station must certify that its own transmission equipment is not at fault for any pattern or trend of complaints, and may demonstrate compliance with the ATSC A/85 RP through one of the following methods:

(i) Relying on a network's or other programmer's certification of compliance with the ATSC A/85 RP with respect to commercial programming, provided that:

(A) The certification is widely available by Web site or other means to any television broadcast station, cable operator, or multichannel video programming distributor that transmits that programming; and

(B) The television broadcast station has no reason to believe that the certification is false; and

(C) The television broadcast station performs a spot check, as defined in §73.682(e)(3)(iv)(A), (B), (D), and (E), on programming in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials contained in that programming.

(ii) If transmitting any programming that is not certified as described in §73.682(e)(3)(i), a television broadcast station that had more than $14,000,000 in annual receipts for the calendar year 2011 must perform annual spot checks, as defined in §73.682(e)(3)(iv)(A), (B), (C), and (E), of all the non-certified commercial programming it receives from a network or other programmer and perform a spot check, as defined in §73.682(e)(3)(iv)(A), (B), (D), and (E), on programming in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials contained in that programming;

(iii) A television broadcast station that had $14,000,000 or less in annual receipts for the year 2011 need not perform annual spot checks but must perform a spot check, as defined in §73.682(e)(3)(iv)(A), (B), (D), and (E), on programming in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials contained in that programming.

(iv) For purposes of this section, a ''spot check'' of embedded commercials requires monitoring 24 uninterrupted hours of programming with an audio loudness meter employing the measurement technique specified in the ATSC A/85 RP, and reviewing the records from that monitoring to detect any commercials transmitted in violation of the ATSC A/85 RP. The television broadcast station must not inform the network or programmer of the spot check prior to performing it.

(A) Spot-checking must be conducted after the signal has passed through the television broadcast station's processing equipment (e.g., at the output of a television receiver). If a problem is found, the television broadcast station must determine the source of the noncompliance.

(B) To be considered valid, the television broadcast station must demonstrate appropriate maintenance records for the audio loudness meter.

(C) With reference to the annual ''safe harbor'' spot check in §73.682(e)(3)(ii):

(*1*) To be considered valid, the television broadcast station must demonstrate, at the time of any enforcement inquiry, that appropriate spot checks had been ongoing.

(*2*) If there is no single 24 hour period in which all programmers of a given program stream are represented, an annual spot check may consist of a series of loudness measurements over the course of a 7 day period, totaling no fewer than 24 hours, that measure at least one program, in its entirety, provided by each non-certified programmer that supplies programming for that program stream.

(*3*) If annual spot checks are performed for two consecutive years without finding evidence of noncompliance with the ATSC A/85 RP, no further annual spot checks are required to remain in the safe harbor for existing programming.

(*4*) Non-certified program streams must be spot-checked annually using the approach described in this section. If annual spot checks of the program stream are performed for two consecutive years without finding evidence of noncompliance with the ATSC A/85 RP, no further annual spot checks are required to remain in the safe harbor for that program stream.

(*5*) Even after the two year period for annual spot checks, if a spot check shows noncompliance on a non-certified program stream, the station must once again perform annual spot checks of that program stream to be in the safe harbor for that programming. If these renewed annual spot checks are performed for two consecutive years without finding additional evidence of noncompliance with the ATSC A/85 RP, no further annual spot checks are required to remain in the safe harbor for that program stream.

(D) With reference to the spot checks in response to an enforcement inquiry pursuant to §73.682(e)(3)(i)(C), (2), or (*3*):

(*1*) If notified of a pattern or trend of complaints, the television broadcast station must perform the 24-hour spot check of the program stream at issue within 30 days or as otherwise specified by the Enforcement Bureau; and

(*2*) If the spot check reveals actual compliance, the television broadcast station must notify the Commission in its response to the enforcement inquiry.

(E) If any spot check shows noncompliance with the ATSC A/85 RP, the television station must notify the Commission and the network or programmer within 7 days, direct the programmer's attention to any relevant complaints, and must perform a follow-up spot check within 30 days of providing such notice. The station must notify the Commission and the network or programmer of the results of the follow-up spot check. Notice to the Federal Communications Commission must be provided to the Chief, Investigations and Hearings Division, Enforcement Bureau, or as otherwise directed in a Letter of Inquiry to which the station is responding.

(*1*) If the follow-up spot check shows compliance with the ATSC A/85 RP, the station remains in the safe harbor for that program stream.

(*2*) If the follow-up spot check shows noncompliance with the ATSC A/85 RP, the station will not be in the safe harbor with respect to commercials contained in the program stream for which the spot check showed noncompliance until a subsequent spot check shows that the program stream is in compliance.

(4) *Use of a real-time processor*. A television broadcast station that installs, maintains and utilizes a real-time processor in a commercially reasonable manner will be deemed in compliance with the ATSC A/85 RP with regard to any commercial advertisements on which it uses such a processor, so long as it also:

(i) Provides records showing the consistent and ongoing use of this equipment in the regular course of business and demonstrating that the equipment has undergone commercially reasonable periodic maintenance and testing to ensure its continued proper operation;

(ii) Certifies that it either has no actual knowledge of a violation of the ATSC A/85 RP, or that any violation of which it has become aware has been corrected promptly upon becoming aware of such a violation; and

(iii) Certifies that its own transmission equipment is not at fault for any pattern or trend of complaints.

(5) *Commercials locally inserted by a station's agent—safe harbor*. With respect to commercials locally inserted, which for the purposes of this provision are commercial advertisements added to a programming stream for the television broadcast station by a third party after it has been received from the programmer but prior to or at the time of transmission to viewers, a station may demonstrate compliance with the ATSC A/85 RP by relying on the third party local inserter's certification of compliance with the ATSC A/85 RP, provided that:

(i) The television broadcast station has no reason to believe that the certification is false;

(ii) The television broadcast station certifies that its own transmission equipment is not at fault for any pattern or trend of complaints; and

(iii) The television broadcast station performs a spot check, as defined in § 73.682(e)(3)(iv)(A), (B), (D), and (E), on the programming at issue in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials inserted by that third party.

(6) Instead of demonstrating compliance pursuant to paragraphs (e)(2) through (5) of this section, a station may demonstrate compliance with paragraph (e)(1) of this section in response to an enforcement inquiry prompted by a pattern or trend of complaints by demonstrating actual compliance with ATSC A/85 RP with regard to the commercial advertisements that are the subject of the inquiry, and certifying that its own transmission equipment is not at fault for any such pattern or trend of complaints.

NOTE TO § 73.682: For additional information regarding this requirement, *see* Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act, FCC 11–182.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[28 FR 13660, Dec. 14, 1963]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 73.682, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§ 73.683 Field strength contours and presumptive determination of field strength at individual locations.

(a) In the authorization of TV stations, two field strength contours are considered. These are specified as Grade A and Grade B and indicate the approximate extent of coverage over average terrain in the absence of interference from other television stations. Under actual conditions, the true coverage may vary greatly from these estimates because the terrain over any specific path is expected to be different from the average terrain on which the field strength charts were based. The required field strength, *F* (50,50), in dB above one micro-volt per meter (dBu) for the Grade A and Grade B contours are as follows:

	Grade A (dBu)	Grade B (dBu)
Channels 2–6	68	47
Channels 7–13	71	56
Channels 14–69	74	64

(b) It should be realized that the F (50,50) curves when used for Channels 14–69 are not based on measured data at distances beyond about 48.3 kilometers (30 miles). Theory would indicate that the field strengths for Channels 14–69 should decrease more rapidly with distance beyond the horizon than for Channels 2–6, and modification of the curves for Channels 14–69 may be expected as a result of measurements to be made at a later date. For these reasons, the curves should be used with appreciation of their limitations in estimating levels of field strength. Further, the actual extent of service will usually be less than indicated by these estimates due to interference from other stations. Because of these factors, the predicted field strength contours give no assurance of service to any specific percentage of receiver locations within the distances indicated. In licensing proceedings these variations will not be considered.

(c) The field strength contours will be considered for the following purposes only:

(1) In the estimation of coverage resulting from the selection of a particular transmitter site by an applicant for a TV station.

(2) In connection with problems of coverage arising out of application of § 73.3555.

(3) In determining compliance with § 73.685(a) concerning the minimum field strength to be provided over the principal community to be served.

(d) For purposes of determining the eligibility of individual households for satellite retransmission of distant network signals under the copyright law provisions of 17 U.S.C. 119(d)(10)(A), field strength shall be determined by the Individual Location Longley-Rice (ILLR) propagation prediction model. Such eligibility determinations shall consider only the signals of network stations located in the subscriber's Designated Market Area. Guidance for use of the ILLR model in predicting the field strength of analog television

signals for such determinations is provided in OET Bulletin No. 72 (stations operating with analog signals include some Class A stations licensed under part 73 of this chapter and some licensed low power TV and TV translator stations that operate under part 74 of this chapter). Guidance for use of the ILLR model in predicting the field strength of digital television signals for such determinations is provided in OET Bulletin No. 73 (stations operating with digital signals include all full service stations and some Class A stations that operate under part 73 of this chapter and some low power TV and TV translator stations that operate under Part 74 of this chapter). OET Bulletin No. 72 and OET Bulletin No. 73 are available at the FCC's Headquarters Building, 445 12th St., SW., Reference Information Center, Room CY–A257, Washington, DC, or at the FCC's Office of Engineering and Technology (OET) Web site: *http://www.fcc.gov/oet/info/documents/bulletins/*.

(e) If a location was predicted to be unserved by a local network station using a version of the ILLR model specified in OET Bulletin No. 72 or OET Bulletin No. 73, as appropriate, and the satellite subscriber at that location is receiving a distant signal affiliated with the same network from its satellite provider, the satellite subscriber shall remain eligible for receiving the distant signal from its satellite provider if that location is subsequently predicted to be served by the local station due to either a change in the ILLR model or a change in the station's operations that change its coverage.

(f) A satellite carrier is exempt from the verification requirements of 47 U.S.C. 339(c)(4)(A) with respect to a test requested by a satellite subscriber to whom the retransmission of the signals of local broadcast stations is available under 47 U.S.C. 338 from such carrier. The definitions of satellite carrier, subscriber, and local market contained in 47 CFR 76.66(a) apply to this paragraph (f).

[44 FR 36039, June 20, 1979, as amended at 47 FR 35990, Aug. 18, 1982; 50 FR 23699, June 5, 1985; 50 FR 32416, Aug. 12, 1985; 65 FR 36641, June 9, 2000; 70 FR 21670, Apr. 27, 2005; 75 FR 80363, Dec. 22, 2010]

§ 73.684 Prediction of coverage.

(a) All predictions of coverage made pursuant to this section shall be made without regard to interference and shall be made only on the basis of estimated field strengths. The peak power of the visual signal is used in making predictions of coverage.

(b) Predictions of coverage shall be made only for the same purposes as relate to the use of field strength contours as specified in § 73.683(c).

(c) In predicting the distance to the field strength contours, the F (50,50) field strength charts (Figures 9 and 10 of § 73.699) shall be used. If the 50% field strength is defined as that value exceeded for 50% of the time, these F (50,50) charts give the estimated 50% field strengths exceeded at 50% of the locations in dB above 1 uV/m. The charts are based on an effective power of 1 kW radiated form a half-wave dipole in free space, which produces an unattenuated field strength at 1.61 kilometers (1 mile) of about 103 dB above 1 uV/m. To use the charts to predict the distance to a given contour, the following procedure is used: Convert the effective radiated power in kilowatts for the appropriate azimuth into decibel value referenced to 1 kW (dBu). If necessary, convert the selected contour to the decibel value (dBu) above 1 microvolt per meter (1 uV/m). Subtract the power value in dBk from the contour value in dBu. Note that for power less than 1 kW, the difference value will be greater than the contour value because the power in dBk is negative. Locate the difference value obtained on the vertical scale at the left edge of the chart. Follow the horizontal line for that value into the chart to the point of intersection with the vertical line above the height of the antenna above average terrain for the appropriate azimuth located on the scale at the bottom of the chart. If the point of intersection does not fall exactly on a distance curve, interpolate between the distance curves below and above the intersection point. The distance values for the curves are located along the right edge of the chart.

(1) In predicting the distance to the Grade A and Grade B field strength contours, the effective radiated power to be used is that radiated at the

vertical angle corresponding to the depression angle between the transmitting antenna center of radiation and the radio horizon as determined individually for each azimuthal direction concerned. The depression angle is based on the difference in elevation of the antenna center of radiation above the average terrain and the radio horizon, assuming a smooth sperical earth with a radius of 8,495.5 kilometers (5,280 miles) and shall be determined by the following equation:

$$A = 0.0277\sqrt{H}$$

Where:

A is the depression angle in degrees.
H is the height in meters of the transmitting antenna radiation center above average terrain of the 3.2–16.1 kilometers (2–10 miles) sector of the pertinent radial.

This formula is empirically derived for the limited purpose specified here. Its use for any other purpose may be inappropriate.

(2) In case where the relative field strength at the depression angle determined by the above formula is 90% or more of the maximum field strength developed in the vertical plane containing the pertaining radial, the maximum radiation shall be used.

(3) In predicting field strengths for other than the Grade A and Grade B contours, the effective radiated power to be used is to be based on the appropriate antenna vertical plane radiation pattern for the azimuthal direction concerned.

(4) Applicants for new TV stations or changes in the facilities of existing TV stations must submit to the FCC a showing as to the location of their stations' or proposed stations' predicted Grade A and Grade B contours, determined in accordance with § 73.684. This showing is to include maps showing these contours, except where applicants have previously submitted material to the FCC containing such information and it is found upon careful examination that the contour locations indicated therein would not change, on any radial, when the locations are determined under this Section. In the latter cases, a statement by a qualified engineer to this effect will satisfy this requirement and no contour maps need be submitted.

(d) The antenna height to be used with these charts is the height of the radiation center of the antenna above the average terrain along the radial in question. In determining the average elevation of the terrain, the elevations between 3.2–16.1 kilometers (2–10 miles) from the antenna site are employed. Profile graphs shall be drawn for 8 radials beginning at the antenna site and extending 16.1 kilometers (10 miles) therefrom. The radials should be drawn for each 45 degrees of azimuth starting with the True North. At least one radial must include the principal community to be served even though such community may be more than 16.1 kilometers (10 miles) from the antenna site. However, in the event none of the evenly spaced radials include the principal community to be served and one or more such radials are drawn in addition to the 8 evenly spaced radials, such additional radials shall not be employed in computing the antenna height above average terrain. Where the 3.2–16.1 kilometers (2–10 mile) portion of a radial extends in whole or in part over large bodies of water as specified in paragraph (e) of this section or extends over foreign territory but the Grade B strength contour encompasses land area within the United States beyond the 16.1 kilometers (10 mile) portion of the radial, the entire 3.2–16.1 kilometers (2–10 mile) portion of the radial shall be included in the computation of antenna height above average terrian. However, where the Grade B contour does not so encompass United States land area and (1) the entire 3.2–16.1 kilometers (2–10 mile) portion of the radial extends over large bodies of water of foreign territory, such radial shall be completely omitted from the computation of antenna height above average terrain, and (2) where a part of the 3.2–16.1 kilometers (2–10 mile) portion of a radial extends over large bodies of water or over foreign territory, only that part of the radial extending from the 3.2 kilometer (2 mile) sector to the outermost portion of land area within the United States covered by the radial shall be employed in the computation of antenna height above average terrian. The profile graph for each radial should be plotted by contour intervals of from 12.2–30.5

meters (40–100 feet) and, where the data permits, at least 50 points of elevation (generally uniformly spaced) should be used for each radial. In instances of very rugged terrain where the use of contour intervals of 30.5 meters (100 feet) would result in several points in a short distance, 61.0–122.0 meter (200–400 foot) contour intervals may be used for such distances. On the other hand, where the terrain is uniform or gently sloping the smallest contour interval indicated on the topograhic may (see paragraph (g) of this section) should be used, although only relatively few points may be available. The profile graphs should indicate the topography accurately for each radial, and the graphs should be plotted with the distance in kilometers as the abscissa and the elevation in meters above mean sea level as the ordinate. The profile graphs should indicate the source of the topographical data employed. The graph should also show the elevation of the center of the radiating system. The graph may be plotted either on rectangular coordinate paper or on special paper which shows the curvature of the earth. It is not necessary to take the curvature of the earth into consideration in this procedure, as this factor is taken care of in the charts showing signal strengths. The average elevation of the 12.9 kilometer (8 miles) distance between 3.2–16.1 kilometers (2–10 miles) from the antenna site should then be determined from the profile graph for each radial. This may be obtained by averaging a large number of equally spaced points, by using a planimeter, or by obtaining the median elevation (that exceeded for 50% of the distance) in sectors and averaging those values.

NOTE: The Commission will, upon a proper showing by an existing station that the application of this rule will result in an unreasonable power reduction in relation to other stations in close proximity, consider requests for adjustment in power on the basis of a common average terrain figure for the stations in question as determined by the FCC.

(e) In instance where it is desired to determine the area in square kilometers within the Grade A and Grade B field strength contours, the area may be determined from the coverage map by planimeter or other approximate means; in computing such areas, exclued (1) areas beyond the borders of the United States, and (2) large bodies of water, such as ocean areas, gulfs sounds, bays, large lakes, etc., but not rivers.

(f) In cases where terrain in one or more directions from the antenna site departs widely from the average elevation of the 3.2 to 16.1 kilometers (2 to 10 mile) sector, the prediction method may indicate contour distances that are different from what may be expected in practice. For example, a mountain ridge may indicate the practical limit of service although the prediction method may indicate otherwise. In such case the prediction method should be followed, but a supplemental showing may be made concerning the contour distances as determined by other means. Such supplemental showing should describe the procedure employed and should include sample calculations. Maps of predicted coverage should include both the coverage as predicted by the regular method and as predicted by a supplemental method. When measurements of area are required, these should include the area obtained by the regular predicted method and the area obtained by the supplemental method. In directions where the terrain is such that negative antenna heights or heights below 30.5 meters (100 feet) for the 3.2 to 16.1 kilometers (2 to 10 mile) sector are obtained, an assumed height of 30.5 meters (100 feet) shall be used for the prediction of coverage. However, where the actual contour distances are critical factors, a supplemental showing of expected coverage must be included together with a description of the method employed in predicting such coverage. In special cases, the Commission may require additional information as to terrain and coverage.

(g) In the preparation of the profile graph previously described, and in determining the location and height above sea level of the antenna site, the elevation or contour intervals shall be taken from the United States Geological Survey Topographic Quadrangle Maps, United States Army Corps of Engineers' maps or Tennessee Valley Authority maps, whichever is the latest, for all areas for which such maps are

available. If such maps are not published for the area in question, the next best topographic information should be used. Topographic data may sometimes be obtained from State and Municipal agencies. Data from Sectional Aeronautical Charts (including bench marks) or railroad depot elevations and highway elevations from road maps may be used where no better information is available. In cases where limited topographic data is available, use may be made of an altimeter in a car driven along roads extending generally radially from the transmitter site. Ordinarily the Commission will not require the submission of topographical maps for areas beyond 24.1 kilometers (15 miles) from the antenna site, but the maps must include the principal community to be served. If it appears necessary, additional data may be requested. United States Geological Survey Topographic Quadrangle Maps may be obtained from the United States Geological Survey, Department of the Interior, Washington, DC 20240. Sectional Aeronautical Charts are available from the United States Coast and Geodetic Survey, Department of Commerce, Washington, DC 20235. In lieu of maps, the average terrain elevation may be computer generated, except in the cases of dispute, using elevations from a 30 second point or better topographic data file. The file must be identified and the data processed for intermediate points along each radial using linear interpolation techniques. The height above mean sea level of the antenna site must be obtained manually using appropriate topographic maps.

(h) The effect of terrain roughness on the predicted field strength of a signal at points distant from a television broadcast station is assumed to depend on the magnitude of a terrain roughness factor (Δ h) which, for a specific propagation path, is determined by the characteristics of a segment of the terrain profile for that path 40.2 kilometers (25 miles) in length, located between 9.7 and 49.9 kilometers (6 and 31 miles) from the transmitter. The terrain roughness factor has a value equal to the difference, in meters, between elevations exceeded by all points on the profile for 10 percent and 90 percent, respectively, of the length of the profile segment (see § 73.699, Fig. 10d).

(i) If the lowest field strength value of interest is initially predicted to occur over a particular propagation path at a distance which is less than 49.9 kilometers (31 miles) from the transmitter, the terrain profile segment used in the determination of the terrain roughness factor over that path shall be that included between points 9.7 kilometers (6 miles) from the transmitter and such lesser distance. No terrain roughness correction need be applied when all field strength values of interest are predicted to occur 9.7 kilometers (6 miles) or less from the transmitter.

(j) Profile segments prepared for terrain roughness factor determinations should be plotted in rectangular coordinates, with no less than 50 points evenly spaced within the segment, using data obtained from topographic maps, if available, with contour intervals of 15.2 meters (50 feet), or less.

(k) The field strength charts (§ 73.699, Figs. 9–10c) were developed assuming a terrain roughness factor of 50 meters, which is considered to be representative of average terrain in the United States. Where the roughness factor for a particular propagation path is found to depart appreciably from this value, a terrain roughness correction (ΔF) should be applied to field strength values along this path as predicted with the use of these charts. The magnitude and sign of this correction, for any value of Δh, may be determined from a chart included in § 73.699 as Figure 10e, with linear interpolation as necessary, for the frequency of the UHF signal under consideration.

(l) Alternatively, the terrain roughness correction may be computed using the following formula:

$$\Delta F = C - 0.03(\Delta h)(1 + f/300)$$

Where:

ΔF = terrain roughness correction in dB
C = a constant having a specific value for use with each set of field strength charts:
1.9 for TV Channels 2–6
2.5 for TV Channels 7–13
4.8 for TV Channels 14–69
Δh = terrain roughness factor in meters

f = frequency of signal in megahertz (MHz)

[28 FR 13660, Dec. 13, 1963, as amended at 40 FR 27683, July 1, 1975; 44 FR 36039, June 20, 1979; 48 FR 44807, Sept. 30, 1983; 50 FR 23699, June 5, 1985; 51 FR 26251, July 22, 1986; 52 FR 36879, Oct. 1, 1987]

EFFECTIVE DATE NOTE: At 42 FR 25736, May 19, 1977, in §73.684, paragraphs (k) and (l) were stayed indefinitely.

§ 73.685 Transmitter location and antenna system.

(a) The transmitter location shall be chosen so that, on the basis of the effective radiated power and antenna height above average terrain employed, the following minimum field strength in dB above one uV/m will be provided over the entire principal community to be served:

Channels 2–6	Channels 7–13	Channels 14–69
74 dBu	77 dBu	80 dBu

(b) Location of the antenna at a point of high elevation is necessary to reduce to a minimum the shadow effect on propagation due to hills and buildings which may reduce materially the strength of the station's signals. In general, the transmitting antenna of a station should be located at the most central point at the highest elevation available. To provide the best degree of service to an area, it is usually preferable to use a high antenna rather than a low antenna with increased transmitter power. The location should be so chosen that line-of-sight can be obtained from the antenna over the principal community to be served; in no event should there be a major obstruction in this path. The antenna must be constructed so that it is as clear as possible of surrounding buildings or objects that would cause shadow problems. It is recognized that topography, shape of the desired service area, and population distribution may make the choice of a transmitter location difficult. In such cases, consideration may be given to the use of a directional antenna system, although it is generally preferable to choose a site where a nondirectional antenna may be employed.

(c) In cases of questionable antenna locations it is desirable to conduct propagation tests to indicate the field strength expected in the principal community to be served and in other areas, particularly where severe shadow problems may be expected. In considering applications proposing the use of such locations, the Commission may require site tests to be made. Such tests should be made in accordance with the measurement procedure in §73.686, and full data thereon must be supplied to the Commission. Test transmitters should employ an antenna having a height as close as possible to the proposed antenna height, using a balloon or other support if necessary and feasible. Information concerning the authorization of site tests may be obtained from the Commission upon request.

(d) Present information is not sufficiently complete to establish ''blanket areas'' of television broadcast stations. A ''blanket area'' is that area adjacent to a transmitter in which the reception of other stations is subject to interference due to the strong signal from this station. The authorization of station construction in areas where blanketing is found to be excessive will be on the basis that the applicant will assume full responsibility for the adjustment of reasonable complaints arising from excessively strong signals of the applicant's station or take other corrective action.

(e) An antenna designed or altered to produce a noncircular radiation pattern in the horizontal plane is considered to be a directional antenna. Antennas purposely installed in such a manner as to result in the mechanical beam tilting of the major vertical radiation lobe are included in this category. Directional antennas may be employed for the purpose of improving service upon an appropriate showing of need. Stations operating on Channels 2–13 will not be permitted to employ a directional antenna having a ratio of maximum to minimum radiation in the horizontal plane in excess of 10 dB. Stations operating on Channels 14–69 with transmitters delivering a peak visual power output of more than 1 kW may employ directive transmitting antennas with a maximum to minimum radiation in the horizontal plane of not more than 15 dB. Stations operating on Channels 14–69 and employing transmitters delivering a peak visual power

output of 1 kW or less are not limited as to the ratio of maximum to minimum radiation.

(f) Applications proposing the use of directional antenna systems must be accompanied by the following:

(1) Complete description of the proposed antenna system, including the manufacturer and model number of the proposed directional antenna.

(2) Relative field horizontal plane pattern (horizontal polarization only) of the proposed directional antenna. A value of 1.0 should be used for the maximum radiation. The plot of the pattern should be oriented so that 0° corresponds to true North. Where mechanical beam tilt is intended, the amount of tilt in degrees of the antenna vertical axis and the orientation of the downward tilt with respect to true North must be specified, and the horizontal plane pattern must reflect the use of mechanical beam tilt.

(3) A tabulation of the relative field pattern required in paragraph (b)(2), of this section. The tabulation should use the same zero degree reference as the plotted pattern, and be tabulated at least every 10°. In addition, tabulated values of all maxima and minima, with their corresponding azimuths, should be submitted.

(4) Horizontal and vertical plane radiation patterns showing the effective radiated power, in dBk, for each direction. Sufficient vertical plane patterns must be included to indicate clearly the radiation characteristics of the antenna above and below the horizontal plane. In cases where the angles at which the maximum vertical radiation varies with azimuth, a separate vertical radiation pattern must be provided for each pertinent radial direction.

(5) All horizontal plane patterns must be plotted to the largest scale possible on unglazed letter-size polar coordinate paper (main engraving approximately 18 cm × 25 cm (7 inches × 10 inches)) using only scale divisions and subdivisions of 1, 2, 2.5 or 5 times 10-nth. All vertical plane patterns must be plotted on unglazed letter-size rectangular coordinate paper. Values of field strength on any pattern less than 10% of the maximum field strength plotted on that pattern must be shown on an enlarged scale.

(6) The horizontal and vertical plane patterns that are required are the patterns for the complete directional antenna system. In the case of a composite antenna composed of two or more individual antennas, this means that the patterns for the composite antenna, not the patterns for each of the individual antennas, must be submitted.

(g) Applications proposing the use of television broadcast antennas within 61.0 meters (200 feet) of other television broadcast antennas operating on a channel within 20 percent in frequency of the proposed channel, or proposing the use of television broadcast antennas on Channels 5 or 6 within 61.0 meters (200 feet) of FM broadcast antennas, must include a showing as to the expected effect, if any, of such proximate operation.

(h) Where the TV licensee or permittee proposes to mount its antenna on or near an AM tower, as defined in §1.30002, the TV licensee or permittee must comply with §1.30003 or §1.30002.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[28 FR 13660, Dec. 14, 1963, as amended at 35 FR 5693, Apr. 8, 1970; 40 FR 25461, June 16, 1975; 43 FR 53740, Nov. 17, 1978; 44 FR 22740, Apr. 17, 1979; 45 FR 26065, Apr. 17, 1980; 47 FR 35990, Aug. 18, 1982; 48 FR 21486, May 12, 1983; 50 FR 23701, June 5, 1985; 58 FR 44951, Aug. 25, 1993; 62 FR 51059, Sept. 30, 1997; 78 FR 66298, Nov. 5, 2013]

§73.686 Field strength measurements.

(a) Except as provided for in §73.612, television broadcast stations shall not be protected from any type of interference or propagation effect. Persons desiring to submit testimony, evidence or data to the Commission for the purpose of showing that the technical standards contained in this subpart do not properly reflect the levels of any given type of interference or propagation effect may do so only in appropriate rulemaking proceedings concerning the amendment of such technical standards. Persons making field strength measurements for formal submission to the Commission in rulemaking proceedings, or making such measurements upon the request of the

Commission, shall follow the procedure for making and reporting such measurements outlined in paragraph (b) of this section. In instances where a showing of the measured level of a signal prevailing over a specific community is appropriate, the procedure for making and reporting field strength measurements for this purpose is set forth in paragraph (c) of this section.

(b) *Collection of field strength data for propagation analysis*—(1) *Preparation for measurements.* (i) On large scale topographic maps, eight or more radials are drawn from the transmitter location to the maximum distance at which measurements are to be made, with the angles included between adjacent radials of approximately equal size. Radials should be oriented so as to traverse representative types of terrain. The specific number of radials and their orientation should be such as to accomplish this objective.

(ii) At a point exactly 16.1 kilometers (10 miles) from the transmitter, each radial is marked, and at greater distances at successive 3.2 kilometer (2 mile) intervals. Where measurements are to be conducted at UHF, or over extremely rugged terrain, shorter intervals may be employed, but all such intervals shall be of equal length. Accessible roads intersecting each radial as nearly as possible at each 3.2 kilometer (2 mile) marker are selected. These intersections are the points on the radial at which measurements are to be made, and are referred to subsequently as measuring locations. The elevation of each measuring location should approach the elevation at the corresponding 3.2 kilometer (2 mile) marker as nearly as possible.

(2) *Measurement procedure.* The field strength of the visual carrier shall be measured with a voltmeter capable of indicating accurately the peak amplitude of the synchronizing signal. All measurements shall be made utilizing a receiving antenna designed for reception of the horizontally polarized signal component, elevated 9.1 meters (30 feet) above the roadbed. At each measuring location, the following procedure shall be employed.

(i) The instrument calibration is checked.

(ii) The antenna is elevated to a height of 30 feet.

(iii) The receiving antenna is rotated to determine if the strongest signal is arriving from the direction of the transmitter.

(iv) The antenna is oriented so that the sector of its response pattern over which maximum gain is realized is in the direction of the transmitter.

(v) A mobile run of at least 30.5 meters (100 feet) is made, which is centered on the intersection of the radial and the road, and the measured field strength is continuously recorded on a chart recorder over the length of the run.

(vi) The actual measuring location is marked exactly on the topographic map, and a written record, keyed to the specific location, is made of all factors which may affect the recorded field, such as topography, height and types of vegetation, buildings, obstacles, weather, and other local features.

(vii) If, during the test conducted as described in paragraph (b)(2)(iii) of this section, the strongest signal is found to come from a direction other than from the transmitter, after the mobile run prescribed in paragraph (b)(2)(v) of this section is concluded, additional measurements shall be made in a ''cluster'' of at least five fixed points. At each such point, the field strengths with the antenna oriented toward the transmitter, and with the antenna oriented so as to receive the strongest field, are measured and recorded. Generally, all points should be within 61.0 meters (200 feet) of the center point of the mobile run.

(viii) If overhead obstacles preclude a mobile run of at leat 30.5 meters (100 feet), a ''cluster'' of five spot measurements may be made in lieu of this run. The first measurement in the cluster is identified. Generally, the locations for other measurements shall be within 61.0 meters (200 feet) of the location of the first.

(3) *Method of reporting measurements.* A report of measurements to the Commission shall be submitted in affidavit form, in triplicate, and should contain the following information:

(i) Tables of field strength measurements, which, for each measuring location, set forth the following data:

(A) Distance from the transmitting antenna.

(B) Ground elevation at measuring location.

(C) Date, time of day, and weather.

(D) Median field in dBu for 0 dBk, for mobile run or for cluster, as well as maximum and minimum measured field strengths.

(E) Notes describing each measuring location.

(ii) U.S. Geological Survey topographic maps, on which is shown the exact location at which each measurement was made. The original plots shall be made on maps of the largest available scale. Copies may be reduced in size for convenient submission to the Commission, but not to the extent that important detail is lost. The original maps shall be made available, if requested. If a large number of maps is involved, an index map should be submitted.

(iii) All information necessary to determine the pertinent characteristics of the transmitting installation, including frequency, geographical coordinates of antenna site, rated and actual power output of transmitter, measured transmission line loss, antenna power gain, height of antenna above ground, above mean sea level, and above average terrain. The effective radiated power should be computed, and horizontal and vertical plane patterns of the transmitting antenna should be submitted.

(iv) A list of calibrated equipment used in the field strength survey, which, for each instrument, specifies its manufacturer, type, serial number and rated accuracy, and the date of its most recent calibration by the manufacturer, or by a laboratory. Complete details of any instrument not of standard manufacture shall be submitted.

(v) A detailed description of the calibration of the measuring equipment, including field strength meters, measuring antenna, and connecting cable.

(vi) Terrain profiles in each direction in which measurements were made, drawn on curved earth paper for equivalent 4/3 earth radius, of the largest available scale.

(c) *Collection of field strength data to determine television service in specific communities*—(1) *Preparation for measurement.* (i) The population (P) of the community, and its suburbs, if any, is determined by reference to an appropriate source, e.g., the 1970 U.S. Census tables of population of cities and urbanized areas.

(ii) The number of locations at which measurements are to be made shall be at least 15, and shall be approximately equal to 0.1 (P) ½, if this product is a number greater than 15.

(iii) A rectangular grid, of such size and shape as to encompass the boundaries of the community is drawn on an accurate map of the community. The number of line intersections on the grid included within the boundaries of the community shall be at least equal to the required number of measuring locations. The position of each intersection on the community map determines the location at which a measurement shall be made.

(2) *Measurement procedure.* The field strength of the visual carrier shall be measured, with a voltmeter capable of indicating accurately the peak amplitude of the synchronizing signal. All measurements shall be made utilizing a receiving antenna designed for reception of the horizontally polarized signal component, elevated 9.1 meter (30 feet) above street level.

(i) Each measuring location shall be chosen as close as feasible to a point indicated on the map, as previously prepared, and at as nearly the same elevation as that point as possible.

(ii) At each measuring location, after equipment calibration and elevation of the antenna, a check is made to determine whether the strongest signal arrives from a direction other than from the transmitter.

(iii) At 20 percent or more of the measuring locations, mobile runs, as described in paragraph (b)(2) of this section shall be made, with no less than three such mobile runs in any case. The points at which mobile measurements are made shall be well separated. Spot measurements may be made at other measuring points.

(iv) Each actual measuring location is marked exactly on the map of the community, and suitably keyed. A written record shall be maintained, describing, for each location, factors which may affect the recorded field,

such as the approximate time of measurement, weather, topography, overhead wiring, heights and types of vegetation, buildings and other structures. The orientation, with respect to the measuring location shall be indicated of objects of such shape and size as to be capable of causing shadows or reflections. If the strongest signal received was found to arrive from a direction other than that of the transmitter, this fact shall be recorded.

(3) *Method of reporting measurements.* A report of measurements to the Commission shall be submitted in affidavit form, in triplicate, and should contain the following information:

(i) A map of the community showing each actual measuring location, specifically identifying the points at which mobile runs were made.

(ii) A table keyed to the above map, showing the field strength at each measuring point, reduced to dBu for the actual effective radiated power of the station. Weather, date, and time of each measurement shall be indicated.

(iii) Notes describing each measuring location.

(iv) A topographic map of the largest available scale on which are marked the community and the transmitter site of the station whose signals have been measured, which includes all areas on or near the direct path of signal propagation.

(v) Computations of the mean and standard deviation of all measured field strengths, or a graph on which the distribution of measured field strength values is plotted.

(vi) A list of calibrated equipment used for the measurements, which for each instrument, specifies its manufacturer, type, serial number and rated accuracy, and the date of its most recent calibration by the manufacturer, or by a laboratory. Complete details of any instrument not of standard manufacture shall be submitted.

(vii) A detailed description of the procedure employed in the calibration of the measuring equipment, including field strength meters measuring antenna, and connecting cable.

(d) *NTSC—Collection of field strength data to determine NTSC television signal intensity at an individual location—cluster measurements*—(1) *Preparation for measurements*—(i) *Testing antenna.* The test antenna shall be either a standard half-wave dipole tuned to the visual carrier frequency of the channel being measured or a gain antenna, provided its antenna factor for the channel(s) under test has been determined. Use the antenna factor supplied by the antenna manufacturer as determined on an antenna range.

(ii) *Testing locations.* At the location, choose a minimum of five locations as close as possible to the specific site where the site's receiving antenna is located. If there is no receiving antenna at the site, choose the minimum of five locations as close as possible to a reasonable and likely spot for the antenna. The locations shall be at least three meters apart, enough so that the testing is practical. If possible, the first testing point should be chosen as the center point of a square whose corners are the four other locations. Calculate the median of the five measurements (in units of dBu) and report it as the measurement result.

(iii) *Multiple signals.* If more than one signal is being measured (*i.e.*, signals from different transmitters), use the same locations to measure each signal.

(2) *Measurement procedure.* Measurements shall be made in accordance with good engineering practice and in accordance with this section of the Rules. At each measuring location, the following procedure shall be employed:

(i) *Testing equipment.* Measure the field strength of the visual carrier with a calibrated instrument with an i.f. bandwidth of at least 200 kHz, but no greater than one megahertz (1,000 kHz). Perform an on-site calibration of the instrument in accordance with the manufacturer's specifications. The instrument must accurately indicate the peak amplitude of the synchronizing signal. Take all measurements with a horizontally polarized antenna. Use a shielded transmission line between the testing antenna and the field strength meter. Match the antenna impedance to the transmission line at all frequencies measured, and, if using an unbalanced line, employ a suitable balun. Take account of the transmission line loss for each frequency being measured.

(ii) *Weather.* Do not take measurements in inclement weather or when

major weather fronts are moving through the measurement area.

(iii) *Antenna elevation.* When field strength is being measured for a one-story building, elevate the testing antenna to 6.1 meters (20 feet) above the ground. In situations where the field strength is being measured for a building taller than one-story, elevate the testing antenna 9.1 meters (30 feet) above the ground.

(iv) *Antenna orientation.* Orient the testing antenna in the direction which maximizes the value of field strength for the signal being measured. If more than one station's signal is being measured, orient the testing antenna separately for each station.

(3) Written record shall be made and shall include at least the following:

(i) A list of calibrated equipment used in the field strength survey, which for each instrument, specifies the manufacturer, type, serial number and rated accuracy, and the date of the most recent calibration by the manufacturer or by a laboratory. Include complete details of any instrument not of standard manufacture.

(ii) A detailed description of the calibration of the measuring equipment, including field strength meters, measuring antenna, and connecting cable.

(iii) For each spot at the measuring site, all factors which may affect the recorded field, such as topography, height and types of vegetation, buildings, obstacles, weather, and other local features.

(iv) A description of where the cluster measurements were made.

(v) Time and date of the measurements and signature of the person making the measurements.

(vi) For each channel being measured, a list of the measured value of field strength (in units of dBu and after adjustment for line loss and antenna factor) of the five readings made during the cluster measurement process, with the median value highlighted.

(e) *DTV—Collection of field strength data to determine digital television signal intensity at an individual location—cluster measurements*—(1) *Preparation for measurements*—(i) *Testing antenna.* The test antenna shall be either a standard half-wave dipole tuned to the center frequency of the channel being tested or a gain antenna provided its antenna factor for the channel(s) under test has been determined. Use the antenna factor supplied by the antenna manufacturer as determined on an antenna range.

(ii) *Testing locations*—At the test site, choose a minimum of five locations as close as possible to the specific site where the site's receiving antenna is located. If there is no receiving antenna at the site, choose a minimum of five locations as close as possible to a reasonable and likely spot for the antenna. The locations shall be at least three meters apart, enough so that the testing is practical. If possible, the first testing point should be chosen as the center point of a square whose corners are the four other locations. Calculate the median of the five measurements (in units of dBμ) and report it as the measurement.

(iii) *Multiple signals*—

(A) If more than one signal is being measured (*i.e.,* signals from different transmitters), use the same locations to measure each signal.

(B) For establishing eligibility of a satellite subscriber to receive distant network signals, only stations affiliated with the network in question that are located in the same Nielsen Designated Market Area (DMA) as the test site may be considered and tested.

(2) *Measurement procedure.* Measurements shall be made in accordance with good engineering practice and in accordance with this section of this chapter. At each measuring location, the following procedure shall be employed:

(i) *Testing equipment.* Perform an on-site calibration of the test instrument in accordance with the manufacturer's specifications. Tune a calibrated instrument to the center of the channel being tested. Measure the integrated average power over the full 6 megahertz bandwidth of the television signal. The intermediate frequency of the instrument should be set to 100 kilohertz unless the instrument is specifically designed by the manufacturer to use an alternative i.f. setting. The instrument must be capable of integrating over the selected i.f. for the 6 megahertz channel bandwidth. Take all

measurements with a horizontally polarized antenna. Use a shielded transmission line between the testing antenna and the field strength meter. Match the antenna impedance to the transmission line at all frequencies measured, and, if using an un-balanced line, employ a suitable balance. Take account of the transmission line loss for each frequency being measured.

(ii) *Weather.* Do not take measurements during periods of inclement weather, including, but not limited to, periods of heavy rainfall, snowfall accumulation, high windspeed, or any combination thereof.

(iii) *Antenna elevation.* When field strength is being measured for a one-story building, elevate the testing antenna to 6.1 meters (20 feet) above the ground. In situations where the field strength is being measured for a building taller than one-story, elevate the testing antenna 9.1 meters (30 feet) above the ground.

(iv) *Antenna orientation.* Orient the testing antenna in the direction which maximizes the value of field strength for the signal being measured. If more than one station's signal is being measured, orient the testing antenna separately for each station.

(3) Written record shall be made and shall include at least the following:

(i) A list of calibrated equipment used in the field strength survey, which for each instrument specifies the manufacturer, type, serial number and rated accuracy, and the date of the most recent calibration by the manufacturer or by a laboratory. Include complete details of any instrument not of standard manufacture.

(ii) A detailed description of the calibration of the measuring equipment, including field strength meters, measuring antenna, and connecting cable.

(iii) For each spot at the measuring site, all factors which may affect the recorded field, such as topography, height and types of vegetation, buildings, obstacles, weather, and other local features.

(iv) A description of where the cluster measurements were made.

(v) Time and date of the measurements and signature of the person making the measurements.

(vi) For each channel being measured, a list of the measured value of field strength (in units of dBμ after adjustment for line loss and antenna factor) of the five readings made during the cluster measurement process, with the median value highlighted.

[40 FR 27683, July 1, 1975, as amended at 50 FR 23701, June 5, 1985; 64 FR 7127, Feb. 12, 1999; 64 FR 73433, Dec. 30, 1999; 75 FR 81498, Dec. 28, 2010]

§ 73.687 Transmission system requirements.

(a) *Visual transmitter.* (1) The field strength or voltage of the lower sideband, as radiated or dissipated and measured as described in paragraph (a)(2) of this section, shall not be greater than −20 dB for a modulating frequency of 1.25 MHz or greater and in addition, for color, shall not be greater than −42 dB for a modulating frequency of 3.579545 MHz (the color subcarrier frequency). For both monochrome and color, the field strength or voltage of the upper sideband as radiated or dissipated and measured as described in paragraph (a)(2) of this section shall not be greater than −20 dB for a modulating frequency of 4.75 MHz or greater. For stations operating on Channels 15–69 and employing a transmitter delivering maximum peak visual power output of 1 kW or less, the field strength or voltage of the upper and lower sidebands, as radiated or dissipated and measured as described in paragraph (a)(2) of this section, shall depart from the visual amplitude characteristic (Figure 5a of § 73.699) by no more than the following amounts:

−2 dB at 0.5 MHz below visual carrier frequency;
−2 dB at 0.5 MHz above visual carrier frequency;
−2 dB at 1.25 MHz above visual carrier frequency;
−3 dB at 2.0 MHz above visual carrier frequency;
−6 dB at 3.0 MHz above visual carrier frequency;
−12 dB at 3.5 MHz above visual carrier frequency;
−8 dB at 3.58 MHz above visual carrier frequency (for color transmission only).

The field strength or voltage of the upper and lower sidebands, as radiated

or dissipated and measured as described in paragraph (a)(2) of this section, shall not exceed a level of −20 dB for a modulating frequency of 4.75 MHz or greater. If interference to the reception of other stations is caused by out-of-channel lower sideband emission, the technical requirements applicable to stations operating on Channels 2–13 shall be met.

(2) The attenuation characteristics of a visual transmitter shall be measured by application of a modulating signal to the transmitter input terminals in place of the normal composite television video signal. The signal applied shall be a composite signal composed of a synchronizing signal to establish peak output voltage plus a variable frequency sine wave voltage occupying the interval between synchronizing pulses. (The ''synchronizing signal'' referred to in this section means either a standard synchronizing wave form or any pulse that will properly set the peak.) The axis of the sine wave in the composite signal observed in the output monitor shall be maintained at an amplitude 0.5 of the voltage at synchronizing peaks. The amplitude of the sine wave input shall be held at a constant value. This constant value should be such that at no modulating frequency does the maximum excursion of the sine wave, observed in the composite output signal monitor, exceed the value 0.75 of peak output voltage. The amplitude of the 200 kHz sideband shall be measured and designated zero dB as a basis for comparison. The modulation signal frequency shall then be varied over the desired range and the field strength or signal voltage of the corresponding sidebands measured. As an alternate method of measuring, in those cases in which the automatic d-c insertion can be replaced by manual control, the above characteristic may be taken by the use of a video sweep generator and without the use of pedestal synchronizing pulses. The d-c level shall be set for midcharacteristic operation.

(3) A sine wave, introduced at those terminals of the transmitter which are normally fed the composite color picture signal, shall produce a radiated signal having an envelope delay, relative to the average envelope delay between 0.05 and 0.20 MHz, of zero microseconds up to a frequency of 3.0 MHz; and then linearly decreasing to 4.18 MHz so as to be equal to −0.17 μsecs at 3.58 MHz. The tolerance on the envelope delay shall be ±0.05 μsecs at 3.58 MHz. The tolerance shall increase linearly to ±0.1 μsec down to 2.1 MHz, and remain at ±0.1 μsec down to 0.2 MHz. (Tolerances for the interval of 0.0 to 0.2 MHz are not specified at the present time.) The tolerance shall also increase linearly to ±0.1 μsec at 4.18 MHz.

(4) The radio frequency signal, as radiated, shall have an envelope as would be produced by a modulating signal in conformity with §73.682 and Figure 6 or 7 of §73.699, as modified by vestigial sideband operation specified in Figure 5 of §73.699. For stations operating on Channels 15–69 the radio frequency signal as radiated, shall have an envelope as would be produced by a modulating signal in conformity with §73.682 and Figure 6 or 7 of §73.699.

(5) The time interval between the leading edges of successive horizontal pulses shall vary less than one half of one percent of the average interval. However, for color transmissions, §73.682(a) (5) and (6) shall be controlling.

(6) The rate of change of the frequency of recurrence of the leading edges of the horizontal synchronizing signals shall be not greater than 0.15 percent per second, the frequency to be determined by an averaging process carried out over a period of not less than 20, nor more than 100 lines, such lines not to include any portion of the blanking interval. However, for color transmissions, §73.682(a) (5) and (6) shall be controlling.

(b) *Aural transmitter*. (1) Pre-emphasis shall be employed as closely as practicable in accordance with the impedance-frequency characteristic of a series inductance-resistance network having a time constant of 75 microseconds. (See upper curve of Figure 12 §73.699.)

(2) If a limiting or compression amplifier is employed, precaution should be maintained in its connection in the circuit due to the use of pre-emphasis in the transmitting system.

(3) Aural modulation levels are specified in §73.1570.

(c) *Requirements applicable to both visual and aural transmitters.* (1) Automatic means shall be provided in the visual transmitter to maintain the carrier frequency within ±1 kHz of the authorized frequency; automatic means shall be provided in the aural transmitter to maintain the carrier frequency 4.5 MHz above the actual visual carrier frequency within ±1 kHz.

(2) The transmitters shall be equipped with suitable indicating instruments for the determination of operating power and with other instruments necessary for proper adjustment, operation, and maintenance of the equipment.

(3) Adequate provision shall be made for varying the output power of the transmitters to compensate for excessive variations in line voltage or for other factors affecting the output power.

(4) Adequate provisions shall be provided in all component parts to avoid overheating at the rated maximum output powers.

(d) The construction, installation, and operation of broadcast equipment is expected to conform with all applicable local, state, and federally imposed safety regulations and standards, enforcement of which is the responsibility of the issuing regulatory agency.

(e) *Operation.* (1) Spurious emissions, including radio frequency harmonics, shall be maintained at as low a level as the state of the art permits. As measured at the output terminals of the transmitter (including harmonic filters, if required) all emissions removed in frequency in excess of 3 MHz above or below the respective channel edge shall be attenuated no less than 60 dB. below the visual transmitted power. (The 60 dB. value for television transmitters specified in this rule should be considered as a temporary requirement which may be increased at a later date, especially when more higher-powered equipment is utilized. Stations should, therefore, give consideration to the installation of equipment with greater attenuation than 60 dB.) In the event of interference caused to any service greater attenuation will be required.

(2) If a limiting or compression amplifier is used in conjunction with the aural transmitter, due operating precautions should be maintained because of pre-emphasis in the transmitting system.

(3) TV broadcast stations operating on Channel 14 and Channel 69 must take special precautions to avoid interference to adjacent spectrum land mobile radio service facilities. Where a TV station is authorized and operating prior to the authorization and operation of the land mobile facility, a Channel 14 station must attenuate its emissions within the frequency range 467 to 470 MHz and a Channel 69 station must attentuate its emissions within the frequency range 806 to 809 MHz if necessary to permit reasonable use of the adjacent frequencies by land mobile licensees.

(4) The requirements listed below apply to permittees authorized to construct a new station on TV Channel 14 or TV Channel 69, and to licensees authorized to change the channel of an existing station to Channel 14 or to Channel 69, to increase effective radiated power (ERP) (including any change in directional antenna characteristics that results in an increase in ERP in any direction), or to change the transmitting location of an existing station.

(i) For the purposes of this paragraph, a protected land mobile facility is a receiver that is intended to receive transmissions from licensed land mobile stations within the frequency band below 470 MHz (as relates to Channel 14) or above 806 MHz (as relates to Channel 69), and is associated with one or more land mobile stations for which a license has been issued by the Commission, or a proper application has been received by the Commission prior to the date of the filing of the TV construction permit application. However, a land mobile facility will not be protected if it is proposed in an application that is denied or dismissed and that action is no longer subject to Commission review. Further, if the land mobile station is not operating when the TV facility commences operation and it does not commence operation within the time permitted by its authorization in accordance with part 90 of this chapter, it will not be protected.

(ii) A TV permittee must take steps before construction to identify potential interference to normal land mobile operation that could be caused by TV emissions outside the authorized channel, land mobile receiver desensitization or intermodulation. It must install filters and take other precautions as necessary, and submit evidence that no interference is being caused before it will be permitted to transmit programming on the new facilities pursuant to the provisions of §73.1615 or §73.1620 of this part. A TV permittee must reduce its emissions within the land mobile channel of a protected land mobile facility that is receiving interference caused by the TV emission producing a vertically polarized signal and a field strength in excess of 17 dBu at the land mobile receiver site on the land mobile frequency. The TV emission should be measured with equipment set to a 30 kHz measurement bandwidth including the entire applicable land mobile channel. A TV permittee must correct a desensitization problem if its occurrence can be directly linked to the start of the TV operation and the land mobile station is using facilities with typical desensitization rejection characteristics. A TV permittee must identify the source of an intermodulation product that is generated when the TV operation commences. If the intermodulation source is under its control, the TV permittee must correct the problem. If the intermodulation source is beyond the TV permittee's control, it must cooperate in the resolution of the problem and should provide whatever technical assistance it can.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[28 FR 13660, Dec. 14, 1963]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §73.687, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§73.688 Indicating instruments.

(a) Each TV broadcast station shall be equipped with indicating instruments which conform with the specifications described in §73.1215 for measuring the operating parameters of the last radio stage of the visual transmitter, and with such other instruments as are necessary for the proper adjustment, operation, and maintenance of the visual transmitting system.

(b) The function of each instrument shall be clearly and permanently shown on the instrument itself or on the panel immediately adjacent thereto.

(c) In the event that any one of these indicating instruments becomes defective, when no substitute which conforms with the required specifications is available, the station may be operated without the defective instrument pending its repair or replacement for a period not in excess of 60 days without further authority of the FCC, provided that:

(1) If the defective instrument is the transmission line meter used for determining the output power by the direct method, the operating power shall be determined or maintained by the indirect method whenever possible or by using the operating parameters of the last radio stage of the transmitter during the time the station is operated without the transmission line meter.

(2) If conditions beyond the control of the licensee prevent the restoration of the meter to service within the above allowed period, informal request in accordance with §73.3549 may be filed for such additional time as may be required to complete repairs of the defective instrument.

[41 FR 36818, Sept. 1, 1976, as amended at 48 FR 38480, Aug. 24, 1983; 49 FR 50048, Dec. 26, 1984; 50 FR 26568, June 27, 1985; 80 FR 53750, Sept. 8, 2015]

§73.691 Visual modulation monitoring.

(a) Each TV station must have measuring equipment for determining that the transmitted visual signal conforms to the provisions of this subpart. The licensee shall decide the monitoring and measurement methods or procedures for indicating and controlling the visual signal.

(b) In the event technical problems make it impossible to operate in accordance with the timing and carrier level tolerance requirements of §73.682 (a)(9)(i), (a)(9)(ii), (a)(12), (a)(13), and (a)(17), a TV broadcast station may operate at variance for a period of not

more than 30 days without specific authority from the FCC: *provided that*, the date and time of the initial out-of-tolerance condition has been entered in the station log. If the operation at variance will exceed 10 consecutive days, a notification must be sent to the FCC in Washington, D.C., not later than the 10th day of such operation. In the event normal operation is resumed prior to the end of the 30 day period, the licensee must notify the FCC upon restoration of normal operation. If causes beyond the control of the licensee prevent restoration of normal operation within 30 days, a written request must be made to the FCC in Washington, D.C., no later than the 30th day for such additional time as may be necessary.

[60 FR 55480, Nov. 1, 1995]

§ 73.698 Tables.

TABLE I [RESERVED]

TABLE II

(1)—Channel	(2)—31.4 kilometers (19.5 miles) If beat	(3)—31.4 kilometers (19.5 miles) intermodulation	(4)—87.7 kilometers (54.5 miles) adjacent channel	(5)—95.7 kilometers (59.5 miles) oscillator	(6)—95.7 kilometers (59.5 miles) sound image	(7)—119.9 kilometers (74.5 miles) picture image
14	22	16–19	15	21	28	29
15	23	17–20	14, 16	22	29	30
16	24	14, 18–21	15, 17	23	30	31
17	25	14–15, 19–22	16, 18	24	31	32
18	26	14–16, 20–23	17, 19	25	32	33
19	27	14–17, 21–24	18, 20	26	33	34
20	28	15–18, 22–25	19, 21	27	34	35
21	29	16–19, 23–26	20, 22	28, 14	35	36
22	30, 14	17–20, 24–27	21, 23	29, 15	36	37
23	31, 15	18–21, 25–28	22, 24	30, 16	37	38
24	32, 16	19–22, 26–29	23, 25	31, 17	38	39
25	33, 17	20–23, 27–30	24, 26	32, 18	39	40
26	34, 18	21–24, 28–31	25, 27	33, 19	40	41
27	35, 19	22–25, 29–32	26, 28	34, 20	41	42
28	36, 20	23–26, 30–33	27, 29	35, 21	42, 14	43
29	37, 21	24–27, 31–34	28, 30	36, 22	43, 15	44, 14
30	38, 22	25–28, 32–35	29, 31	37, 23	44, 16	45, 15
31	39, 23	26–29, 33–36	30, 32	38, 24	45, 17	46, 16
32	40, 24	27–30, 34–37	31, 33	39, 25	46, 18	47, 17
33	41, 25	28–31, 35–38	32, 34	40, 26	47, 19	48, 18
34	42, 26	29–32, 36–39	33, 35	41, 27	48, 20	49, 19
35	43, 27	30–33, 37–40	34, 36	42, 28	49, 21	50, 20
36	44, 28	31–34, 38–41	35, 37	43, 29	50, 22	51, 21
37	45, 29	32–35, 39–42	36, 38	44, 30	51, 23	52, 22
38	46, 30	33–36, 40–43	37, 39	45, 31	52, 24	53, 23
39	47, 31	34–37, 41–44	38, 40	46, 32	53, 25	54, 24
40	48, 32	35–38, 42–45	39, 41	47, 33	54, 26	55, 25
41	49, 33	36–39, 43–46	40, 42	48, 34	55, 27	56, 26
42	50, 34	37–40, 44–47	41, 43	49, 35	56, 28	57, 27
43	51, 35	38–41, 45–48	42, 44	50, 36	57, 29	58, 28
44	52, 36	39–42, 46–49	43, 45	51, 37	58, 30	59, 29
45	53, 37	40–43, 47–50	44, 46	52, 38	59, 31	60, 30
46	54, 38	41–44, 48–51	45, 47	53, 39	60, 32	61, 31
47	55, 39	42–45, 49–52	46, 48	54, 40	61, 33	62, 32
48	56, 40	43–46, 50–53	47, 49	55, 41	62, 34	63, 33
49	57, 41	44–47, 51–54	48, 50	56, 42	63, 35	64, 34
50	58, 42	45–48, 52–55	49, 51	57, 43	64, 36	65, 35
51	59, 43	46–49, 53–56	50, 52	58, 44	65, 37	66, 36
52	60, 44	47–50, 54–57	51, 53	59, 45	66, 38	67, 37
53	61, 45	48–51, 55–58	52, 54	60, 46	67, 39	68, 38
54	62, 46	49–52, 56–59	53, 55	61, 47	68, 40	69, 39
55	63, 47	50–53, 57–60	54, 56	62, 48	69, 41	70, 40
56	64, 48	51–54, 58–61	55, 57	63, 49	70, 42	71, 41
57	65, 49	52–55, 59–62	56, 58	64, 50	71, 43	72, 42
58	66, 50	53–56, 60–63	57, 59	65, 51	72, 44	73, 43
59	67, 51	54–57, 61–64	58, 60	66, 52	73, 45	74, 44
60	68, 52	55–58, 62–65	59, 61	67, 53	74, 46	75, 45

TABLE II—Continued

(1)—Channel	(2)—31.4 kilometers (19.5 miles) If beat	(3)—31.4 kilometers (19.5 miles) intermodulation	(4)—87.7 kilometers (54.5 miles) adjacent channel	(5)—95.7 kilometers (59.5 miles) oscillator	(6)—95.7 kilometers (59.5 miles) sound image	(7)—119.9 kilometers (74.5 miles) picture image
61	69, 53	56–59, 63–66	60, 62	68, 54	75, 47	76, 46
62	70, 54	57–60, 64–67	61, 63	69, 55	76, 48	77, 47
63	71, 55	58–61, 65–68	62, 64	70, 56	77, 49	78, 48
64	72, 56	59–62, 66–69	63, 65	71, 57	78, 50	79, 49
65	73, 57	60–63, 67–70	64, 66	72, 58	79, 51	80, 50
66	74, 58	61–64, 68–71	65, 67	73, 59	80, 52	81, 51
67	75, 59	62–65, 69–72	66, 68	74, 60	81, 53	82, 52
68	76, 60	63–66, 70–73	67, 69	75, 61	82, 54	83, 53
69	77, 61	64–67, 71–74	68, 70	76, 62	83, 55	54

NOTE: The parenthetical reference beneath the mileage figures in columns 2 through 7, inclusive, indicate, in abbreviated form, the bases for the required mileage separations. For a discussion of these bases, see the ''Sixth Report and Order'' of the Commission (FCC 52–294; 17 FR 3905, May 2, 1952). The hyphenated numbers listed in column (3) are both inclusive.

[28 FR 13660, Dec. 14, 1963, as amended at 39 FR 20377, June 10, 1974; 47 FR 35990, Aug. 18, 1982; 50 FR 23701, June 5, 1985; 54 FR 9807, Mar. 8, 1989]

§ 73.699 TV engineering charts.

This section consists of the following Figures: 1–5, 5a, 6–10, 10a–10e, 11–12, 13–16.

NOTE: The charts as reproduced herein, due to their small scale, are not to be used in connection with material submitted to the FCC.

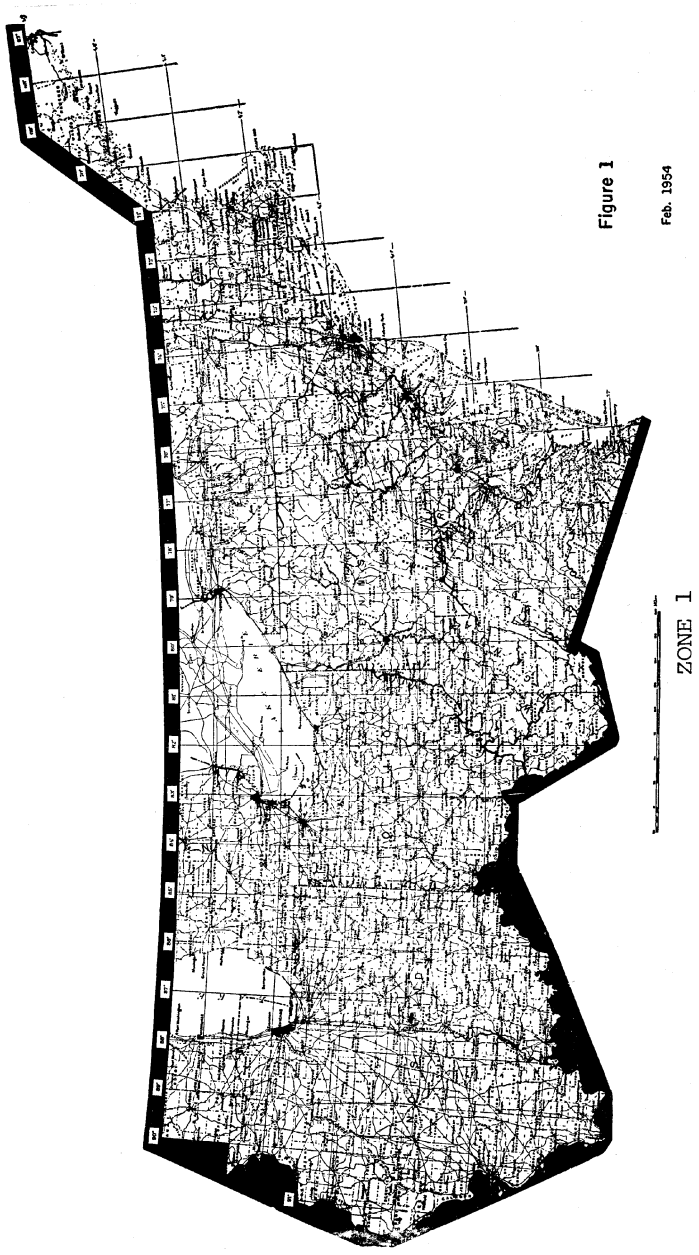
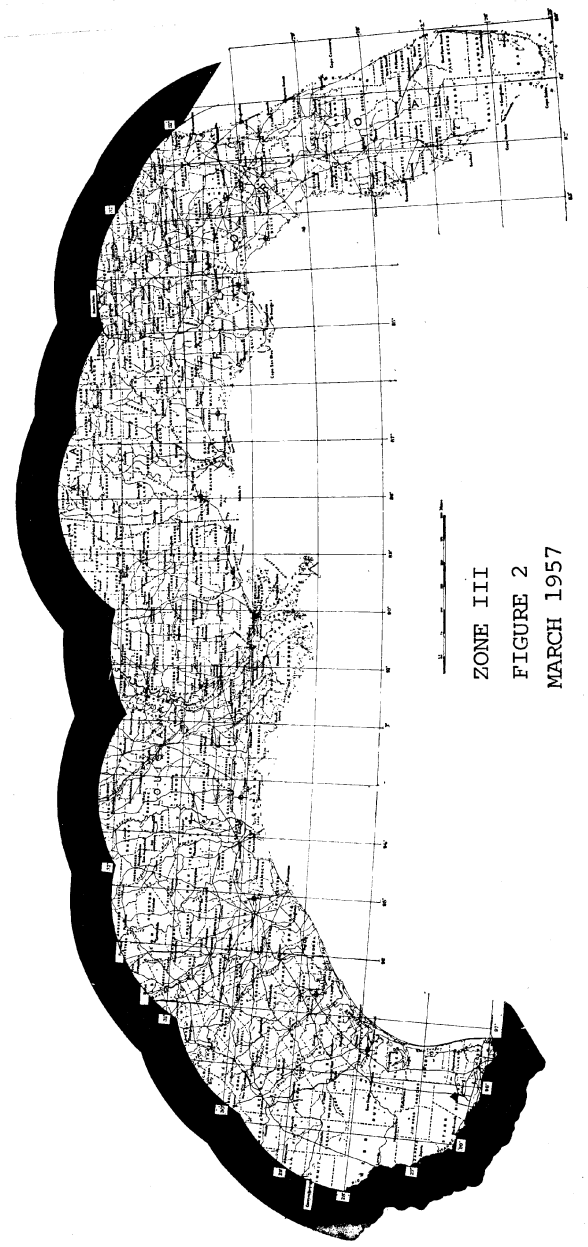


Figure 1
Feb. 1954
ZONE 1


ZONE III
FIGURE 2
MARCH 1957

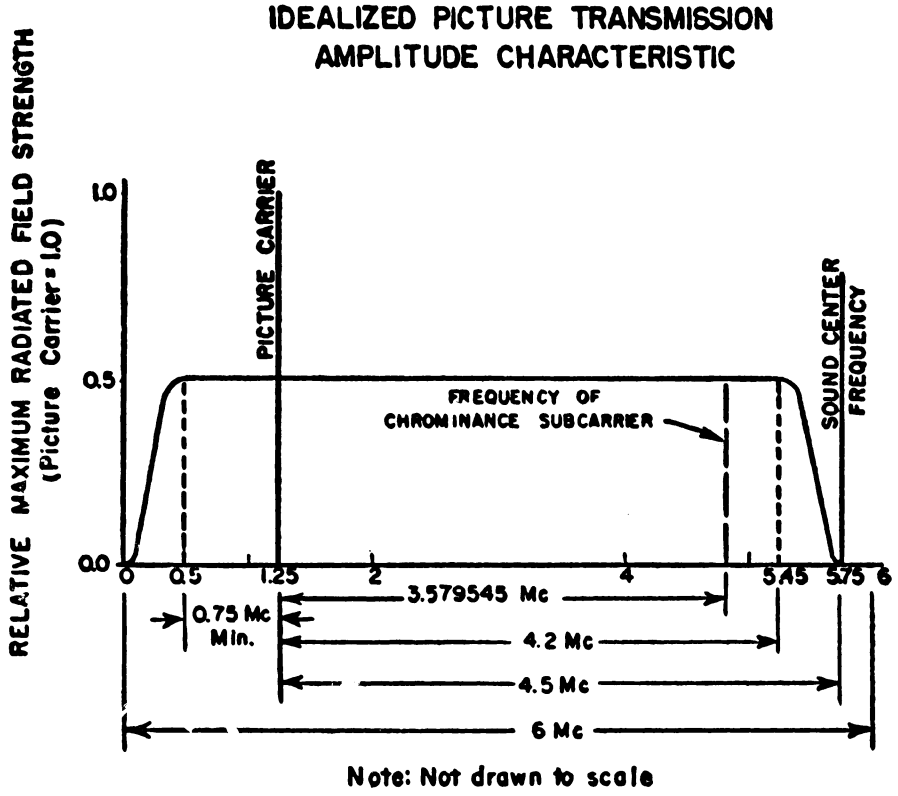

IDEALIZED PICTURE TRANSMISSION
AMPLITUDE CHARACTERISTIC
RELATIVE MAXIMUM RADIATED FIELD STRENGTH
(Picture Carrier = 1.0)
1.0
0.5
0.0
PICTURE CARRIER
SOUND CENTER FREQUENCY
FREQUENCY OF
CHROMINANCE SUBCARRIER
0
0.5
1.25
2
4
5.45
5.75
6
3.579545 Mc
0.75 Mc
Min.
4.2 Mc
4.5 Mc
6 Mc
Note: Not drawn to scale

FIGURE 5

IDEALIZED PICTURE TRANSMISSION
AMPLITUDE CHARACTERISTIC

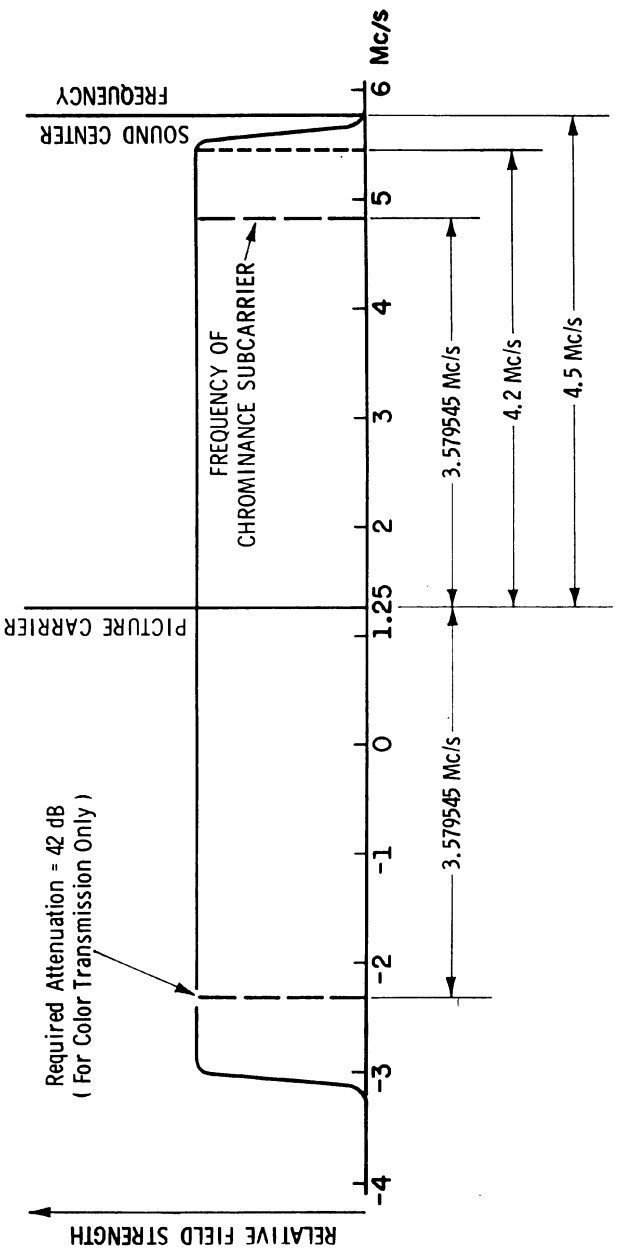
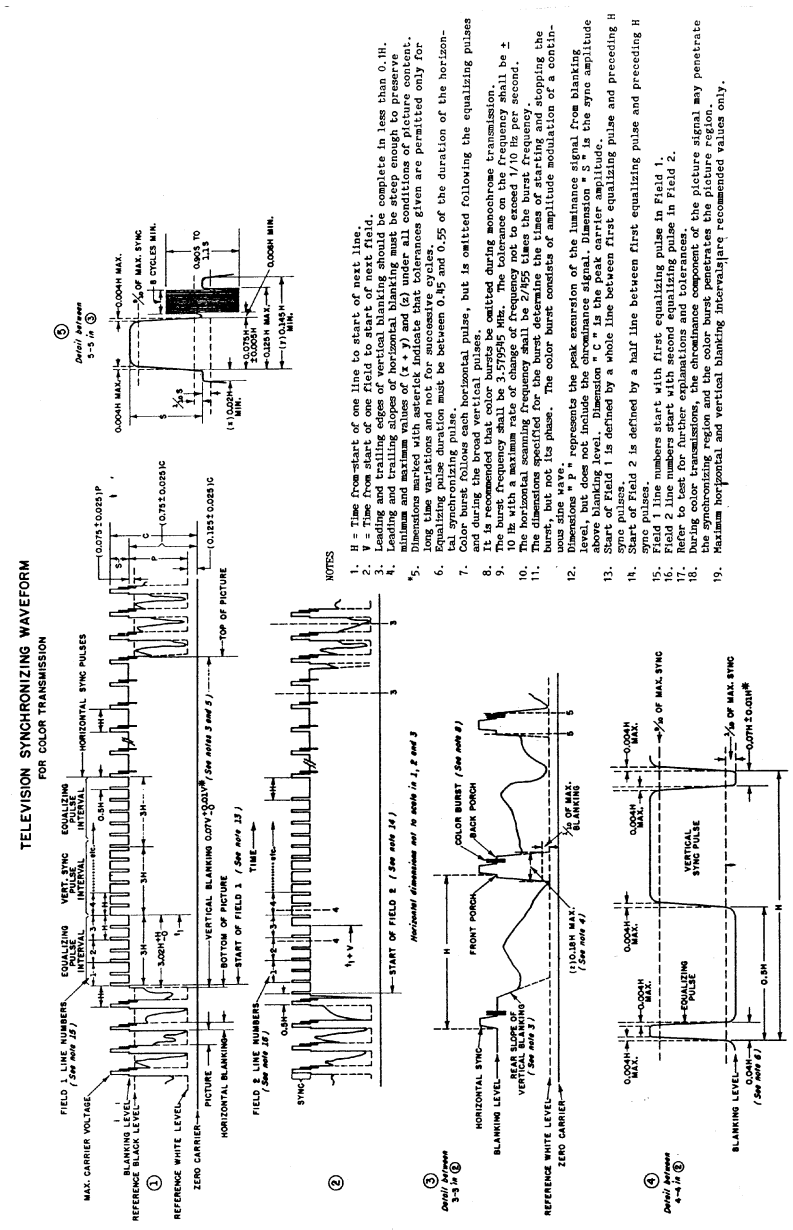


FIGURE 5(a)



FCC § 73.699, FIGURE 6

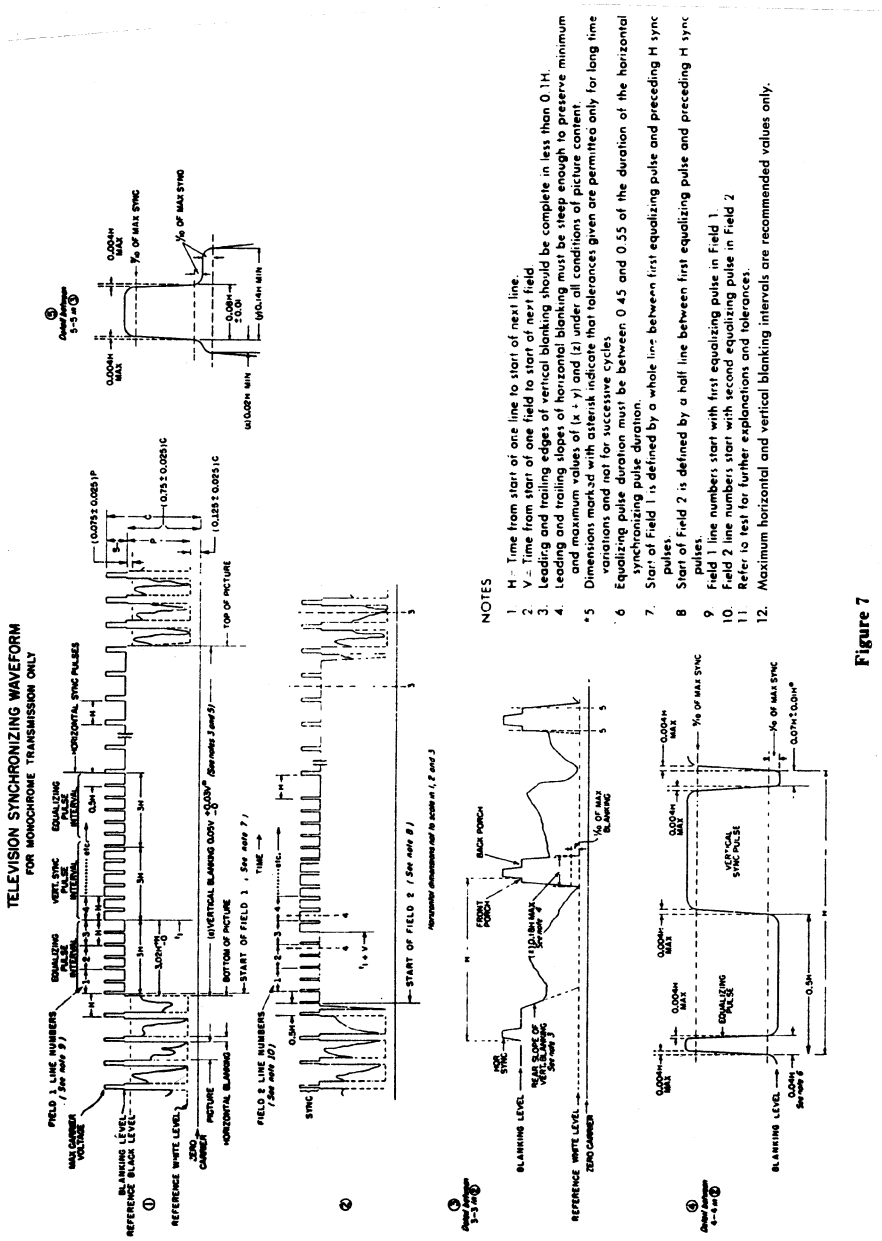

TELEVISION SYNCHRONIZING WAVEFORM
FOR MONOCHROME TRANSMISSION ONLY
NOTES
1 H = Time from start of one line to start of next line.
2 V = Time from start of one field to start of next field
3 Leading and trailing edges of vertical blanking should be complete in less than 0.1H.
4 Leading and trailing slopes of horizontal blanking must be steep enough to preserve minimum and maximum values of (x + y) and (z) under all conditions of picture content.
*5 Dimensions marked with asterisk indicate that tolerances given are permitted only for long time variations and not for successive cycles.
6 Equalizing pulse duration must be between 0.45 and 0.55 of the duration of the horizontal synchronizing pulse duration.
7 Start of Field 1 is defined by a whole line between first equalizing pulse and preceding H sync pulses.
8 Start of Field 2 is defined by a half line between first equalizing pulse and preceding H sync pulses.
9 Field 1 line numbers start with first equalizing pulse in Field 1.
10 Field 2 line numbers start with second equalizing pulse in Field 2
11 Refer to text for further explanations and tolerances.
12. Maximum horizontal and vertical blanking intervals are recommended values only.

Figure 7

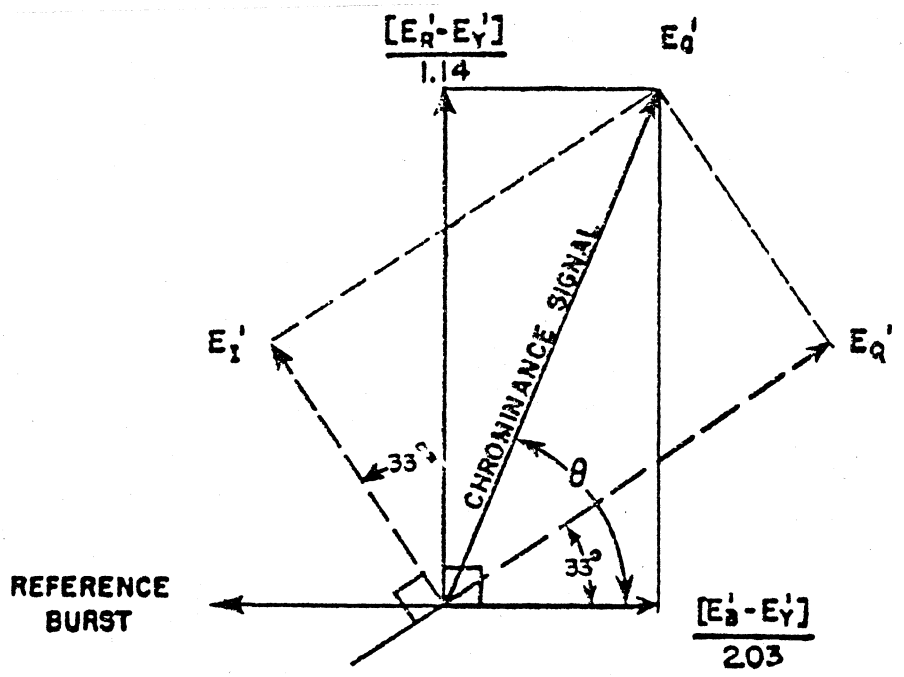
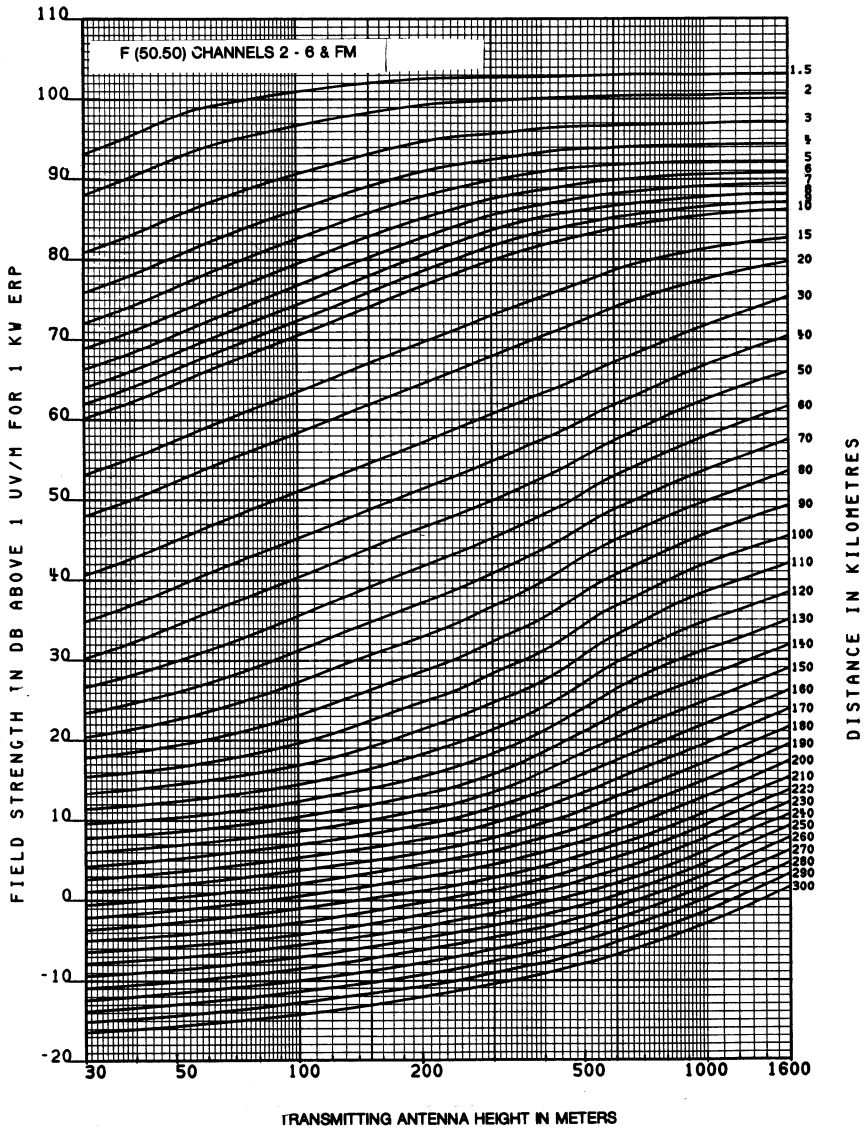
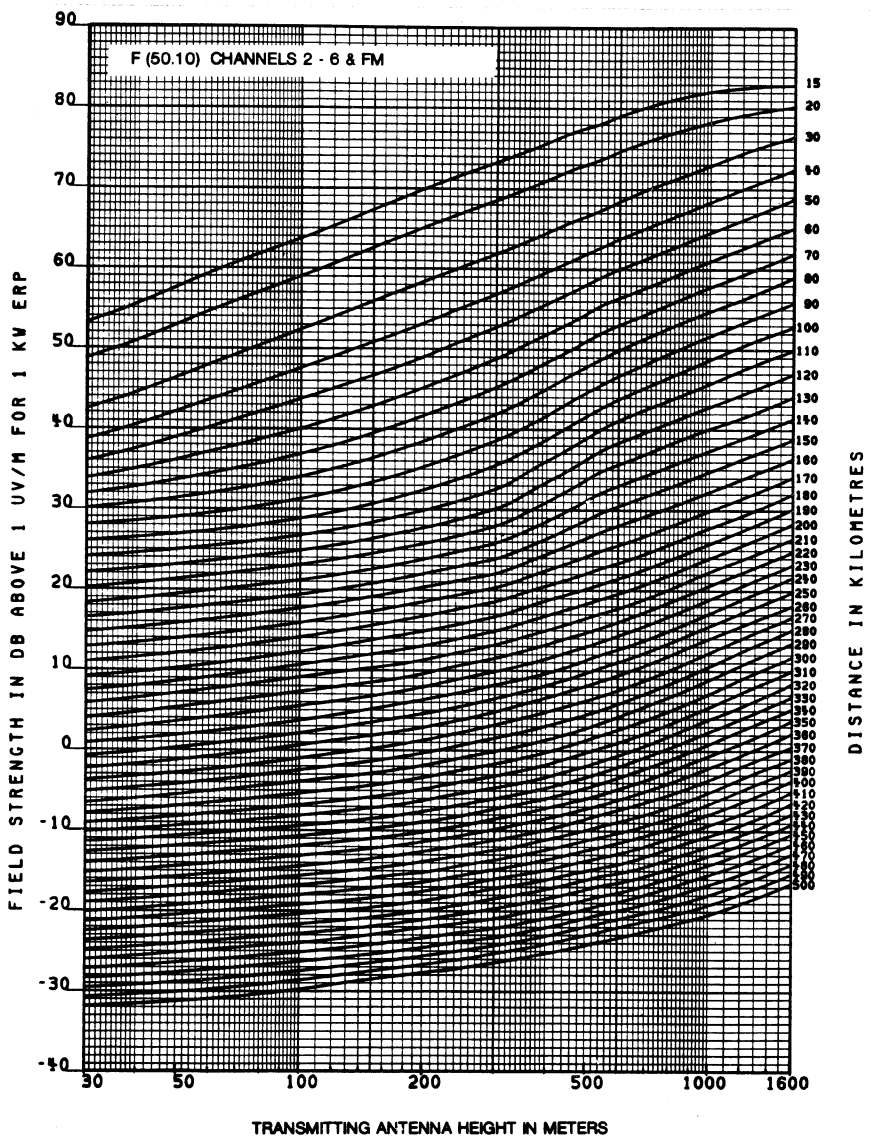

[E'R-E'Y']
1.14
E'Q
E'I
E'Q
CHROMINANCE SIGNAL
33°
θ
33°
REFERENCE
BURST
[E'B-E'Y']
2.03

FIGURE 8



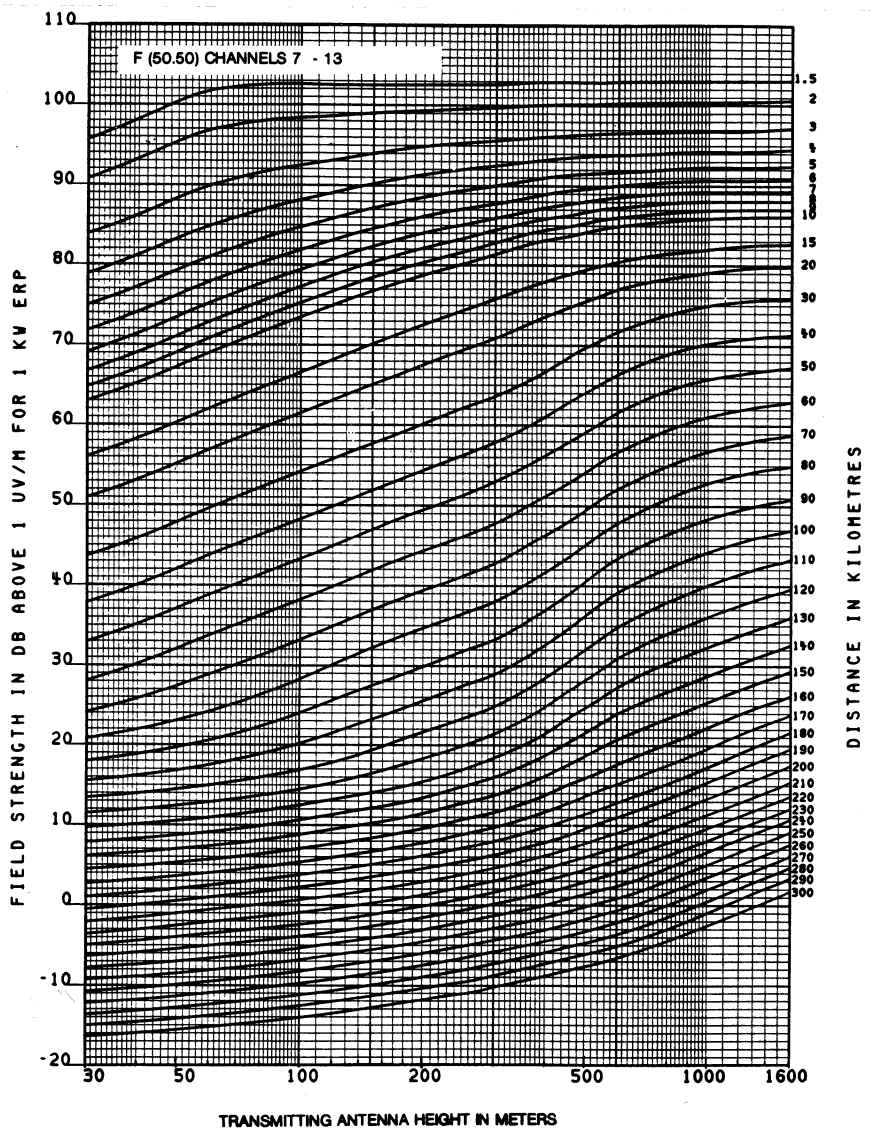
FCC 73.699 Figure 9

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT
OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 50 PERCENT
OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS



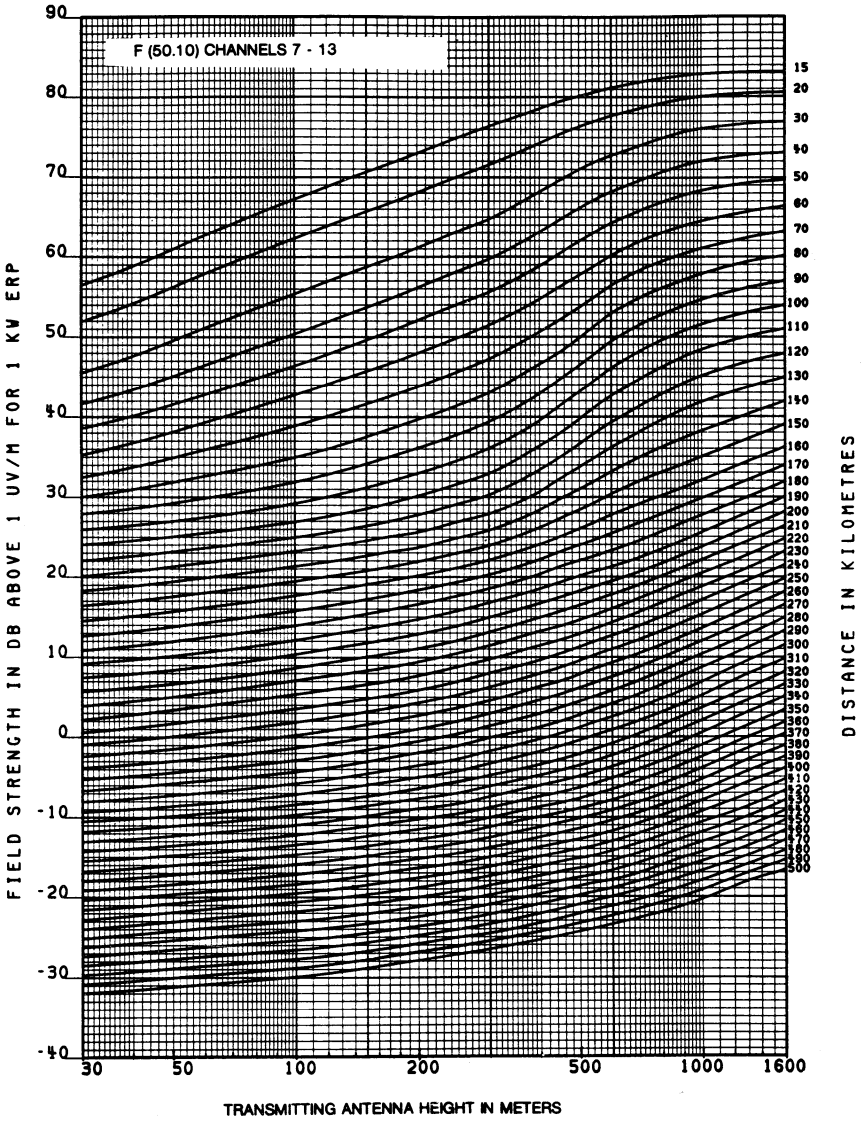
FCC 73.699 Figure 9a

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT
OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 10 PERCENT
OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS



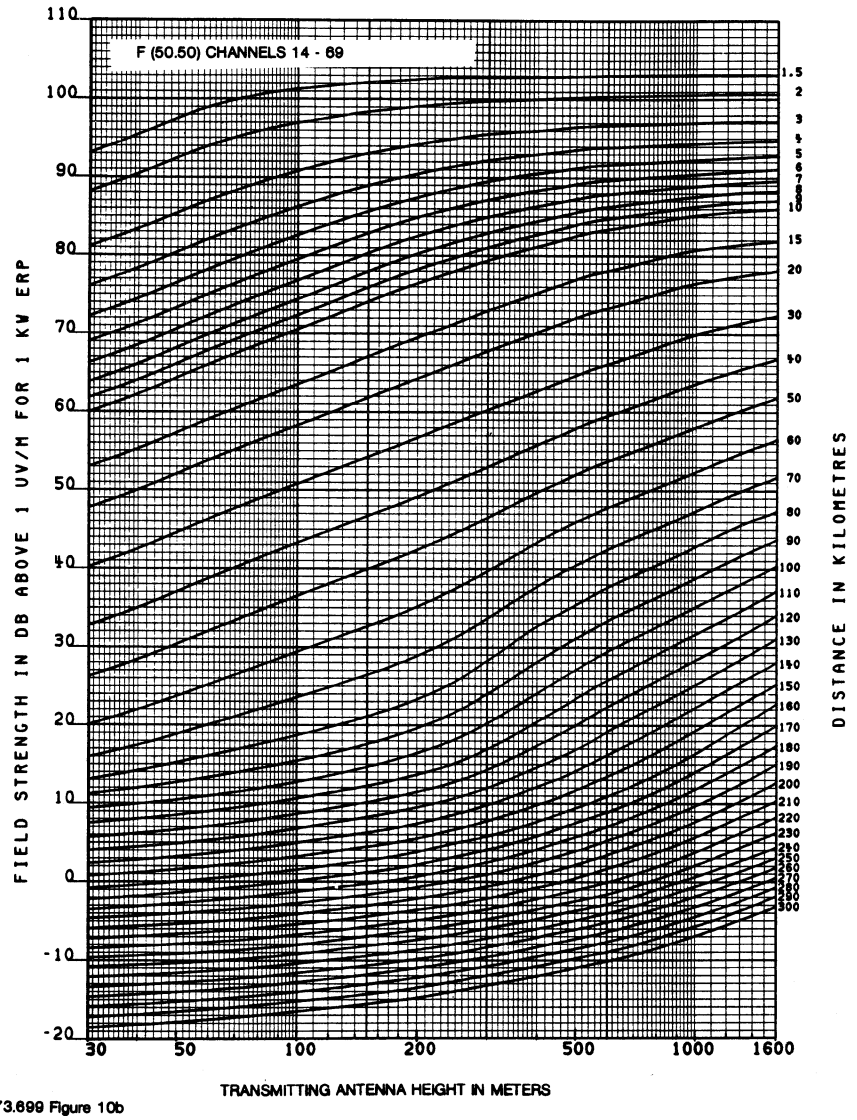
FCC 73.699 Figure 10

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT
OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 50 PERCENT
OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS



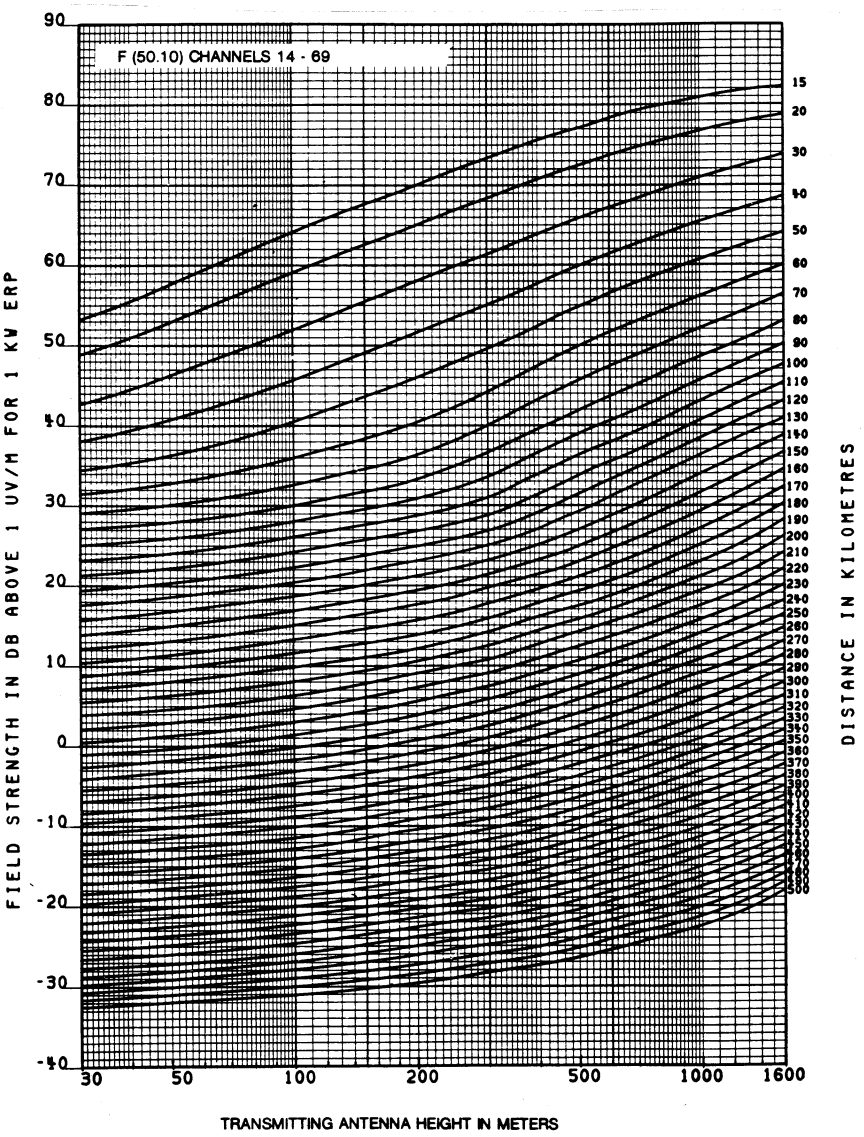
FCC 73.699 Figure 10a

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT
OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 10 PERCENT
OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS



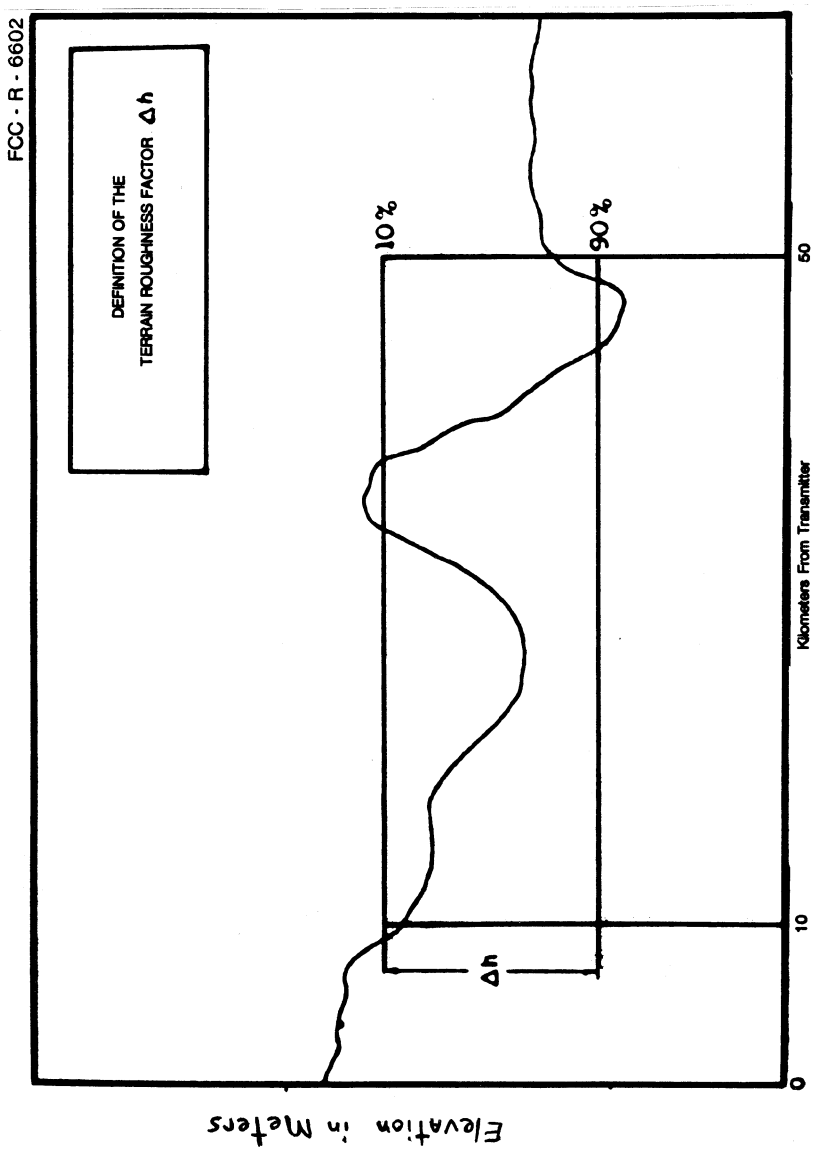
FCC 73.699 Figure 10b

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT
OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 50 PERCENT
OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS

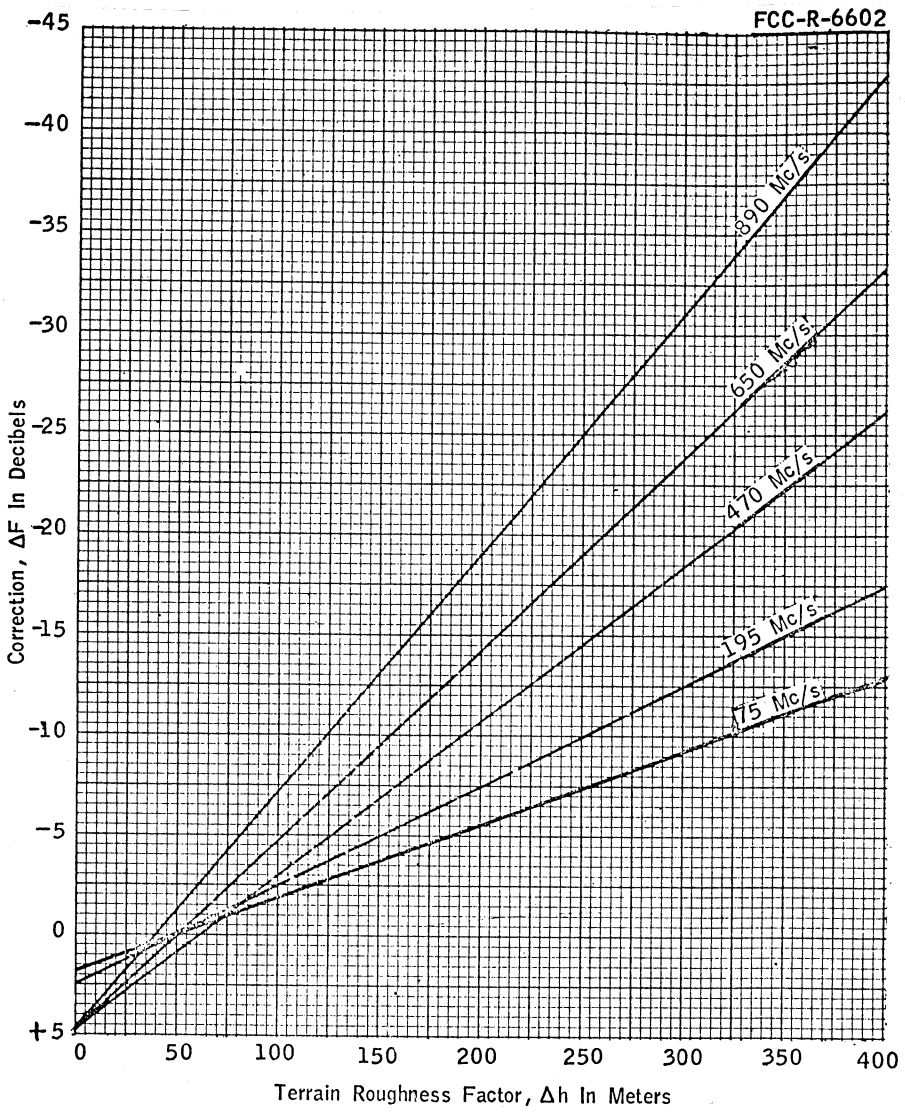


FCC 73.699 Figure 10c

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT
OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 10 PERCENT
OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS



FCC §73.699 FIGURE 10d



TERRAIN ROUGHNESS CORRECTION
for use with estimated F(50,50) and F(50,10) field strength curves

FCC §73.699 FIGURE 10e

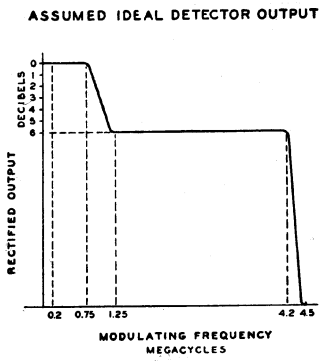


FIGURE 11

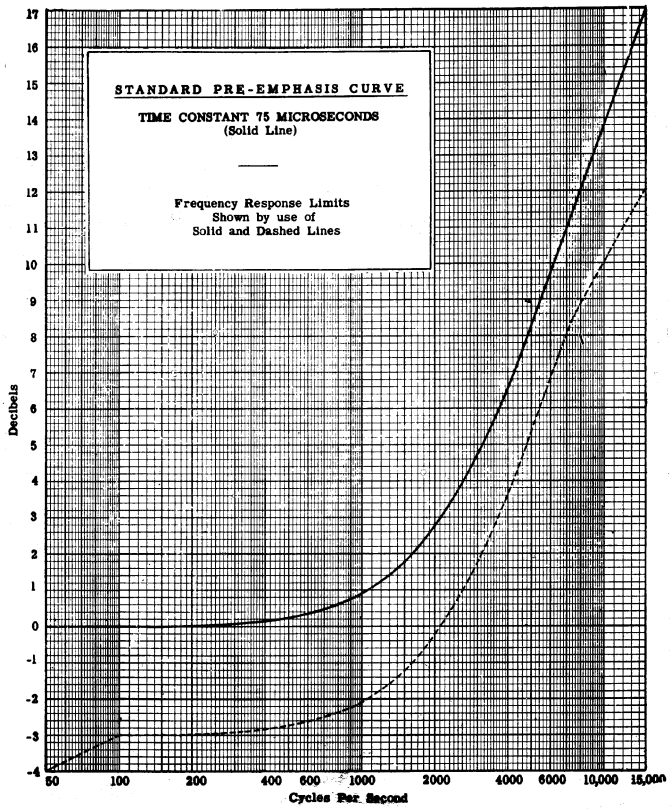
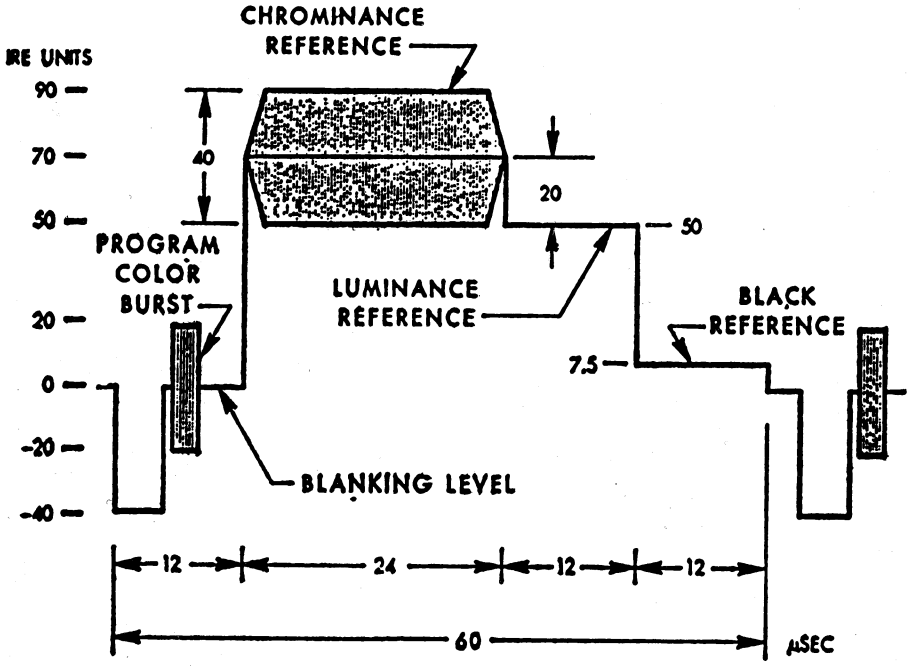


FIGURE 12

FIGURES 13 THROUGH 15 [RESERVED]



NOTE: THE CHROMINANCE REFERENCE AND THE PROGRAM COLOR BURST HAVE THE SAME PHASE.

FIGURE 16

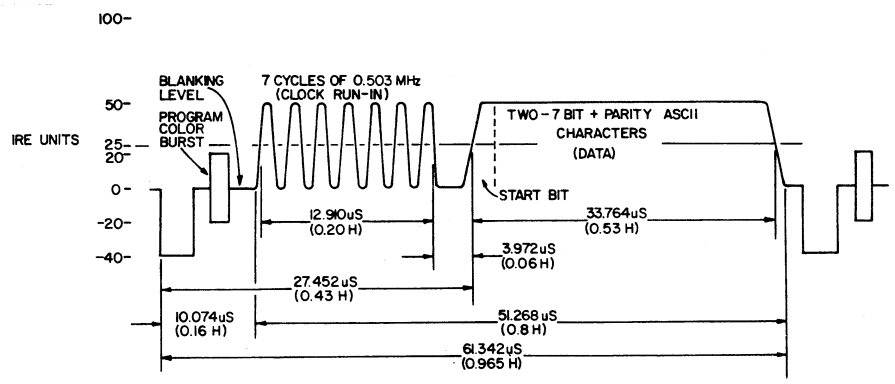


FIGURE 17 LINE 21 FIELD DATA SIGNAL FORMAT

1. DATA "1" = 50 IRE UNITS, DATA "0" = 0.
2. DATA PULSE RISE TIME = 2T BAR RISE TIME.
3. DATA TIME BASE = 32 f_H (0.50349650 MHz.)
4. DATA BIT INTERVAL = H/32 (1.986uS)
5. NEGATIVE GOING ZERO CROSSINGS OF CLOCK ARE COHERENT WITH DATA TRANSITIONS.
6. DATA AND CLOCK RUN-IN COHERENT WITH H.

HORIZONTAL DIMENSIONS NOT TO SCALE

FCC § 73.699, Figure 17

[28 FR 13660, Dec. 14, 1963, as amended at 36 FR 17429, Aug. 31, 1971; 39 FR 40957, Nov. 22, 1974; 40 FR 27684, July 1, 1975; 41 FR 56326, Dec. 28, 1976; 44 FR 36040, June 20, 1979; 47 FR 3790, Jan. 27, 1982; 47 FR 35990, Aug. 18, 1982; 50 FR 13972, Apr. 9, 1985; 50 FR 23701, June 5, 1985; 50 FR 32205, Aug. 9, 1985; 52 FR 11656, Apr. 10, 1987; 54 FR 9807, Mar. 8, 1989; 58 FR 29983, May 25, 1993]

EFFECTIVE DATE NOTE: At 42 FR 25736, May 19, 1977, the effective date of § 73.699 Figure 10e was stayed indefinitely.

Subpart F—International Broadcast Stations

§ 73.701 Definitions.

The following definitions apply to terminology employed in this subpart:

(a) *International broadcast stations.* A broadcasting station employing frequencies allocated to the broadcasting service between 5900 and 26100 kHz, the transmissions of which are intended to be received directly by the general public in foreign countries. (A station may be authorized more than one transmitter.) There are both Federal and non-Federal Government international broadcast stations; only the latter are licensed by the Commission and are subject to the rules of this subpart.

(b) *Transmitter-hour.* One frequency used on one transmitter for one hour.

(c) *Frequency-hour.* One frequency used for one hour regardless of the number of transmitters over which it is simultaneously broadcast by a station during that hour.

(d) *Multiple operation.* Broadcasting by a station on one frequency over two or more transmitters simultaneously. If a station uses the same frequency simultaneously on each of two (three, etc.) transmitters for an hour, it uses one frequency-hour and two (three, etc.) transmitter-hours.

(e) *Coordinated Universal Time (UTC).* Time scale, based on the second (SI), as defined in Recommendation ITU–R TF.460–6. For most practical purposes associated with the ITU *Radio Regulations,* UTC is equivalent to mean solar time at the prime meridian (0° longitude), formerly expressed in GMT. (RR)

(f) *Sunspot number.* The 12–month running average of the number of sunspots for any month as indicated in the U.S. Department of Commerce Telecommunications Research and Engineering Report No. 13—available from the Superintendent of Documents, Washington, DC 20402. The sunspot number varies in an approximate 11–year cycle.

(g) *Day.* Any twenty-four hour period beginning 0100 UTC and ending 0100 UTC.

(h) *Schedule A.* That portion of any year commencing at 0100 UTC on the last Sunday in March and ending at 0100 UTC on the last Sunday in October.

(i) *Schedule B.* That portion of any year commencing at 0100 UTC on the last Sunday in October and ending at 0100 UTC on the last Sunday in March.

(j) [Reserved]

(k) *Seasonal schedule.* An assignment, for a season, of a frequency or frequencies, and other technical parameters, to be used by a station for transmission to particular zones or areas of reception during specified hours.

(l) *Reference month.* That month of a season which is used for determining predicted propagation characteristics for the season. The reference month for Schedule A is July and the reference month for Schedule B is December.

(m) *Maximum usable frequency* (*MUF*). The highest frequency which is returned by ionospheric radio propagation to the surface of the earth for a particular path and time of day for 50 percent of the days of the reference month.

(n) *Optimum working frequency* (*FOT*). The highest frequency which is returned by ionospheric radio propagation to the surface of the earth for a particular path and time of day for 90 percent of the days of the reference month.

NOTE: The international abbreviation for optimum working frequency, FOT, is formed with the initial letters of the French words for ''optimum working frequency'' which are ''frequence optimum de travail.''

(o) *Zone of reception.* Any geographic zone indicated in § 73.703 in which the reception of particular programs is specifically intended and in which broadcast coverage is contemplated.

(p) *Area of reception.* Any geographic area smaller than a zone of reception in which the reception of particular programs is specifically intended and in which broadcast coverage is contemplated, such areas being indicated by countries or parts of countries.

(q) *Delivered median field strength, or field strength.* The field strength incident upon the zone or area of reception expressed in microvolts per meter, or decibels above one microvolt per meter, which is exceeded by the hourly median value for 50 percent of the days of the reference month.

(r) *Carrier power.* The average power supplied to the antenna transmission line by a transmitter during one radio frequency cycle under conditions of no modulation.

[38 FR 18892, July 16, 1973, as amended at 68 FR 25538, May 13, 2003; 70 FR 46676, Aug. 10, 2005]

§ 73.702 Assignment and use of frequencies.

(a) Frequencies will be assigned by the Commission prior to the start of each season to authorized international broadcasting stations for use during the season at specified hours and for transmission to specified zones or areas of reception, with specified power and antenna bearing. Six months prior to the start of each season, licensees and permittees shall by informal written request, submitted to the Commission in triplicate, indicate for the season the frequency or frequencies desired for transmission to each zone or area of reception specified in the license or permit, the specific hours during which it desires to transmit to such zones or areas on each frequency, and the power, antenna gain, and antenna bearing it desires to use. Requests will be honored to the extent that interference and propagation conditions permit and that they are otherwise in accordance with the provisions of this section.

(b) After necessary processing of the requests required by paragraph (a) of this section, the Commission will notify each licensee and permittee of the frequencies, hours of use thereof to specified zones or areas of reception, power, and antenna bearing which it intends to authorize for the season in

question. After receipt of such notification, the licensee or permittee shall, in writing, not later than two months before the start of the season in question, inform the Commission either that it plans to operate in accordance with the authorization which the Commission intends to issue, or that it plans to operate in another manner. If the licensee or permittee indicates that it plans to operate in another manner, it shall furnish explanatory details.

(c) If after submitting the request required under the provisions of paragraph (a) of this section, but before receipt of the Commission's notification referred to in paragraph (b) of this section, the licensee or permittee submits a request for changes of its original request, such requests will be accepted for consideration only if accompanied by statements showing good cause therefor and will be honored only if conditions permit. If the information required to be submitted by the licensee or permittee under the provisions of paragraph (b) of this section indicates that operation in another manner is contemplated, and the explanatory details contain a request for change in the originally proposed manner of operation, such requests will be accepted for consideration only if accompanied by statements showing good cause therefor and will be honored only if conditions permit. If after the licensee or permittee submits the information required under the provisions of paragraph (b) of this section, but before the start of the season in question, the licensee or permittee submits a request for changes in its manner of operation for the season in question, the request will be accepted for consideration only if accompanied by statements showing good cause therefor and will be honored only if conditions permit. If after the start of a season the licensee or permittee submits a request for changes in the manner of operation as authorized, the request will be considered only if accompanied by statements showing good cause therefor, and will be honored only if conditions permit.

(d) The provisions of paragraphs (a), (b), and (c) of the section shall apply to licensees, to permittees operating under program test authority, and to permittees who anticipate applying for and receiving program test authority for operation during the specified season.

NOTE: Permittees who during the process of construction wish to engage in equipment tests shall by informal written request, submitted to the Commission in triplicate not less than 30 days before they desire to begin such testing, indicate the frequencies they desire to use for testing and the hours they desire to use those frequencies. No equipment testing shall occur until the Commission has authorized frequencies and hours for such testing. Such authorizations shall be only for one season, and if it is desired to continue equipment testing in a following season, new requests for frequencies and hours must be submitted at least 30 days before it is desired to begin testing in the following season.

(e) Within 14 days after the end of each season, a report shall be filed with the Commission by each licensee or permittee operating under program test authority who has been issued a seasonal schedule for that season. The report shall state whether the licensee or permittee has operated the number of frequency-hours authorized by the seasonal schedule to each of the zones or areas of reception specified in the schedule. If such operation has not occurred, a detailed explanation of that fact shall also be submitted which includes specific dates, frequency-hours not used, and reasons for the failure to operate as authorized. The report shall also contain information that has been received by the licensee or permittee as to reception or interference, and conclusions with regard to propagation characteristics of frequencies that were assigned for the season in question.

(f) *Assigned frequencies.* To the extent practicable, the frequencies assigned to international broadcast stations shall be within the following frequency bands, which are allocated to the broadcasting service on a primary and exclusive basis, except as noted in paragraph (f)(1)(ii) of this section:

(1) *In all Regions:*

(i) *Exclusive:* 5,900–6,200 kHz; 7,300–7,350 kHz; 9,400–9,900 kHz; 11,600–12,100 kHz; 13,570–13,870 kHz; 15,100–15,800 kHz; 17,480–17,900 kHz; 18,900–19,020 kHz; 21,450–21,850 kHz; and 25,670–26,100 kHz.

(ii) *Co-primary:* 7,350–7,400 kHz, except in the countries listed in 47 CFR 2.106,

footnote 5.143C, where this band is also allocated to the fixed service on a primary basis.

(2) *In Region 1 and Region 3:* 7,200–7,300 kHz and 7,400–7,450 kHz.

NOTE TO PARAGRAPH (f): For the allocation of frequencies, the ITU has divided the world into three Regions, which are defined in 47 CFR 2.104(b). The bands 7,200–7,300 kHz and 7,400–7,450 kHz are not allocated to the broadcasting service in Region 2. Subject to not causing harmful interference to the broadcasting service, fixed and mobile services may operate in certain of the international broadcasting bands; see 47 CFR 2.106, footnotes 5.136, 5.143, 5.143A, 5.143B, 5.143D, 5.146, 5.147, and 5.151.

(g) [Reserved]

(h) *Requirements for Regional operation.* (1) Frequency assignments in the bands 7,200–7,300 kHz and 7,400–7,450 kHz shall be restricted to international broadcast stations in the Pacific insular areas that are located in Region 3 (as defined in 47 CFR 2.105(a), note 3) that transmit to geographical zones and areas of reception in Region 1 or Region 3.

(2) During the hours of 0800–1600 UTC (Coordinated Universal Time) antenna gain with reference to an isotropic radiator in any easterly direction that would intersect any area in Region 2 shall not exceed 2.15 dBi, except in the case where a transmitter power of less than 100 kW is used. In this case, antenna gain on restricted azimuths shall not exceed that which is determined in accordance with equation below. Stations desiring to operate in this band must submit sufficient antenna performance information to ensure compliance with these restrictions. Permitted gain for transmitter powers less than 100 kW:

$$Gi = 2.15 + 10 \log \left(\frac{100}{Pa} \right) dBi$$

Where:

Gi = maximum gain permitted with reference to an isotropic radiator.

Pa = Transmitter power employed in kW.

(i) Frequencies requested for assignment must be as near as practicable to the optimum working frequency (unless otherwise justified) for the zone or area of reception for the period and path of transmission, and should be chosen so that a given frequency will provide the largest period of reliable transmission to the selected zone or area of reception. Moreover, at the zone or area of reception frequencies shall provide protection to the transmissions of other broadcasting stations which, in the opinion of the Commission, have priority of assignment.

NOTE 1: Requests for frequency-hours shall be accompanied by all pertinent technical data with reference to the frequencies and hours of operation, including calculated field strengths delivered to the zones or areas of reception.

NOTE 2: It is preferable that calculated field strengths delivered to zones or areas of reception be equal to or greater than those required by I.F.R.B. Technical Standards, Series A (and supplements thereto), in order for the I.F.R.B. to afford the notified assignment protection from interference. Nevertheless, calculated field strengths less than those required by the I.F.R.B. standards for protection will be acceptable to the Commission. However, licensees should note that if such lesser field strengths are submitted no protection from interference will be provided by the I.F.R.B. if their technical examination of such notifications show incompatibilities with other notified assignments fully complying with I.F.R.B. technical standards.

NOTE 3: Licensees are permitted to engage in multiple operation as defined in § 73.701(d).

NOTE 4: Seasonal requests for frequency-hours will be only for transmissions to zones or areas of reception specified in the basic instrument of authorization. Changes in such zones or areas will be made only on separate application for modification of such instruments.

(j) Not more than one frequency will be assigned for use at any one time for any one program transmission except in instances where a program is intended for reception in more than one zone or area of reception and the intended zones or areas cannot be served by a single frequency: *Provided, however,* That on a showing of good cause a licensee may be authorized to operate on more than one frequency at any one time to transmit any one program to a single zone or area of reception.

(k) Any frequency assigned to a licensee or permittee shall also be available for assignment to other licensees or permittees.

(l) All assignments of frequencies and the hours during which they will be used will be made with the express understanding that they are subject to

immediate cancellation or change without hearing whenever the Commission determines that interference or propagation conditions so require and that each frequency-hour assignment for a given seasonal schedule is unique unto itself and not necessarily available for use during a subsequent season.

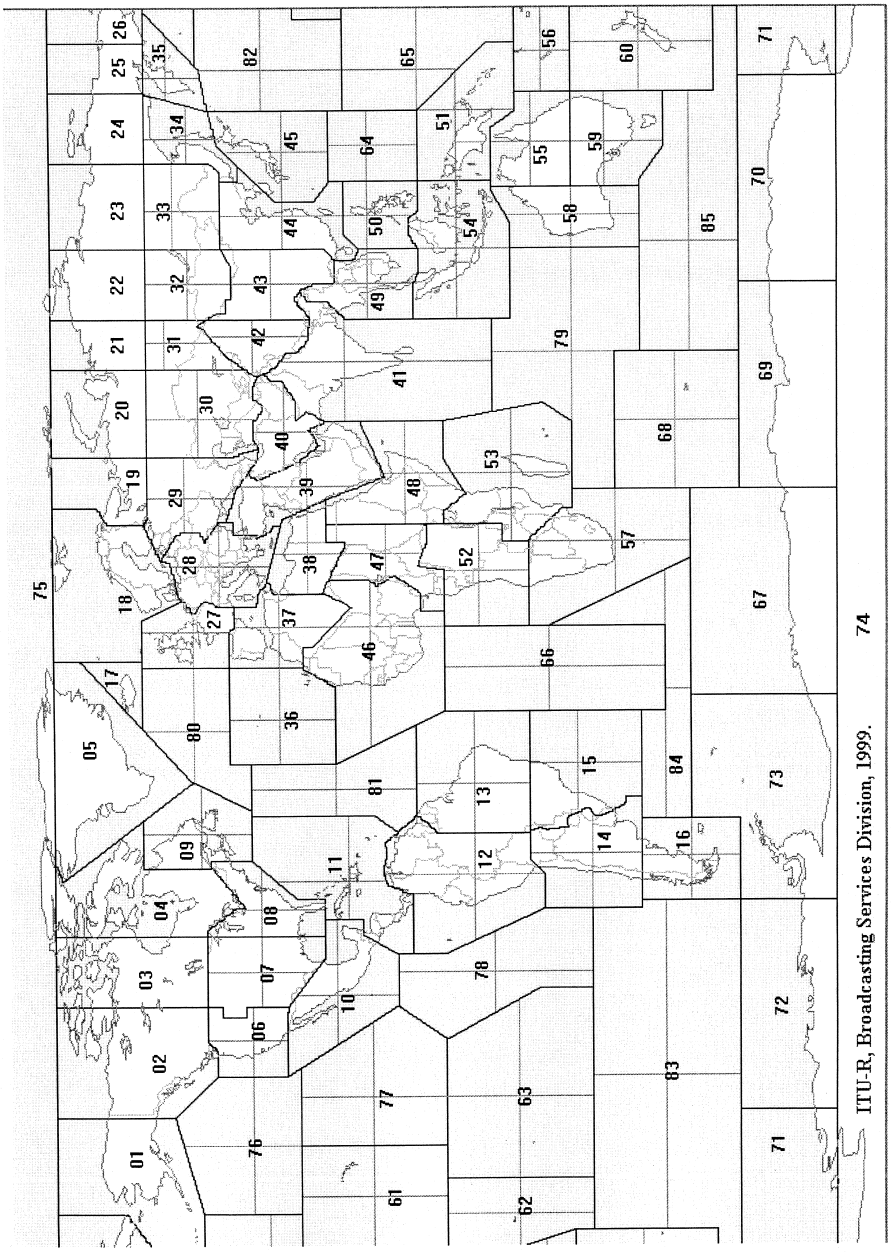
(m) The total maximum number of frequency-hours which will be authorized to all licensees of international broadcasting stations during any one day for any season is 100. The number of frequency-hours allocated to any licensee will depend on past usage, availability, and need. If for a forthcoming season the total of the requests for daily frequency-hours of all licensees exceeds 100, all licensees will be notified and each licensee that makes an adequate showing that good cause exists for not having its requested number of frequency-hours reduced and that operation of its station without such reduction would be consistent with the public interest may be authorized the frequency-hours requested.

NOTE: The provisions of this paragraph are not to be construed to mean that a total of 100 (or more) frequency-hours per day is assured licensees. Frequency-hours will only be assigned to the extent that they are available. It is the responsibility of each licensee to make all technical studies to show that frequency-hours requested by it are available and suitable for use as proposed.

[38 FR 18892, July 16, 1973, as amended at 51 FR 9965, Mar. 24, 1986; 68 FR 25538, May 13, 2003; 70 FR 46676, Aug. 10, 2005; 73 FR 25496, May 6, 2008; 75 FR 63031, Oct. 13, 2010]

§ 73.703 Geographical zones and areas of reception.

The zones or areas of reception to be served by international broadcasting stations shall be based on the following map, and directive antennas shall be employed to direct transmissions thereto:



[38 FR 18893, July 16, 1973, as amended at 68 FR 25538, May 13, 2003]

§ 73.712 Equipment tests.

(a) During the process of construction of an international broadcasting station, the permittee, having obtained authorization for frequencies and hours as set forth in the Note to § 73.702(d) may, without further authority of the FCC, conduct equipment tests for the purpose of such adjustments and measurements as may be necessary to assure compliance with the terms of the construction permit, the technical provisions of the application therefor and the rules and regulations. Such tests shall use voice identification and test tones only. No programming shall be conducted during equipment tests.

(b) The Commission may notify the permittee to conduct no tests or may cancel, suspend, or change the date for the beginning of equipment tests when and if such action may appear to be in the public interest, convenience, and necessity.

(c) Equipment tests may be continued so long as the construction permit shall remain valid: *Provided, however,* That the procedure set forth in paragraph (a) of this section must be repeated prior to the conducting of such tests in each season after the season in which the testing began.

(d) The authorization for tests embodied in this section shall not be construed as constituting a license to operate but as a necessary part of construction.

[28 FR 13696, Dec. 14, 1963, as amended at 37 FR 25842, Dec. 5, 1972. Redesignated and amended at 38 FR 18894, July 16, 1973; 47 FR 40174, Sept. 13, 1982]

§ 73.713 Program tests.

(a) Upon completion of construction of an international broadcasting station in accordance with the terms of the construction permit, the technical provisions of the application therefor, and the rules and regulations and the applicable engineering standards, and when an application for station license has been filed showing the station to be in satisfactory operating condition, the permittee may request authority to conduct program tests. Such request shall be filed with the FCC at least 10 days prior to the date on which it is desired to begin such operation. All data necessary to show compliance with the terms and conditions of the construction permit must be filed with the license application.

(b) Program tests shall not commence until specific Commission authority is received. The Commission reserves the right to change the date of the beginning of such tests or to suspend or revoke the authority for program tests as and when such action may appear to be in the public interest, convenience, and necessity.

(c) Unless sooner suspended or revoked, program test authority continues valid during Commission consideration of the application for license and during this period further extension of the construction permit is not required. Program test authority shall be automatically terminated by final determination upon the application for station license.

(d) All operation under program test authority shall be in strict compliance with the rules governing international broadcasting stations and in strict accordance with representations made in the application for license pursuant to which the tests were authorized.

(e) The granting of program test authority shall not be construed as approval by the Commission of the application for station license.

[38 FR 18894, July 16, 1973, as amended at 47 FR 40174, Sept. 13, 1982]

§ 73.731 Licensing requirements.

(a) A license for an international broadcasting station will be issued only after a satisfactory showing has been made in regard to the following, among others:

(1) That there is a need for the international broadcasting service proposed to be rendered.

(2) That the necessary program sources are available to the applicant to render the international service proposed.

(3) That the production of the program service and the technical operation of the proposed station will be conducted by qualified persons.

(4) That the applicant is legally, technically and financially qualified and possesses adequate technical facilities to carry forward the service proposed.

(5) That the public interest, convenience and necessity will be served through the operation of the proposed station.

[38 FR 18895, July 16, 1973]

§ 73.732 Authorizations.

Authorizations issued to international broadcasting stations by the Commission will be authorizations to permit the construction or use of a particular transmitting equipment combination and related antenna systems for international broadcasting, and to permit broadcasting to zones or areas of reception specified on the instrument of authorization. The authorizations will not specify the frequencies to be used or the hours of use. Requests for frequencies and hours of use will be made as provided in § 73.702. Seasonal schedules, when issued pursuant to the provisions of § 73.702, will become attachments to and part of the instrument of authorization, replacing any such prior attachments.

[38 FR 18895, July 16, 1973]

§ 73.733 Normal license period.

All international broadcast station licenses will be issued so as to expire at the hour of 3 a.m. local time and will be issued for a normal period of 8 years expiring November 1.

[62 FR 5347, Feb. 5, 1997]

§ 73.751 Operating power.

No international broadcast station shall be authorized to install, or be licensed for operation of, transmitter equipment with:

(a) A rated carrier power of less than 50 kilowatts (kW) if double-sideband (DSB) modulation is used,

(b) A peak envelope power of less than 50 kW if single-sideband (SSB) modulation is used, or

(c) A mean power of less than 10 kW if digital modulation is used.

[70 FR 46676, Aug. 10, 2005]

§ 73.753 Antenna systems.

All international broadcasting stations shall operate with directional antennas. Such antennas shall be designed and operated so that the radiated power in the maximum lobe toward the specific zone or area of reception intended to be served shall be at least 10 times the average power from the antenna in the horizontal plane. Radiation in all other directions shall be suppressed to the maximum extent technically feasible. In order to eliminate or mitigate harmful interference, the direction of the maximum lobe may be adjusted upon approval of the Commission.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[38 FR 18895, July 16, 1973, as amended at 44 FR 65765, Nov. 15, 1979]

§ 73.754 Frequency monitors.

(a) The licensee of each international broadcast station shall operate a frequency monitor at the transmitter independent of the frequency control of the transmitter.

(b) The frequency monitor shall be designed and constructed in accordance with good engineering practice. It shall have an accuracy sufficient to determine that the operating frequency is within one-half of the allowed tolerance.

[37 FR 25842, Dec. 5, 1972]

§ 73.755 Modulation monitors.

The licensee of each international broadcast station shall have a modulation monitor in operation at the transmitter.

[37 FR 25842, Dec. 5, 1972]

§ 73.756 System specifications for double-sideband (DBS) modulated emissions in the HF broadcasting service.

(a) *Channel spacing.* The nominal spacing for DSB shall be 10 kHz. However, the interleaved channels with a separation of 5 kHz may be used in accordance with the relative protection criteria, provided that the interleaved emission is not to the same geographical area as either of the emissions between which it is interleaved.

(b) *Emission characteristics*—(1) *Nominal carrier frequencies.* Nominal carrier frequencies shall be integral multiples of 5 kHz.

(2) *Audio-frequency band.* The upper limit of the audio-frequency band (at—

3 dB) of the transmitter shall not exceed 4.5 kHz and the lower limit shall be 150 Hz, with lower frequencies attenuated at a slope of 6 dB per octave.

(3) *Modulation processing.* If audio-frequency signal processing is used, the dynamic range of the modulating signal shall be not less than 20 dB.

(4) *Necessary bandwidth.* The necessary bandwidth shall not exceed 9 kHz.

[70 FR 46677, Aug. 10, 2005]

§ 73.757 System specifications for single-sideband (SSB) modulated emissions in the HF broadcasting service.

(a) *System parameters*—(1) *Channel spacing.* In a mixed DSB, SSB and digital environment (see Resolution 517 (Rev.WRC–03)), the channel spacing shall be 10 kHz. In the interest of spectrum conservation, it is also permissible to interleave SSB emissions midway between two adjacent DSB channels, *i.e.*, with 5 kHz separation between carrier frequencies, provided that the interleaved emission is not to the same geographical area as either of the emissions between which it is interleaved. In an all inclusive SSB environment, the channel spacing and carrier frequency separation shall be 5 kHz.

(2) *Equivalent sideband power.* When the carrier reduction relative to peak envelope power is 6 dB, an equivalent SSB emission is one giving the same audio-frequency signal-to-noise ratio at the receiver output as the corresponding DSB emission, when it is received by a DSB receiver with envelope detection. This is achieved when the sideband power of the SSB emission is 3 dB larger than the total sideband power of the DSB emission. (The peak envelope power of the equivalent SSB emission and the carrier power are the same as that of the DSB emission.)

(b) *Emission characteristics*—(1) *Nominal carrier frequencies.* Nominal carrier frequencies shall be integral multiples of 5 kHz.

(2) *Frequency tolerance.* The frequency tolerance shall be 10 Hz.

NOTE 1 TO PARAGRAPH (b)(2): The ITU suggests that administrations avoid carrier frequency differences of a few hertz, which cause degradations similar to periodic fading. This could be avoided if the frequency tolerance were 0.1 Hz, a tolerance which would be suitable for SSB emissions.

NOTE 2 TO PARAGRAPH (b)(2): The SSB system adopted for the bands allocated exclusively to HF broadcasting does not require a frequency tolerance less than 10 Hz. The degradation mentioned in Note 1 occurs when the ratio of wanted-to-interfering signal is well below the required protection ratio. This remark is equally valid for both DSB and SSB emissions.

(3) *Audio-frequency band.* The upper limit of the audio-frequency band (at— 3 dB) of the transmitter shall not exceed 4.5 kHz with a further slope of attenuation of 35 dB/kHz and the lower limit shall be 150 Hz with lower frequencies attenuated at a slope of 6 dB per octave.

(4) *Modulation processing.* If audio-frequency signal processing is used, the dynamic range of the modulating signal shall be not less than 20 dB.

(5) *Necessary bandwidth.* The necessary bandwidth shall not exceed 4.5 kHz.

(6) *Carrier reduction (relative to peak envelope power).* In a mixed DSB, SSB and digital environment, the carrier reduction shall be 6 dB to allow SSB emissions to be received by conventional DSB receivers with envelope detection without significant deterioration of the reception quality.

(7) *Sideband to be emitted.* Only the upper sideband shall be used.

(8) *Attenuation of the unwanted sideband.* The attenuation of the unwanted sideband (lower sideband) and of intermodulation products in that part of the emission spectrum shall be at least 35 dB relative to the wanted sideband signal level. However, since there is in practice a large difference between signal amplitudes in adjacent channels, a greater attenuation is recommended.

[70 FR 46677, Aug. 10, 2005]

§ 73.758 System specifications for digitally modulated emissions in the HF broadcasting service.

(a) For digitally modulated emissions, the Digital Radio Mondiale (DRM) standard shall be employed. Both digital audio broadcasting and datacasting are authorized. The RF requirements for the DRM system are specified in paragraphs (b) and (c), of this section.

(b) *System parameters*—(1) *Channel spacing*. The initial spacing for digitally modulated emissions shall be 10 kHz. However, interleaved channels with a separation of 5 kHz may be used in accordance with the appropriate protection criteria appearing in Resolution 543 (WRC–03), provided that the interleaved emission is not to the same geographical area as either of the emissions between which it is interleaved.

(2) *Channel utilization*. Channels using digitally modulated emissions may share the same spectrum or be interleaved with analog emissions in the same high frequency broadcasting (HFBC) band, provided the protection afforded to the analog emissions is at least as great as that which is currently in force for analog-to-analog protection. Accomplishing this may require that the digital spectral power density (and total power) be lower by several dB than is currently used for either DSB or SSB emissions.

(c) *Emission characteristics*—(1) *Bandwidth and center frequency*. A full digitally modulated emission will have a 10 kHz bandwidth with its center frequency at any of the 5 kHz center frequency locations in the channel raster currently in use within the HFBC bands. Among several possible ''simulcast'' modes are those having a combination of analog and digital emissions of the same program in the same channel, that may use a digital emission of 5 kHz or 10 kHz bandwidth, next to either a 5 kHz or 10 kHz analog emission. In all cases of this type, the 5 kHz interleaved raster used in HFBC shall be adhered to in placing the emission within these bands.

(2) *Frequency tolerance*. The frequency tolerance shall be 10 Hz. See Section 73.757(b)(2), notes 1 and 2.

(3) *Audio-frequency band*. The quality of service, using digital source coding within a 10 kHz bandwidth, taking into account the need to adapt the emission coding for various levels of error avoidance, detection and correction, can range from the equivalent of monophonic FM (approximately 15 kHz) to the low-level performance of a speech codec (of the order of 3 kHz). The choice of audio quality is connected to the needs of the broadcaster and listener, and includes the consideration of such characteristics as the propagation conditions expected. There is no single specification, only the upper and lower bounds noted in this paragraph.

(4) *Modulation*. Quadrature amplitude modulation (QAM) with orthogonal frequency division multiplexing (OFDM) shall be used. 64–QAM is feasible under many propagation conditions; others such as 32–, 16– and 8–QAM are specified for use when needed.

(5) *RF protection ratio values*. The protection ratio values for analogue and digital emissions for co-channel and adjacent channel conditions shall be in accordance with Resolution 543 (WRC–03) as provisional RF protection ratio values subject to revision or confirmation by a future competent conference.

[70 FR 46677, Aug. 10, 2005]

§ 73.759 Auxiliary transmitters.

Upon showing that a need exists for the use of auxiliary transmitters, a license may be issued provided that:

(a) Auxiliary transmitters may be installed either at the same location as the main transmitters or at another location.

(b) [Reserved]

(c) The auxiliary transmitters shall be maintained so that they may be put into immediate operation at any time for the following purposes:

(1) The transmission of the regular programs upon the failure of the main transmitters.

(2) The transmission of regular programs during maintenance or modification work on the main transmitter, necessitating discontinuance of its operation for a period not to exceed 5 days. (This includes the equipment changes which may be made without authority as set forth elsewhere in the rules and regulations or as authorized by the Commission by letter or by construction permit. Where such operation is required for periods in excess of 5 days, request therefor shall be in accordance with § 73.3542 of this chapter.)

(3) Upon request by a duly authorized representative of the Commission.

(d) The auxiliary transmitters shall be tested at least once each week to determine that they are in proper operating condition and that they are adjusted to the proper frequency except

that in the case of operation in accordance with paragraph (c) of this section during any week, the test in that week may be omitted provided the operation under paragraph (c) of this section is satisfactory. A record shall be kept of the time and result of each test. Such records shall be retained for a period of two years.

(e) The auxiliary transmitters shall be equipped with satisfactory control equipment which will enable the maintenance of the frequency emitted by the station within the limits prescribed by the regulations in this part.

(f) The operating power of an auxiliary transmitter may be less but not greater than the authorized power of the main transmitters.

[28 FR 13696, Dec. 14, 1963, as amended at 37 FR 25843, Dec. 5, 1972; 60 FR 55480, Nov. 1, 1995. Redesignated at 70 FR 46677, Aug. 10, 2005]

§ 73.760 Alternate main transmitters.

The licensee of an international broadcast station may be licensed for alternate main transmitters provided that a technical need for such alternate transmitters is shown and that the following conditions are met: Both transmitters:

(a) Are located at the same place;

(b) Shall have the same power rating; and

(c) Shall meet the construction, installation, operation, and performance requirements of good engineering practice.

[37 FR 25843, Dec. 5, 1972. Redesignated at 70 FR 46677, Aug. 10, 2005]

§ 73.761 Modification of transmission systems.

Specific authority, upon filing formal application (FCC Form 309) therefor, is required for any of the following changes:

(a) Change involving an increase or decrease in the power rating of the transmitters.

(b) A replacement of the transmitters as a whole.

(c) Change in the location of the transmitting antenna.

(d) Change in location of main studio, if it is proposed to move the main studio to a different city from that specified in the license.

(e) Change in the power delivered to the antenna.

(f) Change in frequency control and/or modulation system.

(g) Change in direction or gain of antenna system.

Other changes, not specified above in this section, may be made at any time without the authority of the Commission: *Provided*, That the Commission shall be immediately notified thereof and such changes shall be shown in the next application for renewal of license.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[38 FR 18895, July 16, 1973, as amended at 44 FR 65765, Nov. 15, 1979. Redesignated at 70 FR 46677, Aug. 10, 2005]

§ 73.762 Time of operation.

(a) All international broadcasting stations shall operate in accordance with the times indicated on their seasonal schedules.

(b) In the event that causes beyond a licensee's control make it impossible to adhere to the seasonal schedule or to continue operating, the station may limit or discontinue operation for a period of not more than 10 days, without further authority from the FCC. However, in such cases, the FCC shall be immediately notified in writing of such limitation or discontinuance of operation and shall subsequently be notified when the station resumes regular operation.

(c) In the event that causes beyond a licensee's control make it impossible to adhere to the seasonal schedule or to continue operating for a temporary period of more than 10 days, the station may not limit or discontinue operation until it requests and receives specific authority to do so from the FCC. When the station subsequently resumes regular operation after such limited operation or discontinuance of operation, it shall notify the FCC in Washington, DC. 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.

[38 FR 18895, July 16, 1973, as amended at 47 FR 40174, Sept. 13, 1982; 61 FR 28767, June 6, 1996. Redesignated at 70 FR 46677, Aug. 10, 2005]

§ 73.765 Determining operating power.

The operating power specified in § 73.751 shall be determined by use of a calibrated dummy load or by any other method specified by the licensee and accepted by the Commission. Such method may subsequently be used by the licensee to maintain the authorized operating power.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[38 FR 18895, July 16, 1973, as amended at 44 FR 65765, Nov. 15, 1979]

§ 73.766 [Reserved]

§ 73.781 Logs.

The licensee or permittee of each international broadcast station must maintain the station log in the following manner:

(a) In the program log:

(1) An entry of the time each station identification announcement (call letters and location) is made.

(2) An entry briefly describing each program broadcast, such as ''music'', ''drama'', ''speech'', etc., together with the name or title thereof, language, and the sponsor's name, with the time of the beginning and ending of the complete program.

(3) For each program of network origin, an entry showing the name of the network originating the program.

[28 FR 13696, Dec. 14, 1963, as amended at 37 FR 25843, Dec. 5, 1972; 48 FR 38480, Aug. 24, 1983]

§ 73.782 Retention of logs.

Logs of international broadcast stations shall be retained by the licensee or permittee for a period of two years: *Provided, however,* That logs involving communications incident to a disaster or which include communications incident to or involved in an investigation by the Commission and concerning which the licensee or permittee has been notified, shall be retained by the licensee or permittee until he is specifically authorized in writing by the Commission to destroy them: *Provided, further,* That logs incident to or involved in any claim or complaint of which the licensee or permittee has notice shall be retained by the licensee or permittee until such claim or complaint has been fully satisfied or until the same has been barred by statute limiting the time for the filing of suits upon such claims.

[28 FR 13696, Dec. 14, 1963]

§ 73.787 Station identification.

(a) A licensee of an international broadcast station shall make station identification announcement (call letters and location), at the beginning and ending of each time of operation and during the operation on the hour.

(b) Station identification, program announcements, and oral continuity shall be made with international significance (language particularly) which is designed for the foreign country or countries for which the service is primarily intended.

[28 FR 13696, Dec. 14, 1963, as amended at 34 FR 19762, Dec. 17, 1969; 38 FR 18896, July 16, 1973]

§ 73.788 Service; commercial or sponsored programs.

(a) A licensee of an international broadcast station shall render only an international broadcast service which will reflect the culture of this country and which will promote international goodwill, understanding, and cooperation. Any program solely intended for and directed to an audience in the continental United States does not meet the requirements for this service.

(b) Such international broadcast service may include commercial or sponsored programs: *Provided*, That:

(1) Commercial program continuities give no more than the name of the sponsor of the program and the name and general character of the commodity, utility or service, or attraction advertised.

(2) In case of advertising a commodity, the commodity is regularly sold or is being promoted for sale on the open market in the foreign country or countries to which the program is

directed in accordance with paragraph (c) of this section.

(3) In case of advertising an American utility or service to prospective tourists or visitors to the United States, the advertisement continuity is particularly directed to such persons in the foreign country or countries where they reside and to which the program is directed in accordance with paragraph (c) of this section.

(4) In case of advertising an international attraction (such as a world fair, resort, spa, etc.) to prospective tourists or visitors to the United States, the oral continuity concerning such attraction is consistent with the purpose and intent of this section.

(5) In case of any other type of advertising, such advertising is directed to the foreign country or countries to which the program is directed and is consistent with the purpose and intent of this section.

(c) The geographic areas to be served by international broadcasting stations are the zones and areas of reception shown in §73.703.

(d) An international broadcast station may transmit the program of a AM broadcast station or network system: *Provided*, That the conditions in paragraph (b) of this section as to any commercial continuities are observed and when station identifications are made, only the call letter designation of the international station is given and its assigned frequency: *And provided further*, That in the case of chain broadcasting the program is not carried simultaneously by another international station (except another station owned by the same licensee operated on a frequency in a different group to obtain continuity of signal service), the signals from which are directed to the same area. (See section 3(p) of the Communications Act of 1934 for the definition of ''chain broadcasting.'')

[28 FR 13696, Dec. 14, 1963, as amended at 37 FR 25843, Dec. 5, 1972; 38 FR 18896, July 16, 1973]

Subpart G—Low Power FM Broadcast Stations (LPFM)

SOURCE: 65 FR 7640, Feb. 15, 2000, unless otherwise noted.

§ 73.801 Broadcast regulations applicable to LPFM stations.

The following rules are applicable to LPFM stations:

Section 73.201 Numerical definition of FM broadcast channels.
Section 73.220 Restrictions on use of channels.
Section 73.267 Determining operating power.
Section 73.277 Permissible transmissions.
Section 73.297 FM stereophonic sound broadcasting.
Section 73.310 FM technical definitions.
Section 73.312 Topographic data.
Section 73.318 FM blanketing interference.
Section 73.322 FM stereophonic sound transmission standards.
Section 73.333 Engineering charts.
Section 73.503 Licensing requirements and service.
Section 73.508 Standards of good engineering practice.
Section 73.593 Subsidiary communications services.
Section 73.1015 Truthful written statements and responses to Commission inquiries and correspondence.
Section 73.1030 Notifications concerning interference to radio astronomy, research and receiving installations.
Section 73.1201 Station identification.
Section 73.1206 Broadcast of telephone conversations.
Section 73.1207 Rebroadcasts.
Section 73.1208 Broadcast of taped, filmed, or recorded material.
Section 73.1210 TV/FM dual-language broadcasting in Puerto Rico.
Section 73.1211 Broadcast of lottery information.
Section 73.1212 Sponsorship identification; list retention; related requirements.
Section 73.1213 Antenna structure, marking and lighting.
Section 73.1216 Licensee-conducted contests.
Section 73.1217 Broadcast hoaxes.
Section 73.1230 Posting of station license.
Section 73.1250 Broadcasting emergency information.
Section 73.1300 Unattended station operation.
Section 73.1400 Transmission system monitoring and control.
Section 73.1520 Operation for tests and maintenance.
Section 73.1540 Carrier frequency measurements.
Section 73.1545 Carrier frequency departure tolerances.
Section 73.1570 Modulation levels: AM, FM, and TV aural.
Section 73.1580 Transmission system inspections.

Section 73.1610 Equipment tests.
Section 73.1620 Program tests.
Section 73.1650 International agreements.
Section 73.1660 Acceptability of broadcast transmitters.
Section 73.1665 Main transmitters.
Section 73.1692 Broadcast station construction near or installation on an AM broadcast tower.
Section 73.1745 Unauthorized operation.
Section 73.1750 Discontinuance of operation.
Section 73.1920 Personal attacks.
Section 73.1940 Legally qualified candidates for public office.
Section 73.1941 Equal opportunities.
Section 73.1943 Political file.
Section 73.1944 Reasonable access.
Section 73.3511 Applications required.
Section 73.3512 Where to file; number of copies.
Section 73.3513 Signing of applications.
Section 73.3514 Content of applications.
Section 73.3516 Specification of facilities.
Section 73.3517 Contingent applications.
Section 73.3518 Inconsistent or conflicting applications.
Section 73.3519 Repetitious applications.
Section 73.3520 Multiple applications.
Section 73.3525 Agreements for removing application conflicts.
Section 73.3539 Application for renewal of license.
Section 73.3542 Application for emergency authorization.
Section 73.3545 Application for permit to deliver programs to foreign stations.
Section 73.3550 Requests for new or modified call sign assignments.
Section 73.3561 Staff consideration of applications requiring Commission consideration.
Section 73.3562 Staff consideration of applications not requiring action by the Commission.
Section 73.3566 Defective applications.
Section 73.3568 Dismissal of applications.
Section 73.3584 Procedure for filing petitions to deny.
Section 73.3587 Procedure for filing informal objections.
Section 73.3588 Dismissal of petitions to deny or withdrawal of informal objections.
Section 73.3589 Threats to file petitions to deny or informal objections.
Section 73.3591 Grants without hearing.
Section 73.3593 Designation for hearing.
Section 73.3598 Period of construction.
Section 73.3599 Forfeiture of construction permit.
Section 73.3999 Enforcement of 18 U.S.C. 1464—restrictions on the transmission of obscene and indecent material.

§ 73.805 Availability of channels.

Except as provided in § 73.220 of this chapter, all of the frequencies listed in § 73.201 of this chapter are available for LPFM stations.

§ 73.807 Minimum distance separation between stations.

Minimum separation requirements for LPFM stations are listed in the following paragraphs. Except as noted below, an LPFM station will not be authorized unless the co-channel, and first- and second-adjacent channel separations are met. An LPFM station need not satisfy the third-adjacent channel separations listed in paragraphs (a) through (c) of this section in order to be authorized. The third-adjacent channel separations are included for use in determining for purposes of § 73.810 which third-adjacent channel interference regime applies to an LPFM station. Minimum distances for co-channel and first-adjacent channel are separated into two columns. The left-hand column lists the required minimum separation to protect other stations and the right-hand column lists (for informational purposes only) the minimum distance necessary for the LPFM station to receive no interference from other stations assumed to be operating at the maximum permitted facilities for the station class. For second-adjacent channel, the required minimum distance separation is sufficient to avoid interference received from other stations.

(a)(1) An LPFM station will not be authorized initially unless the minimum distance separations in the following table are met with respect to authorized FM stations, applications for new and existing FM stations filed prior to the release of the public notice announcing an LPFM window period, authorized LPFM stations, LPFM station applications that were timely-filed within a previous window, and vacant FM allotments. LPFM modification applications must either meet the distance separations in the following table or, if short-spaced, not lessen the spacing to subsequently authorized stations.

Station class protected by LPFM	Co-channel minimum separation (km)		First-adjacent channel minimum separation (km)		Second and third adjacent channel minimum separation (km)
	Required	For no interference received from max. class facility	Required	For no interference received from max. class facility	Required
LPFM	24	24	14	14	None
D	24	24	13	13	6
A	67	92	56	56	29
B1	87	119	74	74	46
B	112	143	97	97	67
C3	78	119	67	67	40
C2	91	143	80	84	53
C1	111	178	100	111	73
C0	122	193	111	130	84
C	130	203	120	142	93

(2) LPFM stations must satisfy the second-adjacent channel minimum distance separation requirements of paragraph (a)(1) of this section with respect to any third-adjacent channel FM station that, as of September 20, 2000, broadcasts a radio reading service via a subcarrier frequency.

(b) In addition to meeting or exceeding the minimum separations in paragraph (a) of this section, new LPFM stations will not be autorized in Puerto Rico or the Virgin Islands unless the minimum distance separations in the following tables are met with respect to authorized or proposed FM stations:

Station class protected by LPFM	Co-channel minimum separation (km)		First-adjacent channel minimum separation (km)		Second and third adjacent channel minimum separation (km)—required
	Required	For no interference received from max. class facility	Required	For no interference received from max. class facility	
A	80	111	70	70	42
B1	95	128	82	82	53
B	138	179	123	123	92

NOTE TO PARAGRAPHS (a) AND (b): Minimum distance separations towards ''grandfathered'' superpowered Reserved Band stations are as specified. Full service FM stations operating within the reserved band (Channels 201–220) with facilities in excess of those permitted in § 73.211(b)(1) or (b)(3) shall be protected by LPFM stations in accordance with the minimum distance separations for the nearest class as determined under § 73.211. For example, a Class B1 station operating with facilities that result in a 60 dBu contour that exceeds 39 kilometers but is less than 52 kilometers would be protected by the Class B minimum distance separations. Class D stations with 60 dBu contours that exceed 5 kilometers will be protected by the Class A minimum distance separations. Class B stations with 60 dBu contours that exceed 52 kilometers will be protected as Class C1 or Class C stations depending upon the distance to the 60 dBu contour. No stations will be protected beyond Class C separations.

(c) In addition to meeting the separations specified in paragraphs (a) and (b), LPFM applications must meet the minimum separation requirements in the following table with respect to authorized FM translator stations, cutoff FM translator applications, and FM translator applications filed prior to the release of the Public Notice announcing the LPFM window period.

Distance to FM translator 60 dBu contour	Co-channel minimum separation (km)		First-adjacent channel minimum separation (km)		Second and third adjacent channel minimum separation (km)—required
	Required	For no interference received	Required	For no interference received	
13.3 km or greater	39	67	28	35	21
Greater than 7.3 km, but less than 13.3 km	32	51	21	26	14
7.3 km or less	26	30	15	16	8

(d) Existing LPFM stations which do not meet the separations in paragraphs (a) through (c) of this section may be relocated provided that the separation to any short-spaced station is not reduced.

(e)(1) *Waiver of the second-adjacent channel separations.* The Commission will entertain requests to waive the second-adjacent channel separations in paragraphs (a) through (c) of this section on a case-by-case basis. In each case, the LPFM station must establish, using methods of predicting interference taking into account all relevant factors, including terrain-sensitive propagation models, that its proposed operations will not result in interference to any authorized radio service. The LPFM station may do so by demonstrating that no actual interference will occur due to intervening terrain or lack of population. The LPFM station may use an undesired/desired signal strength ratio methodology to define areas of potential interference.

(2) *Interference.* (i) Upon receipt of a complaint of interference from an LPFM station operating pursuant to a waiver granted under paragraph (e)(1) of this section, the Commission shall notify the identified LPFM station by telephone or other electronic communication within one business day.

(ii) An LPFM station that receives a waiver under paragraph (e)(1) of this section shall suspend operation immediately upon notification by the Commission that it is causing interference to the reception of an existing or modified full-service FM station without regard to the location of the station receiving interference. The LPFM station shall not resume operation until such interference has been eliminated or it can demonstrate to the Commission that the interference was not due to emissions from the LPFM station. Short test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures.

(f) Commercial and noncommercial educational stations authorized under subparts B and C of this part, as well as new or modified commercial FM allotments, are not required to adhere to the separations specified in this rule section, even where new or increased interference would be created.

(g) *International considerations within the border zones.* (1) Within 320 km of the Canadian border, LPFM stations must meet the following minimum separations with respect to any Canadian stations:

Canadian station class	Co-channel (km)	First-adjacent channel (km)	Second-adjacent channel (km)	Third-adjacent channel (km)	Intermediate frequency (IF) channel (km)
A1 & Low Power	45	30	21	20	4
A	66	50	41	40	7
B1	78	62	53	52	9
B	92	76	68	66	12
C1	113	98	89	88	19
C	124	108	99	98	28

(2) Within 320 km of the Mexican border, LPFM stations must meet the following separations with respect to any Mexican stations:

Mexican station class	Co-channel (km)	First-adjacent channel (km)	Second- and third-adjacent channel (km)	Intermediate frequency (IF) channel (km)
Low Power	27	17	9	3
A	43	32	25	5
AA	47	36	29	6
B1	67	54	45	8
B	91	76	66	11
C1	91	80	73	19
C	110	100	92	27

(3) The Commission will notify the International Telecommunications Union (ITU) of any LPFM authorizations in the US Virgin Islands. Any authorization issued for a US Virgin Islands LPFM station will include a condition that permits the Commission to modify, suspend or terminate without right to a hearing if found by the Commission to be necessary to conform to any international regulations or agreements.

(4) The Commission will initiate international coordination of a LPFM proposal even where the above Canadian and Mexican spacing tables are met, if it appears that such coordination is necessary to maintain compliance with international agreements.

[78 FR 2102, Jan. 9, 2013]

§ 73.808 Distance computations.

For the purposes of determining compliance with any LPFM distance requirements, distances shall be calculated in accordance with § 73.208(c) of this part.

§ 73.809 Interference protection to full service FM stations.

(a) If a full service commercial or NCE FM facility application is filed subsequent to the filing of an LPFM station facility application, such full service station is protected against any condition of interference to the direct reception of its signal that is caused by such LPFM station operating on the same channel or first-adjacent channel provided that the interference is predicted to occur and actually occurs within:

(1) The 3.16 mV/m (70 dBu) contour of such full service station;

(2) The community of license of such full service station; or

(3) Any area of the community of license of such full service station that is predicted to receive at least a 1 mV/m (60 dBu) signal. Predicted interference shall be calculated in accordance with the ratios set forth in § 73.215 paragraphs (a)(1) and (a)(2). Intermediate frequency (IF) channel interference overlap will be determined based upon overlap of the 91 dBu F(50,50) contours of the FM and LPFM stations. Actual interference will be considered to occur whenever reception of a regularly used signal is impaired by the signal radiated by the LPFM station.

(b) An LPFM station will be provided an opportunity to demonstrate in connection with the processing of the commercial or NCE FM application that interference as described in paragraph (a) of this section is unlikely. If the LPFM station fails to so demonstrate, it will be required to cease operations upon the commencement of program tests by the commercial or NCE FM station.

(c) Complaints of actual interference by an LPFM station subject to paragraphs (a) and (b) of this section must be served on the LPFM licensee and the Federal Communications Commission, attention Audio Services Division. The LPFM station must suspend operations within twenty-four hours of the receipt of such complaint unless the interference has been resolved to the satisfaction of the complainant on the basis of suitable techniques. An LPFM station may only resume operations at the direction of the Federal Communications Commission. If the Commission determines that the complainant has refused to permit the

LPFM station to apply remedial techniques that demonstrably will eliminate the interference without impairment of the original reception, the licensee of the LPFM station is absolved of further responsibility for the complaint.

(d) It shall be the responsibility of the licensee of an LPFM station to correct any condition of interference that results from the radiation of radio frequency energy outside its assigned channel. Upon notice by the FCC to the station licensee or operator that such interference is caused by spurious emissions of the station, operation of the station shall be immediately suspended and not resumed until the interference has been eliminated. However, short test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures.

(e) In each instance where suspension of operation is required, the licensee shall submit a full report to the FCC in Washington, DC, after operation is resumed, containing details of the nature of the interference, the source of the interfering signals, and the remedial steps taken to eliminate the interference.

[65 FR 7640, Feb. 15, 2000, as amended at 65 FR 67302, Nov. 9, 2000; 73 FR 3216, Jan. 17, 2008; 78 FR 2104, Jan. 9, 2013]

§ 73.810 Third adjacent channel interference.

(a) *LPFM Stations Licensed at Locations That Do Not Satisfy Third-Adjacent Channel Minimum Distance Separations.* An LPFM station licensed at a location that does not satisfy the third-adjacent channel minimum distance separations set forth in § 73.807 is subject to the following provisions:

(1) Such an LPFM station will not be permitted to continue to operate if it causes any actual third-adjacent channel interference to:

(i) The transmission of any authorized broadcast station; or

(ii) The reception of the input signal of any TV translator, TV booster, FM translator or FM booster station; or

(iii) The direct reception by the public of the off-the-air signals of any authorized broadcast station including TV Channel 6 stations, Class D (secondary) noncommercial educational FM stations, and previously authorized and operating LPFM stations, FM translators and FM booster stations. Interference will be considered to occur whenever reception of a regularly used signal on a third-adjacent channel is impaired by the signals radiated by the LPFM station, regardless of the quality of such reception, the strength of the signal so used, or the channel on which the protected signal is transmitted.

(2) If third-adjacent channel interference cannot be properly eliminated by the application of suitable techniques, operation of the offending LPFM station shall be suspended and shall not be resumed until the interference has been eliminated. Short test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures. If a complainant refuses to permit the licensee of the offending LPFM station to apply remedial techniques which demonstrably will eliminate the third-adjacent channel interference without impairment to the original reception, the licensee is absolved of further responsibility for that complaint.

(3) Upon notice by the Commission to the licensee that such third-adjacent channel interference is being caused, the operation of the LPFM station shall be suspended within three minutes and shall not be resumed until the interference has been eliminated or it can be demonstrated that the interference is not due to spurious emissions by the LPFM station; *provided, however,* that short test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures.

(b) *LPFM stations licensed at locations that satisfy third-adjacent channel minimum distance separations.* An LPFM station licensed at a location that satisfies the third-adjacent channel minimum distance separations set forth in § 73.807 is subject to the following provisions:

(1) *Interference complaints and remediation.* (i) Such an LPFM station is required to provide copies of all complaints alleging that its signal is causing third-adjacent channel interference to or impairing the reception of the

signal of a full power FM, FM translator or FM booster station to such affected station and to the Commission.

(ii) A full power FM, FM translator or FM booster station shall review all complaints it receives, either directly or indirectly, from listeners regarding alleged third-adjacent channel interference caused by the operations of such an LPFM station. Such full power FM, FM translator or FM booster station shall also identify those that qualify as bona fide complaints under this section and promptly provide such LPFM station with copies of all bona fide complaints. A bona fide complaint:

(A) Must include current contact information for the complainant;

(B) Must state the nature and location of the alleged third-adjacent channel interference and must specify the call signs of the LPFM station and affected full power FM, FM translator or FM booster station, and the type of receiver involved; and

(C) Must be received by either the LPFM station or the affected full power FM, FM translator or FM booster station within one year of the date on which the LPFM station commenced broadcasts with its currently authorized facilities.

(iii) The Commission will accept bona fide complaints and will notify the licensee of the LPFM station allegedly causing third-adjacent channel interference to the signal of a full power FM, FM translator or FM booster station of the existence of the alleged interference within 7 calendar days of the Commission's receipt of such complaint.

(iv) Such an LPFM station will be given a reasonable opportunity to resolve all complaints of third-adjacent channel interference within the protected contour of the affected full power FM, FM translator or FM booster station. A complaint will be considered resolved where the complainant does not reasonably cooperate with an LPFM station's remedial efforts. Such an LPFM station also is encouraged to address all other complaints of third-adjacent channel interference, including complaints based on interference to a full power FM, FM translator or FM booster station by the transmitter site of the LPFM station at any distance from the full power, FM translator or FM booster station.

(v) In the event that the number of unresolved complaints of third-adjacent channel interference within the protected contour of the affected full power FM, FM translator or FM booster station plus the number of complaints for which the source of third-adjacent channel interference remains in dispute equals at least one percent of the households within one kilometer of the LPFM transmitter site or thirty households, whichever is less, the LPFM and affected stations must cooperate in an ''on-off'' test to determine whether the third-adjacent channel interference is traceable to the LPFM station.

(vi) If the number of unresolved and disputed complaints of third-adjacent channel interference within the protected contour of the affected full power, FM translator or FM booster station exceeds the numeric threshold specified in paragraph (b)(1)(v) of this section following an ''on-off'' test, the affected station may request that the Commission initiate a proceeding to consider whether the LPFM station license should be modified or cancelled, which will be completed by the Commission within 90 days. Parties may seek extensions of the 90-day deadline consistent with Commission rules.

(vii) An LPFM station may stay any procedures initiated pursuant to paragraph (b)(1)(vi) of this section by voluntarily ceasing operations and filing an application for facility modification within twenty days of the commencement of such procedures.

(2) *Periodic announcements.* (i) For a period of one year from the date of licensing of a new LPFM station that is constructed on a third-adjacent channel and satisfies the third-adjacent channel minimum distance separations set forth in §73.807, such LPFM station shall broadcast periodic announcements. The announcements shall, at a minimum, alert listeners of the potentially affected third-adjacent channel station of the potential for interference, instruct listeners to contact

the LPFM station to report any interference, and provide contact information for the LPFM station. The announcements shall be made in the primary language(s) of both the new LPFM station and the potentially affected third-adjacent channel station(s). Sample announcement language follows:

On (date of license grant), the Federal Communications Commission granted (LPFM station's call letters) a license to operate. (LPFM station's call letters) may cause interference to the operations of (third-adjacent channel station's call letters) and (other third-adjacent channel stations' call letters). If you are normally a listener of (third-adjacent channel station's call letters) or (other third-adjacent channel station's call letters) and are having difficulty receiving (third-adjacent channel station call letters) or (other third-adjacent channel station's call letters), please contact (LPFM station's call letters) by mail at (mailing address) or by telephone at (telephone number) to report this interference.

(ii) During the first thirty days after licensing of a new LPFM station that is constructed on a third-adjacent channel and satisfies the third-adjacent channel minimum distance separations set forth in Section 73.807, the LPFM station must broadcast the announcements specified in paragraph (b)(2)(i) of this section at least twice daily. The first daily announcement must be made between the hours of 7 a.m. and 9 a.m., or 4 p.m. and 6 p.m. The LPFM station must vary the time slot in which it airs this announcement. For stations that do not operate at these times, the announcements shall be made during the first two hours of broadcast operations each day. The second daily announcement must be made outside of the 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. time slots. The LPFM station must vary the times of day in which it broadcasts this second daily announcement in order to ensure that the announcements air during all parts of its broadcast day. For stations that do not operate at these times, the announcements shall be made during the first two hours of broadcast operations each day. For the remainder of the one year period, the LPFM station must broadcast the announcements at least twice per week. The announcements must be broadcast between the hours of 7 a.m. and midnight. For stations that do not operate at these times, the announcements shall be made during the first two hours of broadcast operations each day.

(iii) Any new LPFM station that is constructed on a third-adjacent channel and satisfies the minimum distance separations set forth in § 73.807 must:

(A) notify the Audio Division, Media Bureau, and all affected stations on third-adjacent channels of an interference complaint. The notification must be made electronically within 48 hours after the receipt of an interference complaint by the LPFM station; and

(B) cooperate in addressing any third-adjacent channel interference.

[78 FR 2104, Jan. 9, 2013]

§ 73.811 LPFM power and antenna height requirements.

(a) *Maximum facilities.* LPFM stations will be authorized to operate with maximum facilities of 100 watts ERP at 30 meters HAAT. An LPFM station with a HAAT that exceeds 30 meters will not be permitted to operate with an ERP greater than that which would result in a 60 dBu contour of 5.6 kilometers. In no event will an ERP less than one watt be authorized. No facility will be authorized in excess of one watt ERP at 450 meters HAAT.

(b) *Minimum facilities.* LPFM stations may not operate with facilities less than 50 watts ERP at 30 meters HAAT or the equivalent necessary to produce a 60 dBu contour that extends at least 4.7 kilometers.

[78 FR 2105, Jan. 9, 2013]

§ 73.812 Rounding of power and antenna heights.

(a) Effective radiated power (ERP) will be rounded to the nearest watt on LPFM authorizations.

(b) Antenna radiation center, antenna height above average terrain (HAAT), and antenna supporting structure height will all be rounded to the nearest meter on LPFM authorizations.

§ 73.813 Determination of antenna height above average terrain (HAAT).

HAAT determinations for LPFM stations will be made in accordance with the procedure detailed in § 73.313(d) of this part.

§ 73.816 Antennas.

(a) Permittees and licensees may employ nondirectional antennas with horizontal only polarization, vertical only polarization, circular polarization or elliptical polarization.

(b) Directional antennas generally will not be authorized and may not be utilized in the LPFM service, except as provided in paragraph (c) of this section.

(c)(1) Public safety and transportation permittees and licensees, eligible pursuant to § 73.853(a)(2), may utilize directional antennas in connection with the operation of a Travelers' Information Service (TIS) provided each LPFM TIS station utilizes only a single antenna with standard pattern characteristics that are predetermined by the manufacturer. Public safety and transportation permittees and licensees may not use composite antennas (*i.e.*, antennas that consist of multiple stacked and/or phased discrete transmitting antennas).

(2) LPFM permittees and licensees proposing a waiver of the second-adjacent channel spacing requirements of § 73.807 may utilize directional antennas for the sole purpose of justifying such a waiver.

(d) LPFM TIS stations will be authorized as nondirectional stations. The use of a directional antenna as provided for in paragraph (c) of this section will not be considered in the determination of compliance with any requirements of this part.

[65 FR 67303, Nov. 9, 2000, as amended at 78 FR 2106, Jan. 9, 2013]

§ 73.825 Protection to reception of TV channel 6.

(a) LPFM stations will be authorized on Channels 201 through 220 only if the pertinent minimum separation distances in the following table are met with respect to all full power TV Channel 6 stations.

FM channel number	LPFM to TV channel 6 (km)
201	140
202	138
203	137
204	136
205	135
206	133
207	133
208	133
209	133
210	133
211	133
212	132
213	132
214	132
215	131
216	131
217	131
218	131
219	130
220	130

(b) LPFM stations will be authorized on Channels 201 through 220 only if the pertinent minimum separation distances in the following table are met with respect to all low power TV, TV translator, and Class A TV stations authorized on TV Channel 6.

FM channel number	LPFM to TV channel 6 (km)
201	98
202	97
203	95
204	94
205	93
206	91
207	91
208	91
209	91
210	91
211	91
212	90
213	90
214	90
215	90
216	89
217	89
218	89
219	89
220	89

[65 FR 67303, Nov. 9, 2000, as amended at 78 FR 2106, Jan. 9, 2013]

§ 73.827 Interference to the input signals of FM translator or FM booster stations.

(a) *Interference to the direct reception of the input signal of an FM translator station.* This subsection applies when an LPFM application proposes to operate near an FM translator station, the FM translator station is receiving its input signal off-air (either directly from the primary station or from a

translator station) and the LPFM application proposes to operate on a third-adjacent channel to the station delivering an input signal to the translator station. In these circumstances, the LPFM station will not be authorized unless it is located at least 2 km from the FM translator station. In addition, in cases where an LPFM station is located within ±30 degrees of the azimuth between the FM translator station and its input signal, the LPFM station will not be authorized unless it is located at least 10 kilometers from the FM translator station. The provisions of this subsection will not apply if the LPFM applicant:

(1) Demonstrates that no actual interference will occur due to an undesired (LPFM) to desired (station delivering signal to translator station) ratio below 34 dB at such translator station's receive antenna.

(2) Complies with the minimum LPFM/FM translator distance separation calculated in accordance with the following formula: $d_u = 133.5 \text{ antilog } [(P_{cu} + G_{ru} - G_{rd} - E_d)/20]$, where d_u = the minimum allowed separation in km, P_{cu} = LPFM ERP in dBW, G_{ru} = gain (dBd) of the FM translator receive antenna in the direction of the LPFM site, G_{rd} = gain (dBd) of the FM translator receive antenna in the direction of the primary station site, E_d = predicted field strength (dBu) of the primary station at the translator site, or

(3) Reaches an agreement with the licensee of the FM translator regarding an alternative technical solution.

NOTE TO PARAGRAPH (a): LPFM applicants may assume that an FM translator station's receive and transmit antennas are collocated.

(b) An authorized LPFM station will not be permitted to continue to operate if an FM translator or FM booster station demonstrates that the LPFM station is causing actual interference to the FM translator or FM booster station's input signal, provided that the same input signal was in use or proposed in an application filed with the Commission prior to the release of the public notice announcing the dates for an LPFM application filing window and has been continuously in use or proposed since that time.

(c) Complaints of actual interference by an LPFM station subject to paragraph (b) of this section must be served on the LPFM licensee and the Federal Communications Commission, Attention: Audio Division, Media Bureau. The LPFM station must suspend operations upon the receipt of such complaint unless the interference has been resolved to the satisfaction of the complainant on the basis of suitable techniques. Short test transmissions may be made during the period of suspended operations to check the efficacy of remedial measures. An LPFM station may only resume full operation at the direction of the Federal Communications Commission. If the Commission determines that the complainant has refused to permit the LPFM station to apply remedial techniques that demonstrably will eliminate the interference without impairment of the original reception, the licensee of the LPFM station is absolved of further responsibility for the complaint.

[78 FR 2106, Jan. 9, 2013, as amended at 78 FR 67317, Nov. 12, 2013]

§ 73.840 Operating power and mode tolerances.

The transmitter power output (TPO) of an LPFM station must be determined by the procedures set forth in § 73.267 of this part. The operating TPO of an LPFM station with an authorized TPO of more than ten watts must be maintained as near as practicable to its authorized TPO and may not be less than 90% of the minimum TPO nor greater than 105% of the maximum authorized TPO. An LPFM station with an authorized TPO of ten watts or less may operate with less than the authorized power, but not more than 105% of the authorized power.

§ 73.845 Transmission system operation.

Each LPFM licensee is responsible for maintaining and operating its broadcast station in a manner that complies with the technical rules set forth elsewhere in this part and in accordance with the terms of the station authorization. In the event that an LPFM station is operating in a manner that is not in compliance with the technical rules set forth elsewhere in

this part or the terms of the station authorization, broadcast operation must be terminated within three hours.

§ 73.850 Operating schedule.

(a) All LPFM stations will be licensed for unlimited time operation, except those stations operating under a time sharing agreement pursuant to § 73.872.

(b) All LPFM stations are required to operate at least 36 hours per week, consisting of at least 5 hours of operation per day on at least 6 days of the week; however, stations licensed to educational institutions are not required to operate on Saturday or Sunday or to observe the minimum operating requirements during those days designated on the official school calendar as vacation or recess periods.

(c) All LPFM stations, including those meeting the requirements of paragraph (b) of this section, but which do not operate 12 hours per day each day of the year, will be required to share use of the frequency upon the grant of an appropriate application proposing such share time arrangement. Such applications must set forth the intent to share time and must be filed in the same manner as are applications for new stations. Such applications may be filed at any time after an LPFM station completes its third year of licensed operations. In cases where the licensee and the prospective licensee are unable to agree on time sharing, action on the application will be taken only in connection with a renewal application for the existing station filed on or after June 1, 2019. In order to be considered for this purpose, an application to share time must be filed no later than the deadline for filing petitions to deny the renewal application of the existing licensee.

(1) The licensee and the prospective licensee(s) shall endeavor to reach an agreement for a definite schedule of periods of time to be used by each. Such agreement must be in writing and must set forth which licensee is to operate on each of the hours of the day throughout the year. Such agreement must not include simultaneous operation of the stations. Each licensee must file the same in triplicate with each application to the Commission for initial construction permit or renewal of license. Such written agreements shall become part of the terms of each station's license.

(2) The Commission desires to facilitate the reaching of agreements on time sharing. However, if the licensees of stations authorized to share time are unable to agree on a division of time, the prospective licensee(s) must submit a statement with the Commission to that effect filed with the application(s) proposing time sharing.

(3) After receipt of the type of application(s) described in paragraph (c)(2) of this section, the Commission will process such application(s) pursuant to §§ 73.3561 through 73.3568 of this Part. If any such application is not dismissed pursuant to those provisions, the Commission will issue a notice to the parties proposing a time-sharing arrangement and a grant of the time-sharing application(s). The licensee may protest the proposed action, the prospective licensee(s) may oppose the protest and/or the proposed action, and the licensee may reply within the time limits delineated in the notice. All such pleadings must satisfy the requirements of Section 309(d) of the Act. Based on those pleadings and the requirements of Section 309 of the Act, the Commission will then act on the time-sharing application(s) and the licensee's renewal application.

(4) A departure from the regular schedule set forth in a time-sharing agreement will be permitted only in cases where a written agreement to that effect is reduced to writing, is signed by the licensees of the stations affected thereby, and is filed in triplicate by each licensee with the Commission, Attention: Audio Division, Media Bureau, 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 the written agreement, provided that appropriate notice is sent to the Commission in Washington, DC, Attention: Audio Division, Media Bureau.

[65 FR 7640, Feb. 15, 2000, as amended at 78 FR 2106, Jan. 9, 2013]

§ 73.853 Licensing requirements and service.

(a) An LPFM station may be licensed only to:

(1) Nonprofit educational organizations and upon a showing that the proposed station will be used for the advancement of an educational program; and

(2) State and local governments and non-government entities that will provide non-commercial public safety radio services.

(3) Tribal Applicants, as defined in paragraph (c) of this section that will provide non-commercial radio services.

(b) Only local organizations will be permitted to submit applications and to hold authorizations in the LPFM service. For the purposes of this paragraph, an organization will be deemed local if it can certify, at the time of application, that it meets the criteria listed below and if it continues to satisfy the criteria at all times thereafter.

(1) The applicant, its local chapter or branch is physically headquartered or has a campus within 16.1 km (10 miles) of the proposed site for the transmitting antenna for applicants in the top 50 urban markets, and 32.1 km (20 miles) for applicants outside of the top 50 urban markets;

(2) It has 75% of its board members residing within 16.1 km (10 miles) of the proposed site for the transmitting antenna for applicants in the top 50 urban markets, and 32.1 km (20 miles) for applicants outside of the top 50 urban markets; or

(3) In the case of any applicant proposing a public safety radio service, the applicant has jurisdiction within the service area of the proposed LPFM station.

(4) In the case of a Tribal Applicant, as defined in paragraph (c) of this section, the Tribal Applicant's Tribal lands, as that term is defined in § 73.7000, are within the service area of the proposed LPFM station.

(c) A Tribal Applicant is a Tribe or an entity that is 51 percent or more owned or controlled by a Tribe or Tribes. For these purposes, Tribe is defined as set forth in § 73.7000.

[65 FR 7640, Feb. 15, 2000, as amended at 73 FR 3216, Jan. 17, 2008; 78 FR 2107, Jan. 9, 2013]

§ 73.854 Unlicensed operations.

No application for an LPFM station may be granted unless the applicant certifies, under penalty of perjury, that neither the applicant, nor any party to the application, has engaged in any manner including individually or with persons, groups, organizations or other entities, in the unlicensed operation of any station in violation of Section 301 of the Communications Act of 1934, as amended, 47 U.S.C. 301.

[66 FR 23863, May 10, 2001]

§ 73.855 Ownership limits.

(a) No authorization for an LPFM station shall be granted to any party if the grant of that authorization will result in any such party holding an attributable interest in two or more LPFM stations.

(b) Notwithstanding the general prohibition set forth in paragraph (a) of this section, Tribal Applicants, as defined in § 73.853(c), may hold an attributable interest in up to two LPFM stations.

(c) Notwithstanding the general prohibition set forth in paragraph (a) of this section, not-for-profit organizations and governmental entities with a public safety purpose may be granted multiple licenses if:

(1) One of the multiple applications is submitted as a priority application; and

(2) The remaining non-priority applications do not face a mutually exclusive challenge.

[78 FR 2107, Jan. 9, 2013]

§ 73.858 Attribution of LPFM station interests.

Ownership and other interests in LPFM station permittees and licensees will be attributed to their holders and deemed cognizable for the purposes of §§ 73.855 and 73.860, in accordance with the provisions of § 73.3555, subject to the following exceptions:

(a) A director of an entity that holds an LPFM license will not have such interest treated as attributable if such director also holds an attributable interest in a broadcast licensee or other media entity but recuses himself or herself from any matters affecting the LPFM station.

(b) A local chapter of a national or other large organization shall not have the attributable interests of the national organization attributed to it provided that the local chapter is separately incorporated and has a distinct local presence and mission.

(c) A parent or subsidiary of a LPFM licensee or permittee that is a non-stock corporation will be treated as having an attributable interest in such corporation. The officers, directors, and members of a non-stock corporation's governing body and of any parent or subsidiary entity will have such positional interests attributed to them.

§ 73.860 Cross-ownership.

(a) Except as provided in paragraphs (b), (c) and (d) of this section, no license shall be granted to any party if the grant of such authorization will result in the same party holding an attributable interest in any other non-LPFM broadcast station, including any FM translator or low power television station, or any other media subject to our broadcast ownership restrictions.

(b) A party that is not a Tribal Applicant, as defined in § 73.853(c), may hold attributable interests in one LPFM station and no more than two FM translator stations provided that the following requirements are met:

(1) The 60 dBu contours of the commonly-owned LPFM station and FM translator station(s) overlap;

(2) The FM translator station(s), at all times, synchronously rebroadcasts the primary analog signal of the commonly-owned LPFM station or, if the commonly-owned LPFM station operates in hybrid mode, synchronously rebroadcasts the digital HD–1 version of the LPFM station's signal;

(3) The FM translator station(s) receives the signal of the commonly-owned LPFM station over-the-air and directly from the commonly-owned LPFM station itself; and

(4) The transmitting antenna of the FM translator station(s) is located within 16.1 km (10 miles) for LPFM stations located in the top 50 urban markets and 32.1 km (20 miles) for LPFM stations outside the top 50 urban markets of either the transmitter site of the commonly-owned LPFM station or the reference coordinates for that station's community of license.

(c) A party that is a Tribal Applicant, as defined in § 73.853(c), may hold attributable interests in no more than two LPFM stations and four FM translator stations provided that the requirements set forth in paragraph (b) of this section are met.

(d) Unless such interest is permissible under paragraphs (b) or (c) of this section, a party with an attributable interest in a broadcast radio station must divest such interest prior to the commencement of operations of an LPFM station in which the party also holds an interest. However, a party need not divest such an attributable interest if the party is a college or university that can certify that the existing broadcast radio station is not student run. This exception applies only to parties that:

(1) Are accredited educational institutions;

(2) Own an attributable interest in non-student run broadcast stations; and

(3) Apply for an authorization for an LPFM station that will be managed and operated on a day-to-day basis by students of the accredited educational institution.

(e) No LPFM licensee may enter into an operating agreement of any type, including a time brokerage or management agreement, with either a full power broadcast station or another LPFM station.

[78 FR 2107, Jan. 9, 2013]

§ 73.865 Assignment and transfer of LPFM licenses.

(a) *Assignment/Transfer:* No party may assign or transfer an LPFM license if:

(1) Consideration promised or received exceeds the depreciated fair market value of the physical equipment and facilities; and/or

(2) The transferee or assignee is incapable of satisfying all eligibility criteria that apply to a LPFM licensee.

(b) A change in the name of an LPFM licensee where no change in ownership or control is involved may be accomplished by written notification by the licensee to the Commission.

(c) *Holding period:* A license cannot be transferred or assigned for three years

from the date of issue, and the licensee must operate the station during the three-year holding period.

(d) No party may assign or transfer an LPFM construction permit at any time.

(e) Transfers of control involving a sudden change of more than 50 percent of an LPFM's governing board shall not be deemed a substantial change in ownership or control, subject to the filing of an FCC Form 316.

[73 FR 3216, Jan. 17, 2008]

§ 73.870 Processing of LPFM broadcast station applications.

(a) A minor change for an LPFM station authorized under this subpart is limited to transmitter site relocations of 5.6 kilometers or less. These distance limitations do not apply to amendments or applications proposing transmitter site relocation to a common location filed by applicants that are parties to a voluntary time-sharing agreement with regard to their stations pursuant to § 73.872 paragraphs (c) and (e). These distance limitations also do not apply to an amendment or application proposing transmitter site relocation to a common location or a location very close to another station operating on a third-adjacent channel in order to remediate interference to the other station; provided, however, that the proposed relocation is consistent with all localism certifications made by the applicant in its original application for the LPFM station. Minor changes of LPFM stations may include:

(1) Changes in frequency to adjacent or IF frequencies or, upon a technical showing of reduced interference, to any frequency; and

(2) Amendments to time-sharing agreements, including universal agreements that supersede involuntary arrangements.

(b) The Commission will specify by Public Notice a window filing period for applications for new LPFM stations and major modifications in the facilities of authorized LPFM stations. LPFM applications for new facilities and for major modifications in authorized LPFM stations will be accepted only during the appropriate window. Applications submitted prior to the window opening date identified in the Public Notice will be returned as premature. Applications submitted after the deadline will be dismissed with prejudice as untimely.

(c) Applications subject to paragraph (b) of this section that fail to meet the § 73.807 minimum distance separations with respect to all applications and facilities in existence as the date of the pertinent public notice in paragraph (b) of this section other than to LPFM station facilities proposed in applications filed in the same window, will be dismissed without any opportunity to amend such applications.

(d) Following the close of the window, the Commission will issue a Public Notice of acceptance for filing of applications submitted pursuant to paragraph (b) of this section that meet technical and legal requirements and that are not in conflict with any other application filed during the window. Following the close of the window, the Commission also will issue a Public Notice of the acceptance for filing of all applications tentatively selected pursuant to the procedures for mutually exclusive LPFM applications set forth at § 73.872. Petitions to deny such applications may be filed within 30 days of such public notice and in accordance with the procedures set forth at § 73.3584. A copy of any petition to deny must be served on the applicant.

(e) Minor change LPFM applications may be filed at any time, unless restricted by the staff, and generally, will be processed in the order in which they are tendered. Such applications must meet all technical and legal requirements applicable to new LPFM station applications.

(f) New entrants seeking to apply for unused or unwanted time on a time-sharing frequency will only be accepted during an open filing window, specified pursuant to paragraph (b) of this section.

[65 FR 7640, Feb. 15, 2000, as amended at 65 FR 67304, Nov. 9, 2000; 70 FR 39186, July 7, 2005; 73 FR 3217, Jan. 17, 2008; 78 FR 2108, Jan. 9, 2013]

§ 73.871 Amendment of LPFM broadcast station applications.

(a) New and major change applications may be amended without limitation during the pertinent filing window.

(b) Amendments that would improve the comparative position of new and major change applications will not be accepted after the close of the pertinent filing window.

(c) Only minor amendments to new and major change applications will be accepted after the close of the pertinent filing window. Subject to the provisions of this section, such amendments may be filed as a matter of right by the date specified in the FCC's Public Notice announcing the acceptance of such applications. For the purposes of this section, minor amendments are limited to:

(1) Filings subject to paragraph (c)(5) of this section, site relocations of 5.6 kilometers or less for LPFM stations;

(2) Filings subject to paragraph (c)(5), site relocations of 5.6 kilometers or less for LP100 stations;

(3) Changes in ownership where the original party or parties to an application retain more than a 50 percent ownership interest in the application as originally filed;

(4) Universal voluntary time-sharing agreements to apportion vacant time among the licensees;

(5) Other changes in general and/or legal information;

(6) Filings proposing transmitter site relocation to a common location submitted by applications that are parties to a voluntary time-sharing agreement with regard to their stations pursuant to § 73.872 (c) and (e); and

(7) Filings proposing transmitter site relocation to a common location or a location very close to another station operating on a third-adjacent channel in order to remediate interference to the other station.

(d) Unauthorized or untimely amendments are subject to return by the FCC's staff without consideration.

[66 FR 23863, May 10, 2001, as amended at 70 FR 39186, July 7, 2005; 73 FR 3217, Jan. 17, 2008; 78 FR 2108, Jan. 9, 2013]

§ 73.872 Selection procedure for mutually exclusive LPFM applications.

(a) Following the close of each window for new LPFM stations and for modifications in the facilities of authorized LPFM stations, the Commission will issue a public notice identifying all groups of mutually exclusive applications. Such applications will be awarded points to determine the tentative selectee. Unless resolved by settlement pursuant to paragraph (e) of this section, the tentative selectee will be the applicant within each group with the highest point total under the procedure set forth in this section, except as provided in paragraphs (c) and (d) of this section .

(b) Each mutually exclusive application will be awarded one point for each of the following criteria, based on certifications that the qualifying conditions are met and submission of any required documentation:

(1) *Established community presence.* An applicant must, for a period of at least two years prior to application and at all times thereafter, have qualified as local pursuant to § 73.853(b). Applicants claiming a point for this criterion must submit any documentation specified in FCC Form 318 at the time of filing their applications.

(2) *Local program origination.* The applicant must pledge to originate locally at least eight hours of programming per day. For purposes of this criterion, local origination is the production of programming by the licensee, within ten miles of the coordinates of the proposed transmitting antenna. Local origination includes licensee produced call-in shows, music selected and played by a disc jockey present on site, broadcasts of events at local schools, and broadcasts of musical performances at a local studio or festival, whether recorded or live. Local origination does not include the broadcast of repetitive or automated programs or time-shifted recordings of non-local programming whatever its source. In addition, local origination does not include a local program that has been broadcast twice, even if the licensee broadcasts the program on a different day or makes small variations in the program thereafter.

(3) *Main studio.* The applicant must pledge to maintain a publicly accessible main studio that has local program origination capability, is reachable by telephone, is staffed at least 20 hours per week between 7 a.m. and 10 p.m., and is located within 16.1 km (10 miles) of the proposed site for the transmitting antenna for applicants in the top 50 urban markets and 32.1 km (20 miles) for applicants outside the top 50 urban markets. Applicants claiming a point under this criterion must specify the proposed address and telephone number for the proposed main studio in FCC Form 318 at the time of filing their applications.

(4) *Local program origination and main studio.* The applicant must make both the local program origination and main studio pledges set forth in paragraphs (b)(2) and (3) of this section.

(5) *Diversity of ownership.* An applicant must hold no attributable interests in any other broadcast station.

(6) *Tribal Applicants serving Tribal Lands.* The applicant must be a Tribal Applicant, as defined in §73.853(c), and the proposed site for the transmitting antenna must be located on that Tribal Applicant's ''Tribal Lands,'' as defined in §73.7000. Applicants claiming a point for this criterion must submit the documentation set forth in FCC Form 318 at the time of filing their applications.

(c) *Voluntary time-sharing.* If mutually exclusive applications have the same point total, any two or more of the tied applicants may propose to share use of the frequency by electronically submitting, within 90 days of the release of a public notice announcing the tie, a time-share proposal. Such proposals shall be treated as minor amendments to the time-share proponents' applications, and shall become part of the terms of the station authorization. Where such proposals include all of the tied applications, all of the tied applications will be treated as tentative selectees; otherwise, time-share proponents' points will be aggregated.

(1) Time-share proposals shall be in writing and signed by each time-share proponent, and shall satisfy the following requirements:

(i) The proposal must specify the proposed hours of operation of each time-share proponent;

(ii) The proposal must not include simultaneous operation of the time-share proponents; and

(iii) Each time-share proponent must propose to operate for at least 10 hours per week.

(2) Where a station is authorized pursuant to a time-sharing proposal, a change of the regular schedule set forth therein will be permitted only where a written agreement signed by each time-sharing permittee or licensee and complying with requirements in paragraphs (c)(1)(i) through (iii) of this section is filed with the Commission, Attention: Audio Division, Media Bureau, prior to the date of the change.

(3) Where a station is authorized pursuant to a voluntary time-sharing proposal, the parties to the time-sharing agreement may apportion among themselves any air time that, for any reason, becomes vacant.

(4) Concurrent license terms granted under paragraph (d) of this section may be converted into voluntary time-sharing arrangements renewable pursuant to §73.3539 by submitting a universal time-sharing proposal.

(d) *Involuntary time-sharing.* (1) If a tie among mutually exclusive applications is not resolved through voluntary time-sharing in accordance with paragraph (c) of this section, the tied applications will be reviewed for acceptability. Applicants with tied, grantable applications will be eligible for equal, concurrent, non-renewable license terms.

(2) If a mutually exclusive group has three or fewer tied, grantable applications, the Commission will simultaneously grant these applications, assigning an equal number of hours per week to each applicant. The Commission will determine the hours assigned to each applicant by first assigning hours to the applicant that has been local, as defined in §73.853(b), for the longest uninterrupted period of time, then assigning hours to the applicant that has been local for the next longest uninterrupted period of time, and finally assigning hours to any remaining applicant. The Commission will offer applicants an opportunity to voluntarily reach a time-sharing agreement. In the event that applicants cannot

reach such agreement, the Commission will require each applicant subject to involuntary time-sharing to simultaneously and confidentially submit their preferred time slots to the Commission. If there are only two tied, grantable applications, the applicants must select between the following 12-hour time slots 3 a.m.–2:59 p.m., or 3 p.m.–2:59 a.m. If there are three tied, grantable applications, each applicant must rank their preference for the following 8-hour time slots: 2 a.m.–9:59 a.m., 10 a.m.–5:59 p.m., and 6 p.m.–1:59 a.m. The Commission will require the applicants to certify that they did not collude with any other applicants in the selection of time slots. The Commission will give preference to the applicant that has been local for the longest uninterrupted period of time. The Commission will award time in units as small as four hours per day. In the event an applicant neglects to designate its preferred time slots, staff will select a time slot for that applicant.

(3) Groups of more than three tied, grantable applications will not be eligible for licensing under this section. Where such groups exist, the Commission will dismiss all but the applications of the three applicants that have been local, as defined in §73.853(b), for the longest uninterrupted periods of time. The Commission then will process the remaining applications as set forth in paragraph (d)(2) of this section.

(4) If concurrent license terms granted under this section are converted into universal voluntary time-sharing arrangements pursuant to paragraph (c)(4) of this section, the permit or license is renewable pursuant to §§73.801 and 73.3539.

(e) *Settlements.* Mutually exclusive applicants may propose a settlement at any time during the selection process after the release of a public notice announcing the mutually exclusive groups. Settlement proposals must comply with the Commission's rules and policies regarding settlements, including the requirements of §§73.3525, 73.3588 and 73.3589. Settlement proposals may include time-share agreements that comply with the requirements of paragraph (c) of this section, provided that such agreements may not be filed for the purpose of point aggregation outside of the 90 day period set forth in paragraph (c) of this section.

[65 FR 7640, Feb. 15, 2000, as amended at 65 FR 67304, Nov. 9, 2000; 67 FR 13232, Mar. 21, 2002; 73 FR 3217, Jan. 17, 2008; 78 FR 2108, Jan. 9, 2013]

§ 73.873 LPFM license period.

(a) Initial licenses for LPFM stations will be issued for a period running until the date specified in §73.1020 for full service stations operating in the LPFM station's state or territory, or if issued after such date, determined in accordance with §73.1020.

(b) The license of an LPFM 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.

[78 FR 2109, Jan. 9, 2013]

§ 73.875 Modification of transmission systems.

The following procedures and restrictions apply to licensee modifications of authorized broadcast transmission system facilities.

(a) The following changes are prohibited:

(1) Those that would result in the emission of signals outside of the authorized channel exceeding limits prescribed for the class of service.

(2) Those that would cause the transmission system to exceed the equipment performance measurements prescribed in §73.508.

(b) The following changes may be made only after the grant of a construction permit application on FCC Form 318.

(1) Any construction of a new tower structure for broadcast purposes, except for replacement of an existing tower with a new tower of identical height and geographic coordinates.

(2) Any change in station geographic coordinates, including coordinate corrections and any move of the antenna to another tower structure located at the same coordinates.

(3) Any change in antenna height more than 2 meters above or 4 meters below the authorized value.

(4) Any change in channel.

(c) The following LPFM modifications may be made without prior authorization from the Commission. A modification of license application (FCC Form 319) must be submitted to the Commission within 10 days of commencing program test operations pursuant to § 73.1620. For applications filed pursuant to paragraph (c)(1) of this section, the modification of license application must contain an exhibit demonstrating compliance with the Commission's radiofrequency radiation guidelines. In addition, for applications filed solely pursuant to paragraphs (c)(1) or (2) of this section, where the installation is on or near an AM tower, as defined in § 1.30002, an exhibit demonstrating compliance with § 1.30003 or § 1.30002, as applicable, is also required.

(1) Replacement of an antenna with one of the same or different number of antenna bays, provided that the height of the antenna radiation center is not more than 2 meters above or 4 meters below the authorized values. Program test operations at the full authorized ERP may commence immediately upon installation pursuant to § 73.1620(a)(1).

(2) Replacement of a transmission line with one of a different type or length which changes the transmitter operating power (TPO) from the authorized value, but not the ERP, must be reported in a license modification application to the Commission.

(3) Changes in the hours of operation of stations authorized pursuant to time-share agreements in accordance with § 73.872.

[65 FR 7640, Feb. 15, 2000, as amended at 78 FR 66298, Nov. 5, 2013]

§ 73.877 Station logs for LPFM stations.

The licensee of each LPFM station must maintain a station log. Each log entry must include the time and date of observation and the name of the person making the entry. The following information must be entered in the station log:

(a) Any extinguishment or malfunction of the antenna structure obstruction lighting, adjustments, repairs, or replacement to the lighting system, or related notification to the FAA. See §§ 17.48 and 73.49 of this chapter.

(b) Brief explanation of station outages due to equipment malfunction, servicing, or replacement;

(c) Operations not in accordance with the station license; and

(d) EAS weekly log requirements set forth in § 11.61(a)(1)(v) of this chapter.

[65 FR 67304, Nov. 9, 2000]

§ 73.878 Station inspections by FCC; availability to FCC of station logs and records.

(a) The licensee of a broadcast station shall make the station available for inspection by representatives of the FCC during the station's business hours, and at any time it is in operation. In the course of an inspection or investigation, an FCC representative may require special equipment or program tests.

(b) Station records and logs shall be made available for inspection or duplication at the request of the FCC or its representatives. Such logs or records may be removed from the licensee's possession by an FCC representative or, upon request, shall be mailed by the licensee to the FCC 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 an FCC 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 FCC 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 that are required to be maintained by the provisions of this part.

(1) 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 FCC 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 FCC.

§ 73.879 Signal retransmission.

An LPFM licensee may not retransmit, either terrestrially or via satellite, the signal of a full-power radio broadcast station.

§ 73.881 Equal employment opportunities.

General EEO policy. Equal employment opportunity shall be afforded by all LPFM licensees and permittees to all qualified persons, and no person shall be discriminated against because of race, color , religion, national origin, or sex.

Subpart H—Rules Applicable to All Broadcast Stations

§ 73.1001 Scope.

(a) The rules in this subpart are common to all AM, FM, TV and Class A TV broadcast services, commercial and noncommercial.

(b) Rules in part 73 applying exclusively to a particular broadcast service are contained in the following: AM, subpart A; FM, subpart B; Noncommercial Educational FM, subpart C; TV, subpart E; LPFM, subpart G; and Class A TV, subpart J.

(c) Certain provisions of this subpart apply to International Broadcast Stations (subpart F, part 73), LPFM (subpart G, part 73), and Low Power TV, TV Translator and TV Booster Stations (subpart G, part 74) where the rules for those services so provide.

(d) The provisions of this part applying to licensees also apply to holders of construction permits (permittees).

[43 FR 32781, July 28, 1978, as amended at 52 FR 31399, Aug. 20, 1987; 65 FR 7648, Feb. 15, 2000; 65 FR 30003, May 10, 2000]

§ 73.1010 Cross reference to rules in other parts.

Certain rules applicable to broadcast services, some of which are also applicable to other services, are set forth in the following Parts of the FCC Rules and Regulations.

(a) Part 1, ''Practice and Procedure.''

(1) Subpart A, ''General Rules of Practice and Procedure''. (§§ 1.1 to 1.117).

(2) Subpart B, ''Hearing Proceedings''. (§§ 1.201 to 1.364)

(3) Subpart C, ''Rulemaking Proceedings''. (§§ 1.399 to 1.430).

(4) Subpart G, ''Schedule of Statutory Charges and Procedures for Payment''. (§§ 1.1101 to 1.1117.)

(5) Subpart H, ''Ex Parte Communications''. (§§ 1.1200 to 1.1216).

(6) Subpart I, ''Procedures Implementing the National Environmental Policy Act of 1969''. (§§ 1.1301 to 1.1319).

(7) Subpart P, ''Implementation of the Anti-Drug Abuse Act of 1988''. (§§ 1.2001–1.2003.)

(8) Subpart Q, ''Competitive Bidding Proceedings'' (§§ 1.2101–1.2112).

(9) Subpart T, ''Foreign Ownership of Broadcast, Common Carrier, Aeronautical En Route, and Aeronautical Fixed Radio Station Licensees''. (§§ 1.5000 to 1.5004).

(10) Part 1, Subpart W of this chapter, ''FCC Registration Number''. (§§ 1.8001–1.8005).

(b) Part 2, ''Frequency Allocations and Radio Treaty Matters, General Rules and Regulations'', including Subparts A, ''Terminology''; B, ''Allocation, Assignments and Use of Radio Frequencies''; C, ''Emissions''; D, ''Call Signs and Other Forms of Identifying Radio Transmissions''; and J, ''Equipment Authorization Procedures''.

(c) [Reserved]

(d) Part 17, ''Construction, Marking and Lighting of Antenna Structures''.

(e) Part 74, ''Experimental, Auxiliary and Special Broadcast and Other Program Distributional Services'' including:

(1) Subpart A, ''Experimental Broadcast Stations'';

(2) Subpart D, ''Remote Pickup Broadcast Stations'';

(3) Subpart E, ''Aural Broadcast Auxiliary Stations'';

(4) Subpart F, ''Television Broadcast Auxiliary Stations'';

(5) Subpart G, ''Low Power TV, TV Translator and TV Booster Stations'';

(6) Subpart H, ''Low Power Auxiliary Stations'';

(7) Subpart L, ''FM Broadcast Translator Stations and FM Broadcast Booster Stations''.

[53 FR 2498, Jan. 28, 1988, as amended at 57 FR 48333, Oct. 23, 1992; 60 FR 55480, Nov. 1, 1995; 63 FR 48622, Sept. 11, 1998; 66 FR 47896, Sept. 14, 2001; 69 FR 72043, Dec. 10, 2004; 76 FR 70911, Nov. 16, 2011; 81 FR 86613, Dec. 1, 2016]

§ 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 any 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. Any such statements of fact are subject to the provisions of § 1.17 of this chapter.

[68 FR 15098, Mar. 28, 2003]

§ 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, 2011.

(ii) Television stations, October 1, 2012.

(2) North Carolina and South Carolina:

(i) Radio stations, December 1, 2011.

(ii) Television stations, December 1, 2012.

(3) Florida, Puerto Rico and the Virgin Islands:

(i) Radio stations, February 1, 2012.

(ii) Television stations, February 1, 2013.

(4) Alabama and Georgia:

(i) Radio stations, April 1, 2012.

(ii) Television stations, April 1, 2013.

(5) Arkansas, Louisiana and Mississippi:

(i) Radio stations, June 1, 2012.

(ii) Television stations, June 1, 2013.

(6) Tennessee, Kentucky and Indiana:

(i) Radio stations, August 1, 2012.

(ii) Television stations, August 1, 2013.

(7) Ohio and Michigan:

(i) Radio stations, October 1, 2012.

(ii) Television stations, October 1, 2013.

(8) Illinois and Wisconsin:

(i) Radio stations, December 1, 2012.

(ii) Television stations, December 1, 2013.

(9) Iowa and Missouri:

(i) Radio stations, February 1, 2013.

(ii) Television stations, February 1, 2014.

(10) Minnesota, North Dakota, South Dakota, Montana and Colorado:

(i) Radio stations, April 1, 2013.

(ii) Television stations, April 1, 2014.

(11) Kansas, Oklahoma and Nebraska:

(i) Radio stations, June 1, 2013.

(ii) Television stations, June 1, 2014.

(12) Texas:

(i) Radio stations, August 1, 2013.

(ii) Television stations, August 1, 2014.

(13) Wyoming, Nevada, Arizona, Utah, New Mexico and Idaho:

(i) Radio stations, October 1, 2013.

(ii) Television stations, October 1, 2014.

(14) California:

(i) Radio stations, December 1, 2013.

(ii) Television stations, December 1, 2014.

(15) Alaska, American Samoa, Guam, Hawaii, Mariana Islands, Oregon and Washington:

(i) Radio stations, February 1, 2014.

(ii) Television stations, February 1, 2015.

(16) Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont:

(i) Radio stations, April 1, 2014.
(ii) Television stations, April 1, 2015.
(17) New Jersey and New York:
(i) Radio stations, June 1, 2014.
(ii) Television stations, June 1, 2015.
(18) Delaware and Pennsylvania:
(i) Radio stations, August 1, 2014.
(ii) Television stations, August 1, 2015.

(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.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[49 FR 4382, Feb. 6, 1984, as amended at 52 FR 25604, July 8, 1987; 59 FR 63051, Dec. 7, 1994; 61 FR 18291, Apr. 25, 1996; 61 FR 28767, June 6, 1996; 62 FR 5347, Feb. 5, 1997; 76 FR 20249, Apr. 12, 2011]

§ 73.1030 Notifications concerning interference to radio astronomy, research and receiving installations.

(a)(1) *Radio astronomy and radio research installations.* In order to minimize harmful interference at the National Radio Astronomy Observatory site located at Green, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory at Sugar Grove, Pendleton County, West Virginia, a licensee proposing to operate a short-term broadcast auxiliary station pursuant to § 74.24, and any applicant for authority to construct a new broadcast station, or for authority to make changes in the frequency, power, antenna height, or antenna directivity of an existing station within the area bounded by 39°15′ N on the north, 78°30′ W on the east, 37°30′ N on the south, and 80°30′ W on the west, shall notify the Interference Office, National Radio Astronomy Observatory, P.O. Box 2, Green Bank, West Virginia 24944. Telephone: (304) 456–2011. The notification shall be in writing and set forth the particulars of the proposed station, including the geographical coordinates of the antenna, antenna height, antenna directivity if any, proposed frequency, type of emission and power. The notification shall be made prior to, or simultaneously with, the filing of the application with the Commission. After receipt of such applications, the FCC will allow a period of 20 days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the 20-day period from the National Radio Astronomy Observatory for itself, or on behalf of the Naval Radio Research Observatory, the FCC will consider all aspects of the problem and take whatever action is deemed appropriate.

(2) Any applicant for a new permanent base or fixed station authorization to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of a station on these islands and would increase the likelihood of the authorized facility causing interference, shall notify the Interference Office, Arecibo Observatory, HC3 Box 53995, Arecibo, Puerto Rico 00612, in writing or electronically, of the technical parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information electronically should e-mail to: *prcz@naic.edu*.

(i) The notification to the Interference Office, Arecibo Observatory shall be made prior to, or simultaneously with, the filing of the application with the Commission. The notification shall state the geographical coordinates of the antenna (NAD–83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, and effective radiated power.

(ii) After receipt of such applications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts to resolve or mitigate any potential interference problem with

the Arecibo Observatory and to file either an amendment to the application or a modification application, as appropriate. The Commission shall determine whether an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference.

(b) *Radio receiving installations.* Protection for Table Mountain Radio Receiving Zone, Boulder County, Colorado: Applicants for a station authorization to operate in the vicinity of Boulder County, Colorado under this Part are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. These are the research laboratories of the Department of Commerce, Boulder County, Colorado. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that the field strengths of any radiated signals (excluding reflected signals) received on this 1800 acre site (within the area bounded by 40°09′10″ N Latitude on the north, 105°13′31″ W Longitude on the east, 40°07′05″ N Latitude on the south, and 105°15′13″ W Longitude on the west) resulting from new assignments (other than mobile stations) or from the modification of relocation of existing facilities do not exceed the following values:

Frequency range	Field strength in authorized bandwidth of service (mV/m)	Power flux density in authorized bandwidth of service (dBW/m²) [1]
Below 540 kHz	10	−65.8
540 to 1700 kHz	20	−59.8
1.7 to 470 MHz	10	[2] −65.8
470 to 890 MHz	30	[2] −56.2
Above 890 MHz	1	[2] −85.8

[1] Equivalent values of power flux density are calculated assuming free space characteristic impedance of 376.7 = 120 ohms.

[2] Space stations shall conform to the power flux density limits at the earth's surface specified in appropriate parts of the FCC rules, but in no case should exceed the above levels in any 4 kHz band for all angles of arrival.

(1) Advance consultation is recommended particularly for those applicants who have no reliable data which indicates whether the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities (except mobile stations). In such instances, the following is a suggested guide for determining whether coordination is recommended:

(i) All stations within 2.4 km (1.5 statute miles);

(ii) Stations within 4.8 km (3 statute miles) with 50 watts or more effective radiated power (ERP) in the primary plane polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations within 16 km (10 statute miles) with 1 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone;

(iv) Stations within 80 km (50 statute miles) with 25 kW or more ERP in the primary plane polarization in the azimuthal direction of Table Mountain Receiving Zone.

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA R/E5X2, Boulder Laboratories, Boulder, CO 80303; telephone (303) 497–6548, in advance of filing their applications with the Commission.

(3) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objectimns from the Department of Commerce or proceedings to modify any authorization which may be granted which, in fact, delivers a signal at the site in excess of the field strength specified herein.

(c) *Protection for Federal Communications Commission monitoring stations.* (1) Applicants in the vicinity of a FCC monitoring station for a radio station authorization to operate new transmitting facilities or changed transmitting facilities which would increase the field strength produced over the monitoring station in excess of that previously authorized are advised to give consideration, prior to filing applications, to the possible need to protect the FCC stations from harmful interference. Geographical coordinates of the facilities which require protection are listed in § 0.121(c) of the FCC rules. Applications for stations (except mobile stations) which will produce on

any frequency a direct wave fundamental field strength of *greater than 10 mV/m* in the authorized bandwidth of service (−65.8 dBW/m^2 power flux density assuming a free space characteristic impedance of 120 π ohms) at the referenced coordinates, may be examined to determine extent of possible interference. Depending on the theoretical field strength value and existing root-sum-square or other ambient radio field signal levels at the indicated coordinates, a clause protecting the monitoring station may be added to the station authorization.

(2) In the event that calculated value of expected field exceeds 10 mV/m (−65.8 dBW/m2) at the reference coordinates, or if there is any question whether field strength levels might exceed the threshold value, advance consultation with the FCC to discuss any protection necessary should be considered. Prospective applicants may communicate with the Public Safety and Homeland Security Bureau.

(3) Advance consultation is suggested particularly for those applicants who have no reliable data which indicates whether the field strength or power flux density figure indicated would be exceeded by their proposed radio facilities (except mobile stations). In such instances, the following is a suggested guide for determining whether an applicant should coordinate:

(i) All stations within 2.4 kilometers (1.5 statute miles);

(ii) Stations within 4.8 kilometers (3 statute miles) with 50 watts or more average effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Monitoring Stations.

(iii) Stations within 16 kilometers (10 statute miles) with 1 kW or more average ERP in the primary plane of polarization in the azimuthal direction of the Monitoring Station;

(iv) Stations within 80 kilometers (50 statute miles) with 25 kW or more average ERP in the primary plane of polarization in the azimuthal direction of the Monitoring Station;

(4) Advance coordination for stations operating above 1000 MHz is recommended only where the proposed station is in the vicinity of a monitoring station designated as a satellite monitoring facility in §0.121(c) of the Commission's Rules and also meets the criteria outlined in paragraphs (b) (2) and (3) of this section.

(5) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Federal Communications Commission or modification of any authorization which will cause harmful interference.

[43 FR 32782, July 28, 1978, as amended at 44 FR 77167, Dec. 31, 1979; 47 FR 9221, Mar. 4, 1982; 50 FR 39003, Sept. 26, 1985; 52 FR 25867, July 9, 1987; 52 FR 36879, Oct. 1, 1987; 52 FR 37789, Oct. 9, 1987; 56 FR 64872, Dec. 12, 1991; 61 FR 8477, Mar. 5, 1996; 62 FR 55532, Oct. 27, 1997; 63 FR 70048, Dec. 18, 1998; 70 FR 31373, June 1, 2005; 80 FR 53750, Sept. 8, 2015]

§ 73.1120 Station location.

Each AM, FM, TV and Class A 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.

[65 FR 30003, May 10, 2000]

§ 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) Each Class A television station shall maintain a main studio at a location within the station's predicted Grade B contour, as defined in § 73.683 and calculated using the method specified in § 73.684. With respect to a group of commonly controlled stations, Class A stations whose predicted Grade B contours are physically contiguous to each other may locate their main studio within any of these contours. If a Class A station is one of a group of commonly controlled Class A stations, but its predicted Grade B contour is not physically contiguous to that of another Class A station in the commonly owned group, its main studio shall be located within its own predicted Grade B contour. Alternatively, a Class A television station shall maintain a main studio at the site used by the station as of November 29, 1999.

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

(1) From one point to another within the locations described in paragraph (a) or (c) of this section, or from a point outside the locations specified in paragraph (a) or (c) 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) or (c) of this section for the first time must be obtained from the Audio Division, Media Bureau for AM and FM stations, or the Video Division for TV and Class A 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) or (c) of this section, 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 also 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, TV or Class A TV licensees or permittees filing a letter request under the section (see § 1.1104 of this chapter).

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

[63 FR 49497, Sept. 16, 1998, as amended at 65 FR 30003, May 10, 2000; 66 FR 21690, May 1, 2001; 67 FR 13232, Mar. 21, 2002]

§ 73.1150 Transferring a station.

(a) In transferring a broadcast station, the licensee may retain no right of reversion of the license, no right to reassignment of the license in the future, and may not reserve the right to use the facilities of the station for any period whatsoever.

(b) No license, renewal of license, assignment of license or transfer of control of a corporate licensee will be granted or authorized if there is a contract, arrangement or understanding, express or implied, pursuant to which, as consideration or partial consideration for the assignment or transfer, such rights, as stated in paragraph (a) of this section, are retained.

(c) Licensees and/or permittees authorized to operate in the 535–1605 kHz and in the 1605–1705 kHz band pursuant to the Report and Order in MM Docket No. 87–267 will not be permitted to assign or transfer control of the license or permit for a single frequency during the period that joint operation is authorized.

(d) Authorizations awarded pursuant to the noncommercial educational point system in subpart K are subject

to the holding period in § 73.7005. Applications for an assignment or transfer filed prior to the end of the holding period must demonstrate the factors enumerated therein.

[44 FR 58720, Oct. 11, 1979, as amended at 56 FR 64872, Dec. 12, 1991; 65 FR 36378, June 8, 2000]

§ 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 and Class A 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, the station's frequency, the station's channel number, as stated on the station's license, and/or the station's network affiliation may be inserted between the call letters and station location. DTV stations, or DAB Stations, choosing to include the station's channel number in the station identification must use the station's major channel number and may distinguish multicast program streams. For example, a DTV station with major channel number 26 may use 26.1 to identify an HDTV program service and 26.2 to identify an SDTV program service. A DTV station that is devoting one of its multicast streams to transmit the programming of another television licensee must identify itself and may also identify the licensee that it is transmitting. If a DTV station in this situation chooses to identify the station that is the source of the programming it is transmitting, it must use the following format: Station WYYY–DT, community of license (call sign and community of license of the station whose multicast stream is transmitting the programming), bringing you WXXX, community of license (call sign and community of license of the licensee providing the programming). The transmitting station may insert between its call letters and its community of license the following information: the frequency of the transmitting station, the channel number of the transmitting station, the name of the licensee of the transmitting station and the licensee providing the programming, and/or the name of the network of either station. Where a multicast station is carrying the programming of another station and is identifying that station as the source of the programming, using the format described above, the identification may not include the frequency or channel number of the program source. A radio station operating in DAB hybrid mode or extended hybrid mode shall identify its digital signal, including any free multicast audio programming streams, in a manner that appropriately alerts its audience to the fact that it is listening to a digital audio broadcast. No other insertion between the station's call letters and the community or communities specified in its license is permissible.

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

(c) *Channel*—(1) *General.* Except as otherwise provided in this paragraph, in making the identification announcement the call letters shall be given only on the channel, or channels in the case of a broadcaster that is multicasting more than a single 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 operations.

(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.

[34 FR 19762, Dec. 17, 1969, as amended at 37 FR 23726, Nov. 8, 1972; 39 FR 6707, Feb. 22, 1974; 39 FR 9442, Mar. 11, 1974; 41 FR 29394, July 16, 1976; 47 FR 3791, Jan. 27, 1982; 48 FR 51308, Nov. 8, 1983; 56 FR 64872, Dec. 12, 1991; 65 FR 30003, May 10, 2000; 69 FR 59535, Oct. 4, 2004; 72 FR 45693, Aug. 15, 2007; 73 FR 5684, Jan. 30, 2008; 76 FR 71269, Nov. 17, 2011]

EFFECTIVE DATE NOTE: At 73 FR 5684, Jan. 30, 2008, §73.1201 was amended by revising paragraph (b)(1). This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 73.1202 [Reserved]

§ 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 as employee or part-time reporter), or where the other party originates the call and it is obvious that it is in connection with a program in which the station customarily broadcasts telephone conversations.

[35 FR 7733, May 20, 1970]

§ 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 programs 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 transmissions of non-broadcast stations may be rebroadcast under the following conditions:

(1) Messages originated by privately-owned non-broadcast stations other than those in the Amateur and CB 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 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, DC 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 continous 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, Radio Stations WWV/WWVB, 2000 East County Road 58, Ft. Collins, Colorado 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, than 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.

[44 FR 36040, June 20, 1979, as amended at 45 FR 26065, Apr. 17, 1980; 48 FR 28456, June 22, 1983; 50 FR 25246, June 18, 1985; 59 FR 67102, Dec. 28, 1994; 61 FR 36305, July 10, 1996; 82 FR 41103, Aug. 29, 2017]

§ 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.

[37 FR 23726, Nov. 8, 1972]

§ 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.

[39 FR 26736, July 23, 1974]

§ 73.1210 TV/FM dual-language broadcasting in Puerto Rico.

(a) For the purpose of this section, dual-language broadcasting shall be understood to mean the telecasting of a program in one language with the simultaneous transmission, on the main channel of a participating FM broadcast station, of companion sound track information in a different language.

(b) Television and Class A television licensees in Puerto Rico may enter into dual-language time purchase agreements with FM broadcast licensees, subject to the following conditions:

(1) All such agreements shall be reduced to writing and retained by the licensee for possible Commission inspection, in accordance with § 73.3613 of this chapter.

(2) All such agreements shall specify that the FM licensee will monitor sound track material with a view to rejecting any material deemed to be inappropriate or objectionable for broadcast exposure.

(3) No television, Class A television, or FM broadcast station may devote more than 15 hours per week to dual-language broadcasting, nor may more than three (3) hours of such programming be presented on any given day.

(4) Noncommercial educational television broadcast stations shall take all necessary precautions to assure that the entire operation is conducted on a noncommercial basis and otherwise in accordance with § 73.621 of this part.

[40 FR 17259, Apr. 18, 1975, as amended at 49 FR 33663, Aug. 24, 1984; 50 FR 40016, Oct. 1, 1985; 65 FR 30003, May 10, 2000]

§ 73.1211 Broadcast of lottery information.

(a) No licensee of an AM, FM, television, or Class A television broadcast station, except as in paragraph (c) of this section, shall broadcast any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise or scheme, whether said list contains any part or all of such prizes. (18 U.S.C. 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 if in connection with such program a prize consisting of money or other thing of value is awarded 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 other 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. (See 21 FCC 2d 846).

(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 the 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 U.S.C. 1307(a); 102 Stat. 3205).

(2) Fishing contests exempted under 18 U.S. Code 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 U.S.C. 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 U.S.C. 1307(a); 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 U.S.C. 1307(a); 102 Stat. 3205).

(d)(1) For 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 501 of the Internal Revenue Code of 1986.

[40 FR 6210, Feb. 10, 1975, as amended at 45 FR 6401, Jan. 28, 1980; 54 FR 20856, May 15, 1989; 55 FR 18888, May 7, 1990; 65 FR 30003, May 10, 2000]

§ 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 percent of the vertical picture height that air for not less than four seconds.

(b) The licensee of each broadcast station shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any 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 or 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 under § 73.3526. 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. 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 purpose 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 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 sponsorship 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) 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 retained 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 F.C.C. 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 F.C.C. 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.

[40 FR 18400, Apr. 28, 1975, as amended at 46 FR 13907, Feb. 24, 1981; 49 FR 4211, Feb. 3, 1984; 49 FR 33663, Aug. 24, 1984; 50 FR 32417, Aug. 12, 1985; 57 FR 8279, Mar. 9, 1992; 77 FR 27655, May 11, 2012]

§ 73.1213 Antenna structure, marking and lighting.

(a) The provisions of part 17 of this chapter (Construction, Marking, and Lighting of Antenna Structures), requires certain antenna structures to be painted and/or lighted in accordance with part 17.

(b) The owner of each antenna structure is responsible for ensuring that the structure, if required, is painted and/or illuminated in accordance with part 17 of this chapter. In the event of default by the owner, each licensee or permittee shall be responsible for ensuring that the structure complies with applicable painting and lighting requirements.

[61 FR 4367, Feb. 6, 1996]

§ 73.1215 Specifications for indicating instruments.

The following requirements and specifications shall apply to indicating instruments used by broadcast stations:

(a) Linear scale instruments:

(1) Length of scale shall not be less than 2.3 inches (5.8 cm).

(2) Accuracy shall be at least 2 percent of the full scale reading.

(3) The maximum rating of the meter shall be such that it does not read off scale during modulation or normal operation.

(4) Scale shall have at least 40 divisions.

(5) Full scale reading shall not be greater than five times the minimum normal indication.

(b) Instruments having square-law scales:

(1) Meet the requirements of paragraphs (a) (1), (2), and (3) of this section for linear scale instruments.

(2) Full scale reading shall not be greater than three times the minimum normal indication.

(3) No scale division above one-third full scale reading shall be greater than one-thirtieth of the full scale reading. (Example: An ammeter meeting requirement (1) having full scale reading of 6 amperes is acceptable for reading currents from 2 to 6 amperes, provided no scale division between 2 and 6 amperes is greater than one-thirtieth of 6 amperes, 0.2 ampere.)

(c) Instruments having logarithmic scales:

(1) Meet the requirements of paragraphs (a) (1), (2), and (3) of this section for linear scale instruments.

(2) Full scale reading shall not be greater than five times the minimum normal indication.

(3) No scale division above one-fifth full scale reading (in watts) shall be greater than one-thirtieth of the full scale reading. (Example: A wattmeter meeting requirement (3) having full scale reading of 1,500 watts is acceptable for reading power from 300 to 1,500 watts, provided no scale division between 300 and 1,500 watts is greater than one-thirtieth of 1,500 watts or 50 watts.)

(d) Instruments having expanded scales:

(1) Shall meet the requirements of paragraphs (a) (1), (2), and (3) of this section for linear scale instruments.

(2) Full scale reading shall not be greater than five times the minimum normal indication.

(3) No scale division above one-fifth full scale reading shall be greater than one-fiftieth of the full scale reading. (Example: An ammeter meeting the requirement (1) is acceptable for indicating current from 1 to 5 amperes, provided no division between 1 and 5 amperes is greater than one-fiftieth of 5 amperes, 0.1 ampere.)

(e) Digital meters, printers, or other numerical readout devices may be used in addition to or in lieu of indicating instruments meeting the specifications of paragraphs (a), (b), (c), and (d) of this section. The readout of the device must include at least three digits and must indicate the value of the parameter being read to an accuracy of 2%. The multiplier, if any, to be applied to the reading of each parameter must be indicated at the operating position.

(f) No instrument which has been broken or appears to be damaged or defective, or the accuracy of which is questionable shall be used, until it has been checked, and if necessary repaired and recalibrated by the manufacturer or qualified instrument repair service. Repaired instruments shall not be used unless a certificate of calibration has been provided showing that the instrument conforms to the manufacturer's specifications for accuracy.

[41 FR 36818, Sept. 1, 1976; 41 FR 43152, Sept. 30, 1976, as amended at 51 FR 2707, Jan. 21, 1986]

§ 73.1216 Licensee-conducted contests.

(a) A licensee that broadcasts or advertises information about a contest it conducts shall fully and accurately disclose the material terms of the contest, and shall conduct the contest substantially as announced or advertised over the air or on the Internet. No contest description shall be false, misleading or deceptive with respect to any material term.

(b) The disclosure of material terms shall be made by the station conducting the contest by either:

(1) Periodic disclosures broadcast on the station; or

(2) Written disclosures on the station's Internet Web site, the licensee's Web site, or if neither the individual station nor the licensee has its own Web site, any Internet Web site that is publicly accessible.

(c) In the case of disclosure under paragraph (b)(1) of this section, a reasonable number of periodic broadcast disclosures is sufficient. In the case of disclosure under paragraph (b)(2) of this section, the station shall:

(1) Establish a conspicuous link or tab to material contest terms on the home page of the Internet Web site;

(2) Announce over the air periodically the availability of material contest terms on the Web site and identify the Web site address where the terms are posted with information sufficient for a consumer to find such terms easily; and

(3) Maintain material contest terms on the Web site for at least thirty days after the contest has concluded. Any changes to the material terms during the course of the contest must be fully disclosed on air within 24 hours of the change on the Web site and periodically thereafter or the fact that such changes have been made must be announced on air within 24 hours of the change, and periodically thereafter, and such announcements must direct participants to the written disclosures on the Web site. Material contest terms that are disclosed on an Internet Web site must be consistent in all substantive respects with those mentioned over the air.

NOTE 1 TO § 73.1216: For the purposes of this section:

(a) A contest is a scheme in which a prize is offered or awarded, based upon chance, diligence, knowledge or skill, to members of the public.

(b) Material terms include those factors which define the operation of the contest and which affect participation therein. Although the material terms may vary widely depending upon the exact nature of the contest, they will generally include: How to enter or participate; eligibility restrictions; entry deadline dates; whether prizes can be won; when prizes can be won; the extent, nature and value of prizes; basis for valuation of prizes; time and means of selection of winners; and/or tie-breaking procedures.

Note 2 to § 73.1216: In general, the time and manner of disclosure of the material terms of a contest are within the licensee's discretion. However, the obligation to disclose the

material terms arises at the time the audience is first told how to enter or participate and continues thereafter.

Note 3 to § 73.1216: This section is not applicable to licensee-conducted contests not broadcast or advertised to the general public or to a substantial segment thereof, to contests in which the general public is not requested or permitted to participate, to the commercial advertisement of non-licensee-conducted contests, or to a contest conducted by a non-broadcast division of the licensee or by a non-broadcast company related to the licensee.

[80 FR 64361, Oct. 23, 2015]

§ 73.1217 Broadcast hoaxes.

No licensee or permittee of any broadcast station shall broadcast false information concerning a crime or a catastrophe if:

(a) The licensee knows this information is false;

(b) It is forseeable 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: 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 event affecting the public.

[57 FR 28640, June 26, 1992]

§ 73.1225 Station inspections by FCC.

(a) The licensee of a broadcast station shall make the station available for inspection by representatives of the FCC during the station's business hours, or at any time it is in operation.

(b) In the course of an inspection or investigation, an FCC representative may require special equipment tests, program tests or operation with nighttime or presunrise facilities during daytime hours pursuant to § 0.314, part 0, of the FCC rules.

(c) The following records shall be made available by all broadcast stations upon request by representatives of the FCC.

(1) Equipment performance measurements required by §§ 73.1590 and 73.1690.

(2) The written designations for chief operators and, when applicable, the contracts for chief operators engaged on a contract basis.

(3) Application for modification of the transmission system made pursuant to § 73.1690(c).

(4) Informal statements or drawings depicting any transmitter modification made pursuant to § 73.1690(e).

(5) Station logs and special technical records.

(d) Commercial and noncommercial AM stations must make the following information also available upon request by representatives of the FCC.

(1) Copy of the most recent antenna or common-point impedance measurements.

(2) Copy of the most recent field strength measurements made to establish performance of directional antennas required by § 73.151.

(3) Copy of the partial directional antenna proofs of performance made in accordance with § 73.154 and made pursuant to the following requirements:

(i) Section 73.68, Sampling systems for antenna monitors.

(ii) Section 73.69, Antenna monitors.

(iii) Section 73.61, AM direction antenna field strength measurements.

[43 FR 45846, Oct. 4, 1978; 43 FR 50683, Oct. 31, 1978, as amended at 51 FR 41629, Nov. 18, 1986; 51 FR 44478, Dec. 10, 1986; 57 FR 48333, Oct. 23, 1992]

§ 73.1226 Availability to FCC of station logs and records.

The following shall be made available to any authorized representative of the FCC upon request:

(a) Station records and logs shall be made available for inspection or duplication at the request of the FCC or its representative. Such logs or records may be removed from the licensee's possession by an FCC representative or, upon request, shall be mailed by the

licensee to the FCC 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 an FCC 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 FCC 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.

(1) Logs and records stored on microfilm, microfiche or other data-storage systems are subject to the requirements pertaining thereto found in §73.1840(b).

(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 FCC 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 FCC.

(c) The following contracts, agreements, or understandings, which need not be filed with the FCC (per §73.3613, Filing of contracts), must be kept at the station and made available for inspection by any authorized representative of the FCC upon request:

(1) Contracts relating to the sale of broadcast time to ''time brokers'' for resale.

(2) FM subchannel leasing agreements for subsidiary communications.

(3) 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.

(4) Contracts with chief operators or other engineering personnel.

[43 FR 45847, Oct. 4, 1978; 43 FR 50683, Oct. 31, 1978, as amended at 45 FR 41151, June 18, 1980; 48 FR 28457, June 22, 1983]

§73.1230 Posting of station license.

(a) The station license and any other instrument of station authorization shall be posted in a conspicuous place and in such a manner that all terms are visible at the place the licensee considers to be the principal control point of the transmitter.

(b) Posting of the station license and any other instruments of authorization shall be done by affixing them to the wall at thee posting location, or by enclosing them in a binder or folder which is retained at the posting location so that the documents will be readily available and easily accessible.

[60 FR 55480, Nov. 1, 1995]

§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, widspread power failures, industrial explosions, civil disorders and school closing and changes in school bus schedules resulting from such conditions. See also §73.3542, Application for Emergency Authorization, for requirements involving emergency situations not covered by this section for which prior operating authority must be requested.

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

(c) If the Emergency 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, DC, 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 provisisons 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 or Class A TV station in accordance with this section shall be transmitted both aurally and visually or only visually. TV and Class A 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.

[43 FR 45847, Oct. 4, 1978, as amended at 50 FR 30947, July 31, 1985; 59 FR 67102, Dec. 28, 1994; 60 FR 56000, Nov. 6, 1995; 65 FR 30003, May 10, 2000]

§ 73.1300 Unattended station operation.

Broadcast stations may be operated as either attended (where a designated person is responsible for the proper operation of the transmitting apparatus either at the transmitter site, a remote control point or an ATS control point) or unattended (where highly stable equipment or automated monitoring of station operating parameters is employed). No prior FCC approval is required to operate a station in the unattended mode. Regardless of which method of station operation is employed, licensees must employ procedures which will ensure compliance with Part 11 of this chapter, the rules governing the Emergency Alert System (EAS).

[60 FR 55481, Nov. 1, 1995]

§ 73.1350 Transmission system operation.

(a) Each licensee is responsible for maintaining and operating its broadcast station in a manner which complies with the technical rules set forth elsewhere in this part and in accordance with the terms of the station authorization.

(b) The licensee must designate a chief operator in accordance with § 73.1870. The licensee may designate one or more technically competent persons to adjust the transmitter operating parameters for compliance with the technical rules and the station authorization.

(1) Persons so authorized by the licensee may make such adjustments directly at the transmitter site or by using control equipment at an off-site location.

(2) The transmitter control personnel must have the capability to turn the transmitter off at all times. If the personnel are at a remote location, the control system must provide this capability continuously or must include an alternate method of acquiring control that can satisfy the requirement of paragraph (e) of this section that operation be terminated within three minutes.

(c) The licensee must establish monitoring procedures and schedules for the station and the indicating instruments employed must comply with § 73.1215.

(1) Monitoring procedures and schedules must enable the licensee to determine compliance with § 73.1560 regarding operating power and AM station mode of operation, § 73.1570 regarding modulation levels, and, where applicable, § 73.1213 regarding antenna tower lighting, and § 73.69 regarding the parameters of an AM directional antenna system.

(2) Monitoring equipment must be periodically calibrated so as to provide reliable indications of transmitter operating parameters with a known degree of accuracy. Errors inherent in monitoring equipment and the calibration procedure must be taken into account when adjusting operating parameters to ensure that the limits imposed by the technical rules and the station authorization are not exceeded.

(d) In the event that a broadcast station is operating in a manner that is not in compliance with the applicable technical rules set forth elsewhere in this part or the terms of the station authorization, and the condition is not listed in paragraph (e) or (f) of this section, broadcast operation must be terminated within three hours unless antenna input power is reduced sufficiently to eliminate any excess radiation. Examples of conditions that require termination of operation within three hours include excessive power, excessive modulation or the emission of spurious signals that do not result in harmful interference.

(e) If a broadcast station is operating in a manner that poses a threat to life or property or that is likely to significantly disrupt the operation of other stations, immediate corrective action is required. In such cases, operation must be terminated within three minutes unless antenna input power is reduced sufficiently to eliminate any excess radiation. Examples of conditions that require immediate corrective action include the emission of spurious signals that cause harmful interference, any mode of operation not specified by the station license for the pertinent time of day, or operation substantially at variance from the authorized radiation pattern.

(f) If a broadcast station is operating in a manner that is not in compliance with one of the following technical rules, operation may continue if the station complies with relevant alternative provisions in the specified rule section.

(1) AM directional antenna system tolerances, *see* § 73.62;

(2) AM directional antenna monitoring points, *see* § 73.158;

(3) TV visual waveform, *see* § 73.691(b);

(4) Reduced power operation, *see* § 73.1560(d);

(5) Reduced modulation level, *see* § 73.1570(a);

(6) Emergency antennas, *see* § 73.1680.

(g) The transmission system must be maintained and inspected in accordance with § 73.1580.

(h) Whenever a transmission system control point is established at a location other than the main studio or transmitter, a letter of notification of

that location must be sent to the FCC in Washington, DC, Attention: Audio Division (radio) or Video Division (television), Media Bureau, within 3 days of the initial use of that point. The letter should include a list of all control points in use, for clarity. This notification is not required if responsible station personnel can be contacted at the transmitter or studio site during hours of operation.

(i) The licensee must ensure that the station is operated in compliance with Part 11 of this chapter, the rules governing the Emergency Alert System (EAS).

[60 FR 55481, Nov. 1, 1995, as amended at 63 FR 33877, June 22, 1998; 67 FR 13232, Mar. 21, 2002; 72 FR 44423, Aug. 8, 2007]

§ 73.1400 Transmission system monitoring and control.

The licensee of an AM, FM, TV or Class A TV station is responsible for assuring that at all times the station operates within tolerances specified by applicable technical rules contained in this part and in accordance with the terms of the station authorization. Any method of complying with applicable tolerances is permissible. The following are typical methods of transmission system operation:

(a) *Attended operation.* (1) Attended operation consists of ongoing supervision of the transmission facilities by a station employee or other person designated by the licensee. Such supervision may be accomplished by either:

(i) Direct supervision and control of transmission system parameters by a person at the transmitter site; or

(ii) Remote control of the transmission system by a person at the main studio or other location. The remote control system must provide sufficient transmission system monitoring and control capability so as to ensure compliance with § 73.1350.

(2) A station may also be monitored and controlled by an automatic transmission system (ATS) that is configured to contact a person designated by the licensee in the event of a technical malfunction. An automatic transmission system consists of monitoring devices, control and alarm circuitry, arranged so that they interact automatically to operate the station's transmitter and maintain technical parameters within licensed values.

(3) A hybrid system containing some remote control and some ATS features is also permissible.

(4) In the case of remote control or ATS operation, not every station parameter need be monitored or controlled if the licensee has good reason to believe that its stability is so great that its monitoring and control are unnecessary.

(b) *Unattended operation.* Unattended operation is either the absence of human supervision or the substitution of automated supervision of a station's transmission system for human supervision. In the former case, equipment is employed which is expected to operate within assigned tolerances for extended periods of time. The latter consists of the use of a self-monitoring or ATS-monitored and controlled transmission system that, in lieu of contacting a person designated by the licensee, automatically takes the station off the air within three hours of any technical malfunction which is capable of causing interference.

[60 FR 55481, Nov. 1, 1995, as amended at 65 FR 30003, May 10, 2000]

§ 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(1)(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, DC 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.

[44 FR 58734, Oct. 11, 1979, as amended at 46 FR 35463, July 8, 1981; 49 FR 4211, Feb. 3, 1984; 49 FR 20670, May 16, 1984]

§ 73.1520 Operation for tests and maintenance.

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

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

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

[43 FR 32783, July 28, 1978, as amended at 45 FR 6401, Jan. 28, 1980]

§ 73.1530 Portable test stations [Definition].

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.

[43 FR 32783, July 28, 1978]

§ 73.1540 Carrier frequency measurements.

(a) The carrier frequency of each AM and FM station and the visual carrier frequency and the difference between the visual carrier and the aural carrier or center frequency of each TV and

Class A TV station shall be measured or determined as often as necessary to ensure that they are maintained within the prescribed tolerances.

(b) In measuring the carrier frequency, the licensee may use any method or procedure that has sufficient precision to establish that the carrier frequency is within the prescribed departure limits.

(c) The primary standard of frequency for radio frequency measurements is the standard frequency maintained by the National Bureau of Standards or the standard signals of Stations WWV, WWVB, and WWVH of the National Bureau of Standards.

[43 FR 32783, July 28, 1978, as amended at 48 FR 44805, Sept. 30, 1983; 65 FR 30004, May 10, 2000]

§ 73.1545 Carrier frequency departure tolerances.

(a) *AM stations.* The departure of the carrier frequency for monophonic transmissions or center frequency for stereophonic transmissions may not exceed ±20 Hz from the assigned frequency.

(b) *FM stations.* (1) The departure of the carrier or center frequency of an FM station with an authorized transmitter output power more than 10 watts may not exceed ±2000 Hz from the assigned frequency.

(2) The departure of the carrier or center frequency of an FM station with an authorized transmitter output power of 10 watts or less may not exceed ±3000 Hz from the assigned frequency.

(c) *TV stations.* (1) The departure of the visual carrier frequency of a TV station may not exceed ±1000 Hz from the assigned visual carrier frequency.

(2) The departure of the aural carrier frequency of a TV station may not exceed ±1000 Hz from the actual visual carrier frequency plus exactly 4.5 MHz.

(d) *International broadcast stations.* The departure of the carrier frequency of an International broadcast station may not exceed 0.0015% of the assigned frequency on which the station is transmitting.

(e) *Class A TV stations.* The departure of the carrier frequency of Class A TV stations may not exceed the values specified in § 74.761 of this chapter. Provided, however, that Class A TV stations licensed to operate with a carrier offset, including those stations licensed with a maximum effective radiated power and/or antenna height greater than the values specified in their initial Class A TV station authorization, must comply with paragraph (c) of this section.

NOTE TO PARAGRAPH (e): At a date not later than nine months after release of the Memorandum Opinion and Order on Reconsideration in MM Docket No. 00–10 (the proceeding that established the Class A TV service), all licensed Class A stations must operate with a carrier frequency offset. See *Memorandum Opinion and Order on Reconsideration*, In the Matter of Establishment of a Class A Television Service, MM Docket No. 00–10, released April 13, 2001.

[44 FR 58734, Oct. 11, 1979; 44 FR 64408, Nov. 7, 1979, as amended at 47 FR 13165, Mar. 29, 1982; 65 FR 30004, May 10, 2000; 67 FR 21691, May 1, 2001]

§ 73.1560 Operating power and mode tolerances.

(a) *AM stations.* (1) Except for AM stations using modulation dependent carrier level (MDCL) control technology, or as provided for in paragraph (d) of this section, the antenna input power of an AM station, as determined by the procedures specified in § 73.51, must be maintained as near as practicable to the authorized antenna input power and may not be less than 90 percent nor greater than 105 percent of the authorized power. AM stations may, without prior Commission authority, commence MDCL control technology use, provided that within 10 days after commencing such operation, the licensee submits an electronic notification of commencement of MDCL control operation using FCC Form 338. The transmitter of an AM station operating using MDCL control technology, regardless of the MDCL control technology employed, must achieve full licensed power at some audio input level or when the MDCL control technology is disabled. MDCL control operation must be disabled before field strength measurements on the station are taken.

(2) Whenever the transmitter of an AM station cannot be placed into the specified operating mode at the time required, transmissions of the station

must be immediately terminated. However, if the radiated field at any bearing or elevation does not exceed that permitted for that time of day, operation in the mode with the lesser radiated field may continue under the notification procedures of paragraph (d) of this section.

(b) *FM stations.* Except as provided in paragraph (d) of this section, the transmitter output power of an FM station, with power output as determined by the procedures specified in § 73.267, which is authorized for output power more than 10 watts must be maintained as near as practicable to the authorized transmitter output power and may not be less than 90% nor more than 105% of the authorized power. FM stations operating with authorized transmitter output power of 10 watts or less, may operate at less than the authorized power, but not more than 105% of the authorized power.

(c) *TV stations.* (1) Except as provided in paragraph (d) of this section, the visual output power of a TV or Class A TV transmitter, as determined by the procedures specified in Sec. 73.664, must be maintained as near as is practicable to the authorized transmitter output power and may not be less than 80% nor more than 110% of the authorized power.

(2) The output power of the aural transmitter shall be maintained to provide an aural carrier ERP not to exceed 22% of the peak authorized visual ERP.

(3) The FCC may specify deviation from the power of tolerance requirements for subscription television operations to the extent it deems necessary to permit proper operation.

(d) *Reduced power operation.* In the event it becomes technically impossible to operate at authorized power, a broadcast station may operate at reduced power for a period of not more than 30 days without specific authority from the FCC. If operation at reduced power will exceed 10 consecutive days, notification must be made to the FCC in Washington, DC, Attention: Audio Division (radio) or Video Division (television), Media Bureau, not later than the 10th day of the lower power operation. In the event that normal power is restored within the 30 day period, the licensee must notify the FCC of the date that normal operation was restored. If causes beyond the control of the licensee prevent restoration of the authorized power within 30 days, a request for Special Temporary Authority (see § 73.1635) must be made to the FCC in Washington, DC for additional time as may be necessary.

[44 FR 58734, Oct. 11, 1979, as amended at 49 FR 22093, May 25, 1984; 49 FR 29069, July 18, 1984; 49 FR 47610, Dec. 6, 1984; 50 FR 26568, June 27, 1985; 50 FR 40015, Oct. 1, 1985; 63 FR 33877, June 22, 1998; 65 FR 30004, May 10, 2000; 67 FR 13232, Mar. 21, 2002; 81 FR 2760, Jan. 19, 2016]

§ 73.1570 Modulation levels: AM, FM, TV and Class A TV aural.

(a) The percentage of modulation is to be maintained at as high a level as is consistent with good quality of transmission and good broadcast service, with maximum levels not to exceed the values specified in paragraph (b). Generally, the modulation should not be less than 85% on peaks of frequent recurrence, but where lower modulation levels may be required to avoid objectionable loudness or to maintain the dynamic range of the program material, the degree of modulation may be reduced to whatever level is necessary for this purpose, even though under such circumstances, the level may be substantially less than that which produces peaks of frequent recurrence at a level of 85%.

(b) Maximum modulation levels must meet the following limitations:

(1) *AM stations.* In no case shall the amplitude modulation of the carrier wave exceed 100% on negative peaks of frequent recurrence, or 125% on positive peaks at any time.

(i) AM stations transmitting stereophonic programs not exceed the AM maximum stereophonic transmission signal modulation specifications of stereophonic system in use.

(ii) For AM stations transmitting telemetry signals for remote control or automatic transmission system operation, the amplitude of modulation of the carrier by the use of subaudible tones must not be higher than necessary to effect reliable and accurate data transmission and may not, in any case, exceed 6%.

(2) *FM stations.* The total modulation must not exceed 100 percent on peaks of frequent reoccurrence referenced to 75 kHz deviation. However, stations providing subsidiary communications services using subcarriers under provisions of §73.319 concurrently with the broadcasting of stereophonic or monophonic programs may increase the peak modulation deviation as follows:

(i) The total peak modulation may be increased 0.5 percent for each 1.0 percent subcarrier injection modulation.

(ii) In no event may the modulation of the carrier exceed 110 percent (82.5 kHz peak deviation).

(3) *TV and Class A TV stations.* In no case shall the total modulation of the aural carrier exceed 100% on peaks of frequent recurrence, unless some other peak modulation level is specified in an instrument of authorization. For monophonic transmissions, 100% modulation is defined as ±25 kHz.

(c) If a limiting or compression amplifier is employed to maintain modulation levels, precaution must be taken so as not to substantially alter the dynamic characteristics of programs.

[44 FR 58735, Oct. 11, 1979, as amended at 47 FR 13165, Mar. 29, 1982; 49 FR 14508, Apr. 12, 1984; 49 FR 15081, Apr. 17, 1984; 49 FR 27147, July 2, 1984; 49 FR 47610, Dec. 6, 1984; 49 FR 48312, Dec. 12, 1984; 51 FR 26251, July 22, 1986; 56 FR 64872, Dec. 12, 1991; 65 FR 30004, May 10, 2000]

§73.1580 Transmission system inspections.

Each AM, FM, TV and Class A TV station licensee or permittee must conduct periodic complete inspections of the transmitting system and all required monitors to ensure proper station operation.

[65 FR 30004, May 10, 2000]

§73.1590 Equipment performance measurements.

(a) The licensee of each AM, FM, TV and Class A TV station, except licensees of Class D non-commercial educational FM stations authorized to operate with 10 watts or less output power, must make equipment performance measurements for each main transmitter as follows:

(1) Upon initial installation of a new or replacement main transmitter.

(2) Upon modification of an existing transmitter made under the provisions of §73.1690, Modification of transmission systems, and specified therein.

(3) Installation of AM stereophonic transmission equipment pursuant to §73.128.

(4) Installation of FM subcarrier or stereophonic transmission equipment pursuant to §73.295, §73.297, §73.593 or §73.597.

(5) Installation of TV stereophonic or subcarrier transmission equipment pursuant to §§73.669 and 73.1690.

(6) Annually, for AM stations, with not more than 14 months between measurements.

(7) When required by other provisions of the rules or the station license.

(b) Measurements for spurious and harmonic emissions must be made to show compliance with the transmission system requirements of §73.44 for AM stations; §73.317 for FM stations and §73.687 for TV stations. Measurements must be made under all conditions of modulation expected to be encountered by the station whether transmitting monophonic or stereophonic programs and providing subsidiary communications services.

(c) TV visual equipment performance measurements must be made with the equipment adjusted for normal program operation at the transmitter antenna sampling port to yield the following information:

(1) Field strength or voltage of the lower side-band for a modulating frequency of 1.25 MHz or greater, (including 3.58 MHz for color), and of the upper side-band for a modulating frequency of 4.75 MHz or greater.

(2) Data showing that the waveform of the transmitted signal conforms to that specified by the standards for TV transmissions.

(3) Photographs of a test pattern taken from a receiver or monitor connected to the transmitter output.

(4) Data showing envelope delay characteristics of the radiated signal.

(5) Data showing the attenuation of spurious and harmonic radiation, if, after type acceptance, any changes have been made in the transmitter or associated equipment (filters,

multiplexer, etc.) which could cause changes in its radiation products.

(d) The data required by paragraphs (b) and (c) of this section, together with a description of the equipment and procedure used in making the measurements, signed and dated by the qualified person(s) making the measurements, must be kept on file at the transmitter or remote control point for a period of 2 years, and on request must be made available during that time to duly authorized representatives of the FCC.

[47 FR 8589, Mar. 1, 1982, as amended at 51 FR 18450, May 20, 1986; 65 FR 30004, May 10, 2000]

§ 73.1610 Equipment tests.

(a) During the process of construction of a new broadcast station, the permittee, after notifying the FCC in Washington, D.C. may, without further authority from the FCC, conduct equipment tests for the purpose of making such adjustments and measurements as may be necessary to assure compliance with the terms of the construction permit, the technical provisions of the application therefore, the rules and regulations and the applicable engineering standards. For AM stations, equipment tests, including either a directional or nondirectional proof of performance required by the construction permit, may be conducted during daytime hours provided that the antenna system is first substantially tuned during the experimental period. The nondirectional proof shall be conducted with power adjusted to 25% of that specified in the permit for the authorized directional facilities or, if applicable, to such higher power as is specified in the same permit for authorized nondirectional facilities. For licensed stations, see § 73.1615, Operation During Modification of Facilities; and § 73.157, Antenna Testing During Daytime.

(b) The FCC may notify the permittee not to conduct equipment tests or may modify, cancel, suspend, or change the modes of testing or the dates and times for such tests in order to resolve interference complaints or when such action may appear to be in the public interest, convenience, and necessity.

(c) Equipment tests may be continued so long as the construction permit shall remain valid.

(d) The authorization for tests embodied in this section shall not be construed as constituting a license to operate but as a necessary part of construction.

[43 FR 32783, July 28, 1978, as amended at 47 FR 40174, Sept. 13, 1982; 50 FR 30947, July 31, 1985]

§ 73.1615 Operation during modification of facilities.

When the licensee of an existing AM, FM, TV or Class A TV station is in the process of modifying existing facilities as authorized by a construction permit and determines it is necessary to either discontinue operation or to operate with temporary facilities to continue program service, the following procedures apply:

(a) Licensees holding a construction permit for modification of directional or nondirectional FM, TV or Class A TV or nondirectional AM station facilities may, without specific FCC authority, for a period not exceeding 30 days:

(1) Discontinue operation, or

(2) Operate with temporary facilities to maintain, as nearly as possible, but not exceed, the size of the presently licensed coverage area.

(b) Licensees of an AM station holding a construction permit which involves directional facilities and which does not involve a change in operating frequency may, without specific FCC authority, for a period not exceeding 30 days:

(1) Discontinue operation, or

(2) Operate with reduced power or with parameters at variance from licensed tolerances while maintaining monitoring point field strengths within licensed limits during the period subsequent to the commencement of modifications authorized by the construction permit, or

(3) Operate in a nondirectional mode during the presently licensed hours of directional operation with power reduced to 25% or less of the nominal licensed power, or whatever higher power, not exceeding licensed power, will insure that the radiated field strength specified by the license is not exceeded at any given asimuth for the

corresponding hours of directional operation, or

(4) Operate in a nondirectional mode during daytime hours, if not already so licensed, only as necessary to conduct a required nondirectional proof of performance with a power not to exceed 25% of the maximum power authorized by the construction permit for directional operation, or

(5) Operate during daytime hours with either the daytime or nighttime directional pattern and with the power authorized by the construction permit only as necessary to take proof of performance measurements. Operating power shall be promptly reduced to presently licensed level during any significant period of time that these measurements are not being taken. No daytime operation of construction permit directional patterns authorized by this paragraph shall be conducted before such patterns have been substantially tuned during the experimental period.

(6) In the event the directional pattern authorized by the construction permit replaces a licensed directional pattern, the licensee may operate with the substantially adjusted construction permit pattern during the corresponding licensed hours of directional operation with power not exceeding that specified for the licensed pattern.

(c) Such operation or discontinuance of operation in accordance with the provisions of paragraph (a) or (b) of this section may begin upon notification to the FCC in Washington, DC.

(1) Should it be necessary to continue the procedures in either paragraph (a) or (b) of this section beyond 30 days, an informal letter request signed by the licensee or the licensee's representative must be sent to the FCC in Washington, DC. prior to the 30th day.

(2) 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 or construction permit to the contrary.

(d) Licensees of an AM station holding a construction permit which authorizes both a change in frequency and directional facilities must request and obtain authority from the FCC in Washington, DC. prior to using any new installation authorized by the permit, or using temporary facilities.

(1) The request is to be made at least 10 days prior to the date on which the temporary operation is to commence. The request is to be made by letter which shall describe the operating modes and facilities to be used. Such letter requests shall be signed by the licensee or the licensee's representative.

(2) Discontinuance of operation is permitted upon notification to the FCC In Washington, DC. Should it be necessary to discontinue operation longer than 30 days, an informal letter request, signed by the licensee or the licensee's representatives, must be sent to the FCC in Washington, DC prior to the 30th day.

(e) The FCC may modify or cancel the temporary operation permitted under the provisions of paragraph (a), (b), (c) or (d) of this section without prior notice or right to hearing.

[50 FR 30947, July 31, 1985, as amended at 61 FR 28767, June 6, 1996; 65 FR 30004, May 10, 2000]

§ 73.1620 Program tests.

(a) Upon completion of construction of an AM, FM, TV or Class A TV station in accordance with the terms of the construction permit, the technical provisions of the application, the rules and regulations and the applicable engineering standards, program tests may be conducted in accordance with the following:

(1) The permittee of a nondirectional AM or FM station, or a nondirectional or directional TV or Class A TV station, may begin program tests upon notification to the FCC in Washington, DC provided that within 10 days thereafter, an application for a license is filed with the FCC in Washington, DC.

(2) The permittee of an FM station with a directional antenna system must file an application for license on FCC Form 302–FM requesting authority to commence program test operations at full power with the FCC in Washington, D.C. This license application must be filed at least 10 days prior to the date on which full power operations

are desired to commence. The application for license must contain any exhibits called for by conditions on the construction permit. The staff will review the license application and the request for program test authority and issue a letter notifying the applicant whether full power operation has been approved. Upon filing of the license application and related exhibits, and while awaiting approval of full power operation, the FM permittee may operate the directional antenna at one half (50%) of the authorized effective radiated power. Alternatively, the permittee may continue operation with its existing licensed facilities pending the issuance of program test authority at the full effective radiated power by the staff.

(3) FM licensees replacing a directional antenna pursuant to § 73.1690 (c)(2) without changes which require a construction permit (*see* § 73.1690(b)) may immediately commence program test operations with the new antenna at one half (50%) of the authorized ERP upon installation. If the directional antenna replacement is an EXACT duplicate of the antenna being replaced (*i.e.*, same manufacturer, antenna model number, and measured composite pattern), program tests may commence with the new antenna at the full authorized power upon installation. The licensee must file a modification of license application on FCC Form 302–FM within 10 days of commencing operations with the newly installed antenna, and the license application must contain all of the exhibits required by § 73.1690(c)(2). After review of the modification-of-license application to cover the antenna change, the Commission will issue a letter notifying the applicant whether program test operation at the full authorized power has been approved for the replacement directional antenna.

(4) The permittee of an AM station with a directional antenna system must file an application for license on FCC Form 302–AM requesting program test authority with the FCC in Washington, DC at least ten (10) days prior to the date on which it desires to commence program test operations. The application must provide an AM directional antenna proof of performance, containing the exhibits required by § 73.186. After review of the application to cover the construction permit, the Commission will issue a letter notifying the applicant whether program test operations may commence. Program test operations may not commence prior to issuance of staff approval.

(5) Except for permits subject to successive license terms, the permittee of an LPFM station may begin program tests upon notification to the FCC in Washington, DC, provided that within 10 days thereafter, an application for license is filed. Program tests may be conducted by a licensee subject to mandatory license terms only during the term specified on such licensee's authorization.

(b) The Commission reserves the right to revoke, suspend, or modify program tests by any station without right of hearing for failure to comply adequately with all terms of the construction permit or the provisions of § 73.1690(c) for a modification of license application, or in order to resolve instances of interference. The Commission may, at its discretion, also require the filing of a construction permit application to bring the station into compliance the Commission's rules and policies.

(c) Unless sooner suspended or revoked, the program test authority continues valid during FCC consideration of the application for license, and during this period further extension of the construction permit is not required. Program test authority shall be automatically terminated by final determination upon the application for station license.

(d) All operation under program test authority shall be in strict compliance with the rules governing broadcast stations and in strict accordance with representations made in the application for license pursuant to which the tests were authorized.

(e) Acceptance by the FCC of notification of the station of program tests, or the granting of program test authority by the FCC, is not to be construed by the permittee as approval by the FCC of the application for station license.

(f) The licensee of a UHF TV station which is not in operation on, but assigned to, the same allocated channel which a 1000 watt UHF translator station is authorized to use (see §73.3516, ''Specification of facilities''), shall notify the licensee of the translator station, in writing, at least 10 days prior to commencing or resuming operation. The TV station licensee shall also certify to the FCC in Washington, DC that such advance notice has been given to the translator station licensee.

(g) *Reports required.* In their application for a license to cover a construction permit and on the first anniversary of the commencement of program tests, applicants for new broadcast facilities that were granted after designation for a comparative hearing as a result of a post designation settlement or a decision favoring them after comparative consideration must report.

(1) Any deviations from comparative proposals relating to integration of ownership and management and diversification of the media of mass communciation contained in their application for a construction permit at the time such application was granted; and

(2) Any deviations from an active/passive ownership structure proposed in their application for a construction permit at the time such application was granted.

(3) The reports referred to in paragraphs (g)(1) and (2) of this section shall not be required in any case in which the order granting the application relieved the applicant of the obligation to adhere to such proposals.

[43 FR 32784, July 28, 1978, as amended at 45 FR 6401, Jan. 28, 1980; 47 FR 28388, June 30, 1982; 49 FR 38132, Sept. 27, 1984; 56 FR 795, Jan. 9, 1991; 56 FR 25639, June 5, 1991; 57 FR 48333, Oct. 23, 1992; 62 FR 51059, Sept. 30, 1997; 65 FR 7648, Feb. 15, 2000; 65 FR 30004, May 10, 2000]

§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 a STA should be filed with FCC in Washington, DC 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 a 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) of this section. 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 expeditions 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 daytime; §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, TV and Class A 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.

[50 FR 30948, July 31, 1985, as amended at 58 FR 51250, Oct. 1, 1993; 60 FR 55482, Nov. 1, 1995; 61 FR 28767, June 6, 1996; 65 FR 30004, May 10, 2000]

§ 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, DC. Copies may be purchased from the FCC Copy Contractor, whose name may be obtained from the FCC Consumer Assistance Office.

[54 FR 39737, Sept. 28, 1989, as amended at 56 FR 64872, Dec. 12, 1991; 60 FR 5333, Jan. 27, 1995]

§ 73.1660 Acceptability of broadcast transmitters.

(a)(1) An AM, FM, or TV transmitter shall be verified for compliance with the requirements of this part following the procedures described in part 2 of this chapter.

(2) An LPFM transmitter shall be certified for compliance with the requirements of this part following the procedures described in part 2 of the this chapter.

(b) A permittee or licensee planning to modify a transmitter which has been approved by the FCC or verified for compliance must follow the requirements contained in § 73.1690.

(c) A transmitter which was in use prior to January 30, 1955, may continue

to be used by the licensee, and successors or assignees, if it continues to comply with the technical requirements for the type of station at which it is used.

(d) AM stereophonic exciter-generators for interfacing with approved or verified AM transmitters may be certified upon request from any manufacturer in accordance with the procedures described in part 2 of the FCC rules. Broadcast licensees may modify their certified AM stereophonic exciter-generators in accordance with §73.1690.

(e) Additional rules covering certification and verification, modification of authorized transmitters, and withdrawal of a grant of authorization are contained in part 2 of the FCC rules.

[63 FR 36604, July 7, 1998, as amended at 65 FR 30004, May 10, 2000; 65 FR 67304, Nov. 9, 2000]

§ 73.1665 Main transmitters.

(a) Each AM, FM, TV and Class A TV broadcast station must have at least one main transmitter which complies with the provisions of the transmitter technical requirements for the type and class of station. A main transmitter is one which is used for regular program service having power ratings appropriate for the authorized operating power(s).

(b) There is no maximum power rating limit for FM, TV or Class A TV station transmitters, however, the maximum rated transmitter power of a main transmitter stalled at an AM station shall be as follows:

Authorized power	Maximum rated transmitter power (kW)
0.25, 0.5, or 1 kW	1
2.5 kW	5
5 or 10 kW	10
25 or 50 kW	50

(c) A licensee may, without further authority or notification to the FCC, replace an existing main transmitter or install additional main transmitter(s) for use with the authorized antenna if the replacement or additional transmitter(s) has been verified for compliance. Within 10 days after commencement of regular use of the replacement or additional transmitter(s), equipment performance measurements, as prescribed for the type of station are to be completed.

NOTE TO PARAGRAPH (c): Pending the availability of AM broadcast transmitters that are approved or verified for use in the 1605–1705 kHz band, transmitters that are approved or verified for use in the 535–1605 kHz band may be utilized in the 1605–1705 kHz band if it is shown that the requirements of §73.44 have been met. Verification or FCC approval of the transmitter will supersede the applicability of this note.

[43 FR 53741, Nov. 17, 1978, as amended at 47 FR 8590, Mar. 1, 1982; 47 FR 28388, June 30, 1982; 49 FR 4000, Feb. 1, 1984; 51 FR 18451, May 20, 1986; 56 FR 64872, Dec. 12, 1991; 63 FR 36604, July 7, 1998; 65 FR 30004, May 10, 2000]

§ 73.1670 Auxiliary transmitters.

(a) A licensee of a broadcast station may, without further authority from the FCC, install and use with the main antenna system one or more auxiliary transmitters for the following purposes:

(1) The transmission of regular programs upon failure of the main transmitter.

(2) The transmission of regular programs during maintenance or modification of the main transmitter.

(3) Emergency broadcast system operation.

(4) The transmission of regular programs by an AM station authorized for Presunrise (PSRA) and/or Postsunset (PSSA) operation.

(5) The transmission of tests to determine the operating condition of the auxiliary transmitter or auxiliary antenna.

(6) For testing, upon the request of representatives of the FCC.

(b) Authorization to install an auxiliary transmitter for use with other than the main antenna or authorized auxiliary antenna must be obtained by filing an application for a construction permit on FCC form 301 (FCC form 340 for noncommercial educational stations).

(c) The following technical and operating standards apply to auxiliary transmitters:

(1) The auxiliary transmitter may be operated on only the station's authorized frequency and within the required carrier frequency departure tolerance for the type of station.

(2) The carrier frequency of the auxiliary transmitter must be measured as often as necessary to ensure that it is maintained within the prescribed tolerance.

(3) When using an auxiliary transmitter, the operating power may be less than the authorized power but may not exceed the authorized power within the permitted tolerance for the type of station. If operation with an auxiliary transmitter at reduced power continues for a period exceeding 10 days, the FCC in Washington, DC must be notified. (See § 73.51, AM; § 73.267, FM; § 73.567, NCE-FM; and § 73.663, TV).

(4) Normal operator requirements apply to the operation of the auxiliary transmitter.

NOTE: After January 1, 1979, new licenses will not be issued nor will existing licenses be renewed for auxiliary transmitters that are operated into the main antenna system.

[43 FR 53741, Nov. 17, 1978, as amended at 44 FR 22740, Apr. 17, 1979; 48 FR 36463, Aug. 11, 1983; 48 FR 42960, Sept. 20, 1983; 48 FR 44806, Sept. 30, 1983; 50 FR 32417, Aug. 12, 1985; 51 FR 32088, Sept. 9, 1986]

§ 73.1675 Auxiliary antennas.

(a)(1) An auxiliary antenna is one that is permanently installed and available for use when the main antenna is out of service for repairs or replacement. An auxiliary antenna may be located at the same transmitter site as the station's main antenna or at a separate site. The service contour of the auxiliary antenna may not extend beyond the following corresponding contour for the main facility:

(i) AM stations: The 0.5 mV/m field strength contours.

(ii) FM stations: The 1.0 mV/m field strength contours.

(iii) TV stations: The Grade B coverage contours.

(iv) Class A TV stations: The protected contours defined in § 73.6010.

(2) An application for an auxiliary antenna for an AM station filed pursuant to paragraphs (b) or (c) of this section must contain a map showing the 0.5 mV/m field strength contours of both the main and auxiliary facilities.

(b) An application for a construction permit to install a new auxiliary antenna, or to make changes in an existing auxiliary antenna for which prior FCC authorization is required (see § 73.1690), must be filed on FCC Form 301 (FCC Form 340 for noncommercial educational stations).

(c)(1) Where an FM, TV or Class A TV licensee proposes to use a formerly licensed main facility as an auxiliary facility, or proposes to modify a presently authorized auxiliary facility, and no changes in the height of the antenna radiation center are required in excess of the limits in § 73.1690(c)(1), the FM, TV or Class A TV licensee may apply for the proposed auxiliary facility by filing a modification of license application. The modified auxiliary facility must operate on the same channel as the licensed main facility. An exhibit must be provided with this license application to demonstrate compliance with § 73.1675(a). All FM, TV and Class A TV licensees may request a decrease from the authorized facility's ERP in the license application. An FM, TV or Class A TV licensee may also increase the ERP of the auxiliary facility in a license modification application, provided the application contains an analysis demonstrating compliance with the Commission's radiofrequency radiation guidelines, and an analysis showing that the auxiliary facility will comply with § 73.1675(a). Where an FM, TV, or Class A TV licensee or permittee proposes to mount an auxiliary facility on an AM tower, it must also demonstrate compliance with § 1.30003 in the license application.

(2) Where an AM licensee proposes to use a former licensed main facility as an auxiliary facility with an ERP less than or equal to the ERP specified on the former main license, the AM station may apply to license the proposed auxiliary facility by filing a modification of license application on Form 302-AM. The proposed auxiliary facilities must have been previously licensed on the same frequency as the present main facility. The license application must contain an exhibit to demonstrate compliance with § 73.1675(a).

[43 FR 53741, Nov. 17, 1978, as amended at 44 FR 22740, Apr. 17, 1979; 45 FR 26066, Apr. 17, 1980; 50 FR 13974, Apr. 9, 1985; 62 FR 51060, Sept. 30, 1997; 63 FR 70049, Dec. 18, 1998; 65 FR 30005, May 10, 2000; 78 FR 66298, Nov. 5, 2013]

§ 73.1680 Emergency antennas.

(a) An emergency antenna is one that is erected for temporary use after the authorized main and auxiliary antennas are damaged and cannot be used.

(b) Prior authority from the FCC is not required by licensees and permittees to erect and commence operations using an emergency antenna to restore program service to the public. However, an informal letter request to continue operation with the emergency antenna must be made within 24 hours to the FCC in Washington, DC, Attention: Audio Division (radio) or Video Division (television), Media Bureau, within 24 hours after commencement of its use. The request is to include a description of the damage to the authorized antenna, a description of the emergency antenna, and the station operating power with the emergency antenna.

(1) *AM stations.* AM stations may use a horizontal or vertical wire or a nondirectional vertical element of a directional antenna as an emergency antenna. AM stations using an emergency nondirectional antenna or a horizontal or vertical wire pursuant to this section, in lieu or authorized directional facilities, shall operate with power reduced to 25% or less of the nominal licensed power, or, a higher power, not exceeding licensed power, while insuring that the radiated filed strength does not exceed that authorized in any given azimuth for the corresponding hours of directional operation.

(2) *FM, TV and Class A TV stations.* FM, TV and Class A TV stations may erect any suitable radiator, or use operable sections of the authorized antenna(s) as an emergency antenna.

(c) The FCC may prescribe the output power, radiation limits, or other operating conditions when using an emergency antenna, and emergency antenna authorizations may be modified or terminated in the event harmful interference is caused to other stations or services by the use of an emergency antenna.

[43 FR 53741, Nov. 17, 1978, as amended at 44 FR 22740, Apr. 17, 1979; 50 FR 30948, July 31, 1985; 63 FR 33878, June 22, 1998; 65 FR 30005, May 10, 2000; 67 FR 13232, Mar. 21, 2002]

§ 73.1690 Modification of transmission systems.

The following procedures and restrictions apply to licensee modifications of authorized broadcast transmission system facilities.

(a) The following changes are prohibited:

(1) Those that would result in the emission of signals outside of the authorized channel exceeding limits prescribed for the class of service.

(2) Those that would cause the transmission system to exceed the equipment performance measurements prescribed for the class of service (AM, § 73.44; FM, §§ 73.317, 73.319, and 73.322; TV and Class A TV, §§ 73.682 and 73.687).

(b) The following changes may be made only after the grant of a construction permit application on FCC Form 301 for commercial stations or Form 340 for noncommercial educational stations:

(1) Any construction of a new tower structure for broadcast purposes, except for replacement of an existing tower with a new tower of identical height and geographic coordinates.

(2) Any change in station geographic coordinates, including coordinate corrections of more than 3 seconds latitude and/or 3 seconds longitude. FM and TV directional stations must also file a construction permit application for any move of the antenna to another tower structure located at the same coordinates.

(3) Any change which would require an increase along any azimuth in the composite directional antenna pattern of an FM station from the composite directional antenna pattern authorized (see § 73.316), or any increase from the authorized directional antenna pattern for a TV broadcast (see § 73.685) or Class A TV station (see § 73.6025).

(4) Any change in the directional radiation characteristics of an AM directional antenna system. *See* § 73.45 and § 73.150.

(5) Any decrease in the authorized power of an AM station or the ERP of a TV or Class A TV station, or any decrease or increase in the ERP of an FM commercial station, which is intended for compliance with the multiple ownership rules in § 73.3555.

(6) For FM noncommercial educational stations, any of the following:

(i) Any increase in the authorized maximum ERP, whether horizontally or vertically polarized, for a noncommercial educational FM station operating on Channels 201 through 220, or a Class D FM station operating on Channel 200.

(ii) For those FM noncommercial educational stations on Channels 201 to 220, or a Class D FM station operating on Channel 200, which are within the separation distances specified in Table A of § 73.525 with respect to a Channel 6 television station, any increase in the horizontally or vertically polarized ERP from the presently authorized ERP.

(iii) For those FM noncommercial educational stations on Channels 201 through 220 which are located within the separation distances in § 73.525 with respect to a Channel 6 television station, or a Class D FM station operating on Channel 200, any decrease in the presently authorized horizontal effective radiated power which would eliminate the horizontal ERP to result in use of vertical ERP only.

(iv) For those FM noncommercial educational stations which employ separate antennas for the horizontal ERP and the vertical ERP, mounted at different heights, the station may not increase or decrease either the horizontal ERP or the vertical ERP without a construction permit.

(7) Any increase in the authorized ERP of a television station, Class A television station, FM commercial station, or noncommercial educational FM station, except as provided for in § 73.1690(c)(4), (c)(5), or (c)(7), or in § 73.1675(c)(1) in the case of auxiliary facilities.

(8) A commercial TV or noncommercial educational TV station operating on Channels 14 or Channel 69 or a Class A TV station on Channel 14 may increase its horizontally or vertically polarized ERP only after the grant of a construction permit. A television or Class A television station on Channels 15 through 21 within 341 km of a cochannel land mobile operation, or 225 km of a first-adjacent channel land mobile operation, must also obtain a construction permit before increasing the horizontally or vertically polarized ERP (see part 74, § 74.709(a) and (b) for tables of urban areas and corresponding reference coordinates of potentially affected land mobile operations).

(9) Any change in the community of license, where the proposed new facilities are the same as, or would be mutually exclusive with, the licensee's or permittee's present assignment.

(c) The following FM, TV and Class A TV station modifications may be made without prior authorization from the Commission. A modification of license application must be submitted to the Commission within 10 days of commencing program test operations pursuant to § 73.1620. With the exception of applications filed solely pursuant to paragraphs (c)(6), (c)(9), or (c)(10) of this section, the modification of license application must contain an exhibit demonstrating compliance with the Commission's radio frequency radiation guidelines. In addition, except for applications solely filed pursuant to paragraphs (c)(6) or (c)(9) of this section, where the installation is located on or near an AM tower, as defined in § 1.30002, an exhibit demonstrating compliance with § 1.30003 or § 1.30002, as applicable, is also required.

(1) Replacement of an omnidirectional antenna with one of the same or different number of antenna bays, provided that the height of the antenna radiation center is not more than 2 meters above or 4 meters below the authorized values. Any concurrent change in ERP must comply with § 73.1675(c)(1), 73.1690(4), (c)(5), or (c)(7). Program test operations at the full authorized ERP may commence immediately upon installation pursuant to § 73.1620(a)(1).

(2) Replacement of a directional FM antenna, where the measured composite directional antenna pattern does not exceed the licensed composite directional pattern at any azimuth, where no change in effective radiated power will result, and where compliance with the principal coverage requirements of § 73.315(a) will be maintained by the measured directional pattern. The antenna must be mounted not more than 2 meters above or 4 meters below the authorized values. The

modification of license application on Form 302-FM to cover the antenna replacement must contain all of the data in the following sections (i) through (v). Program test operations at one half (50%) power may commence immediately upon installation pursuant to §73.1620(a)(3). However, if the replacement directional antenna is an exact replacement (*i.e.*, no change in manufacturer, antenna model number, AND measured composite antenna pattern), program test operations may commence immediately upon installation at the full authorized power.

(i) A measured directional antenna pattern and tabulation on the antenna manufacturer's letterhead showing both the horizontally and vertically polarized radiation components and demonstrating that neither of the components exceeds the authorized composite antenna pattern along any azimuth.

(ii) Contour protection stations authorized pursuant to §73.215 or §73.509 must attach a showing that the RMS (root mean square) of the composite measured directional antenna pattern is 85% or more of the RMS of the authorized composite antenna pattern. *See* §73.316(c)(9). If this requirement cannot be met, the licensee may include new relative field values with the license application to reduce the authorized composite antenna pattern so as to bring the measured composite antenna pattern into compliance with the 85 percent requirement.

(iii) A description from the manufacturer as to the procedures used to measure the directional antenna pattern. The antenna measurements must be performed with the antenna mounted on a tower, tower section, or scale model equivalent to that on which the antenna will be permanently mounted, and the tower or tower section must include transmission lines, ladders, conduits, other antennas, and any other installations which may affect the measured directional pattern.

(iv) A certification from a licensed surveyor that the antenna has been oriented to the proper azimuth.

(v) A certification from a qualified engineer who oversaw installation of the directional antenna that the antenna was installed pursuant to the manufacturer's instructions.

(3) A directional TV on Channels 2 through 13 or 22 through 68 or a directional Class A TV on Channels 2 through 13 or 22 through 51, or a directional TV or Class A TV station on Channels 15 through 21 which is in excess of 341 km (212 miles) from a cochannel land mobile operation or in excess of 225 km (140 miles) from a first-adjacent channel land mobile operation (*see* part 74, §74.709(a) and (b) for tables of urban areas and reference coordinates of potentially affected land mobile operations), may replace a directional TV or Class A TV antenna by a license modification application, if the proposed horizontal theoretical directional antenna pattern does not exceed the licensed horizontal directional antenna pattern at any azimuth and where no change in effective radiated power will result. The modification of license application on Form 302–TV or Form 302–CA must contain all of the data set forth in §73.685(f) or §73.6025(a), as applicable.

(4) Commercial and noncommercial educational FM stations operating on Channels 221 through 300 (except Class D), NTSC TV stations operating on Channels 2 through 13 and 22 through 68, Class A TV stations operating on Channels 2 through 13 and 22 through 51, and TV and Class A TV stations operating on Channels 15 through 21 that are in excess of 341 km (212 miles) from a cochannel land mobile operation or in excess of 225 km (140 miles) from a first-adjacent channel land mobile operation (see part 74, §74.709(a) and (b) for tables of urban areas and reference coordinates of potentially affected land mobile operations), which operate omnidirectionally, may increase the vertically polarized effective radiated power up to the authorized horizontally polarized effective radiated power in a license modification application. Noncommercial educational FM licensees and permittees on Channels 201 through 220, that do not use separate antennas mounted at different heights for the horizontally polarized ERP and the vertically polarized ERP, and are located in excess of the separations from a Channel 6 television station listed in Table A of §73.525(a)(1),

may also increase the vertical ERP, up to (but not exceeding) the authorized horizontally polarized ERP via a license modification application. Program test operations may commence at full power pursuant to § 73.1620(a)(1).

(5) Those Class A FM commercial stations which were permitted to increase ERP pursuant to MM Docket No. 88–375 by a modification of license application remain eligible to do so, provided that the station meets the requirements of § 73.1690 (c)(1) and is listed on one of the Public Notices as authorized to increase ERP, or by a letter from the Commission's staff authorizing the change. These Public Notices were released on November 3, 1989; November 17, 1989; December 8, 1989; March 2, 1990; and February 11, 1991. The increased ERP must comply with the multiple ownership requirements of § 73.3555. Program test operations may commence at full power pursuant to § 73.1620(a)(1).

(6) FM contour protection stations authorized pursuant to § 73.215 which have become fully spaced under § 73.207 may file a modification of license application to delete the § 73.215 contour protection designation with an exhibit to demonstrate that the station is fully spaced in accordance with § 73.207. The contour protection designation will be removed upon grant of the license application. Applications filed under this rule section will be processed on a first come / first served basis with respect to conflicting FM commercial minor change applications and modification of license applications (including those filed pursuant to § 73.1690 (b) and (c)(6) and (c)(7)).

(7) FM omnidirectional commercial stations, and omnidirectional noncommercial educational FM stations operating on Channels 221 through 300 (except Class D), which are not designated as contour protection stations pursuant to § 73.215 and which meet the spacing requirements of § 73.207, may file a license modification application to increase ERP to the maximum permitted for the station class, provided that any change in the height of the antenna radiation center remains in accordance with § 73.1690(c)(1). Program test operations may commence at full power pursuant to § 73.1620(a)(1). All of the following conditions also must be met before a station may apply pursuant to this section:

(i) The station may not be a ''grandfathered'' short-spaced station authorized pursuant to § 73.213 or short-spaced by a granted waiver of § 73.207;

(ii) If the station is located in or near a radio quiet zone, radio coordination zone, or a Commission monitoring station (see § 73.1030 and § 0.121(c) of this chapter), the licensee or permittee must have secured written concurrence from the affected radio quiet zone, radio coordination zone, or the Commission's Public Safety and Homeland Security Bureau in the case of a monitoring station, to increase effective radiated power PRIOR to implementation. A copy of that concurrence must be submitted with the license application to document that concurrence has been received;

(iii) The station does not require international coordination as the station does not lie within the border zones, or clearance has been obtained from Canada or Mexico for the higher power operation within the station's specified domestic class and the station complies with § 73.207(b)(2) and (3) with respect to foreign allotments and allocations;

(iv) The increased ERP will not cause the station to violate the multiple ownership requirements of § 73.3555.

(8) FM commercial stations and FM noncommercial educational stations may decrease ERP on a modification of license application provided that exhibits are included to demonstrate that all six of the following requirements are met:

(i) Commercial FM stations must continue to provide a 70 dBu principal community contour over the community of license, as required by § 73.315(a). Noncommercial educational FM stations must continue to provide a 60 dBu contour over at least a portion of the community of license. The 60 and 70 dBu contours must be predicted by use of the standard contour prediction method in § 73.313(b), (c), and (d).

(ii) For both commercial FM and noncommercial educational FM stations, the location of the main studio remains within the 70 dBu principal

community contour, as required by §73.1125, or otherwise complies with that rule. The 70 dBu contour must be predicted by use of the standard contour prediction method in §73.313(b), (c), and (d).

(iii) For commercial FM stations only, there is no change in the authorized station class as defined in §73.211.

(iv) For commercial FM stations only, the power decrease is not necessary to achieve compliance with the multiple ownership rule, §73.3555.

(v) Commercial FM stations, noncommercial educational FM stations on Channels 221 through 300, and noncommercial educational FM stations on Channels 200 through 220 which are located in excess of the distances in Table A of §73.525 with respect to a Channel 6 TV station, may not use this rule to decrease the horizontally polarized ERP below the value of the vertically polarized ERP.

(vi) Noncommercial educational FM stations on Channels 201 through 220 which are within the Table A distance separations of §73.525, or Class D stations on Channel 200, may not use the license modification process to eliminate an authorized horizontally polarized component in favor of vertically polarized-only operation. In addition, noncommercial educational stations operating on Channels 201 through 220, or Class D stations on Channel 200, which employ separate horizontally and vertically polarized antennas mounted at different heights, may not use the license modification process to increase or decrease either the horizontal ERP or vertical ERP without a construction permit.

(9) The licensee of an AM, FM, or TV commercial station may propose to change from commercial to noncommercial educational on a modification of license application, provided that the application contains completed Sections II and IV of FCC Form 340. In addition, a noncommercial educational AM licensee, a TV licensee on a channel not reserved for noncommercial educational use, or an FM licensee on Channels 221 to 300 (except Class D FM) on a channel not reserved for noncommercial educational use, may apply to change from educational to commercial via a modification of license application, and no exhibits are required with the application. The change will become effective upon grant of the license application.

(10) Replacement of a transmission line with one of a different type or length which changes the transmitter operating power (TPO) from the authorized value, but not the ERP, must be reported in a license modification application to the Commission.

(11) Correction of geographic coordinates where the change is 3 seconds or fewer in latitude and/or 3 seconds or fewer in longitude, provided there is no physical change in location and no other licensed parameters are changed. The correction of coordinates may not result in any new short spacings or increases in existing short spacings.

(d) The following changes may be made without authorization from the FCC, however informal notification of the changes must be made according to the rule sections specified:

(1) Change in studio location within the principal community contour. See §73.1125.

(2) Commencement of remote control operation pursuant to §§73.1400 and 73.1410.

(3) Modification of an AM directional antenna sampling system. See §73.68.

(e) Any electrical and mechanical modification to authorized transmitting equipment that is not otherwise restricted by the preceding provisions of this section, may be made without FCC notification or authorization. Equipment performance measurements must be made within ten days after completing the modifications (See §73.1590). An informal statement, diagram, etc., describing the modification must be retained at the transmitter site for as long as the equipment is in use.

[47 FR 8590, Mar. 1, 1982]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §73.1690, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§ 73.1692 [Reserved]

§ 73.1695 Changes in transmission standards.

The FCC will consider the question whether a proposed change or modification of transmission standards adopted for broadcast stations would be in the public interest, convenience, and necessity, upon petition being filed by the person proposing such change or modification, setting forth the following:

(a) The exact character of the change or modification proposed;

(b) The effect of the proposed change or modification upon all other transmission standards that have been adopted by the FCC for broadcast stations;

(c) The experimentation and field tests that have been made to show that the proposed change or modification accomplishes an improvement and is technically feasible;

(d) The effect of the proposed change or modification in the adopted standards upon operation and obsolescence of receivers;

(1) Should a change of modification in the transmission standards be adopted by the FCC, the effective date thereof will be determined in the light of the considerations mentioned in this paragraph (d);

(2) [Reserved]

(e) The change in equipment required in existing broadcast stations for incorporating the proposed change or modification in the adopted standards; and

(f) The facts and reasons upon which the petitioner bases the conclusion that the proposed change or modification would be in the public interest, convenience, and necessity.

[49 FR 4211, Feb. 3, 1984]

§ 73.1700 Broadcast day.

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

[43 FR 45849, Oct. 4, 1978]

§ 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 operations 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.

[43 FR 45849, Oct. 4, 1978, as amended at 56 FR 64872, Dec. 12, 1991]

§ 73.1710 Unlimited time.

Operation is permitted 24 hours a day.

[43 FR 45849, Oct. 4, 1978]

§ 73.1715 Share time.

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

(a) If the licenses of stations authorized to share time do not specify hours of operation, the licensees shall endeavor to reach an agreement for a definite schedule of periods of time to be used by each. Such agreement shall be in writing and each licensee shall file it in duplicate original with each application to the FCC in Washington, DC 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, DC 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, DC prior to the time of 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.

[43 FR 45849, Oct. 4, 1978, as amended at 47 FR 40174, Sept. 13, 1982]

§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.

(b) [Reserved]

[43 FR 45849, Oct. 4, 1978]

§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 other 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; 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).

[56 FR 64872, Dec. 12, 1991]

§ 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 programing. 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).

[43 FR 45850, Oct. 4, 1978]

§ 73.1735 AM station operation 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.

[49 FR 41249, Oct. 22, 1984]

§ 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.

(5) *Class A TV stations.* Not less than 18 hours in each day of the week.

(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.

[43 FR 45850, Oct. 4, 1978, as amended at 53 FR 1032, Jan. 15, 1988; 56 FR 64873, Dec. 12, 1991; 61 FR 28767, June 6, 1996; 65 FR 30006, May 10, 2000]

§ 73.1745 Unauthorized operation.

(a) No broadcast station shall operate at times, or with modes or power, other than those specified and made a part of the license, unless otherwise provided in this part.

(b) Any unauthorized departure from an operating schedule which is required to be filed with the FCC in Washington, DC, will be considered as a violation of a material term of the license.

[43 FR 45850, Oct. 4, 1978]

§ 73.1750 Discontinuance of operation.

The licensee of each station shall notify by letter the FCC in Washington, DC, Attention: Audio Division (radio) or Video Division (television), Media Bureau, of the permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Attention: Audio Division (radio) or Video Division (television), Media Bureau, for cancellation. The license of any 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. If a licensee surrenders its license pursuant to an interference reduction agreement, and its surrender is contingent on the grant of another application, the licensee must identify in its notification the contingencies involved.

[67 FR 13233, Mar. 21, 2002]

§ 73.1800 General requirements related to the station log.

(a) The licensee of each station must maintain a station log as required by § 73.1820. This log shall be kept by station employees competent to do so, having actual knowledge of the facts required. All entries, whether required or not by the provisions of this part, must accurately reflect the station operation. Any employee making a log entry shall sign the log, thereby attesting to the fact that the entry, or any correction or addition made thereto, is an accurate representation of what transpired.

(b) The logs shall be kept in an orderly and legible manner, in suitable form and in such detail that the data required for the particular class of station concerned are readily available. Key letters or abbreviations may be used if the proper meaning or explanation is contained elsewhere in the log. Each sheet must be numbered and dated. Time entries must be made in local time and must be indicated as advanced (e.g., EDT) or non-advanced (e.g., EST) time.

(c) Any necessary corrections of a manually kept log after it has been signed in accordance with paragraph (a) of this section shall be made only by striking out the erroneous portion and making a corrective explanation on the log or attachment to it. Such corrections shall be dated and signed by the person who kept the log or the station chief operator, the station manager or an officer of the licensee.

(d) No automatically kept log shall be altered in any way after entries have been recorded. When automatic logging processes fail or malfunction, the log must be kept manually for that period and in accordance with the requirements of this section.

(e) No log, or portion thereof, shall be erased, obliterated or willfully destroyed during the period in which it is required to be retained. (Section 73.1840, Retention of logs.)

(f) Application forms for licenses and other authorizations may require that certain technical operating data be

supplied. These application forms should be kept in mind in connection with the maintenance of the station log.

[43 FR 45850, Oct. 4, 1978, as amended at 48 FR 38481, Aug. 24, 1983; 48 FR 44806, Sept. 30, 1983; 49 FR 14509, Apr. 12, 1984; 49 FR 33663, Aug. 24, 1984; 50 FR 40016, Oct. 1, 1985]

§ 73.1820 Station log.

(a) Entries must be made in the station log either manually by a person designated by the licensee who is in actual charge of the transmitting apparatus, or by automatic devices meeting the requirements of paragraph (b) of this section. Indications of operating parameters that are required to be logged must be logged prior to any adjustment of the equipment. Where adjustments are made to restore parameters to their proper operating values, the corrected indications must be logged and accompanied, if any parameter deviation was beyond a prescribed tolerance, by a notation describing the nature of the corrective action. Indications of all parameters whose values are affected by the modulation of the carrier must be read without modulation. The actual time of observation must be included in each log entry. The following information must be entered:

(1) *All stations.* (i) Entries required by §17.49 of this chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light:

(A) The nature of such extinguishment or improper functioning.

(B) The date and time the extinguishment or improper operation was observed or otherwise noted.

(C) The date, time and nature of adjustments, repairs or replacements made.

(ii) Any entries not specifically required in this section, but required by the instrument of authorization or elsewhere in this part.

(iii) An entry of each test and activation of the Emergency Alert System (EAS) pursuant to the requirement of part 11 of this chapter and the EAS Operating Handbook. Stations may keep EAS data in a special EAS log which shall be maintained at a convenient location; however, this log is considered a part of the station log.

(2) *Directional AM stations without an FCC-approved antenna sampling system* (See §73.68). (i) An entry at the beginning of operations in each mode of operation, and thereafter at intervals not exceeding 3 hours, of the following (actual readings observed prior to making any adjustments to the equipment and an indication of any corrections to restore parameters to normal operating values):

(A) Common point current.

(B) When the operating power is determined by the indirect method, the efficiency factor F and either the product of the final amplifier input voltage and current or the calculated antenna input power. See §73.51(e).

(C) Antenna monitor phase or phase deviation indications.

(D) Antenna monitor sample currents, current ratios, or ratio deviation indications.

(ii) Entries required by §73.61 performed in accordance with the schedule specified therein.

(iii) Entries of the results of calibration of automatic logging devices (see paragraph (b) of this section) or indicating instruments (see §73.67), whenever performed.

(b) Automatic devices accurately calibrated and with appropriate time, date and circuit functions may be utilized to record entries in the station log *Provided:*

(1) The recording devices do not affect the operation of circuits or accuracy of indicating instruments of the equipment being recorded;

(2) The recording devices have an accuracy equivalent to the accuracy of the indicating instruments;

(3) The calibration is checked against the original indicators as often as necessary to ensure recording accuracy;

(4) In the event of failure or malfunctioning of the automatic equipment, the person designated by the licensee as being responsible for the log small make the required entries in the log manually at that time;

(5) The indicating equipment conforms to the requirements of §73.1215 (Indicating instruments—specifications) except that the scales need not exceed 5 cm (2 inches) in length. Arbitrary scales may not be used.

(c) In preparing the station log, original data may be recorded in rough form and later transcribed into the log.

[43 FR 45854, Oct. 4, 1978, as amended at 44 FR 58735, Oct. 11, 1979; 47 FR 24580, June 7, 1982; 48 FR 38481, Aug. 24, 1983; 48 FR 44806, Sept. 30, 1983; 49 FR 33603, Aug. 23, 1984; 58 FR 44951, Aug. 25, 1993; 59 FR 67102, Dec. 28, 1994; 60 FR 55482, Nov. 1, 1995]

§ 73.1835 Special technical records.

The FCC may require a broadcast station licensee to keep operating and maintenance records as necessary to resolve conditions of actual or potential interference, rule violations, or deficient technical operation.

[48 FR 38482, Aug. 24, 1983]

§ 73.1840 Retention of logs.

(a) Any log required to be kept by station licensees shall be retained by them for a period of 2 years. However, logs involving communications incident to a disaster or which include communications incident to or involved in an investigation by the FCC and about which the licensee has been notified, shall be retained by the licensee until specifically authorized in writing by the FCC to destroy them. Logs incident to or involved in any claim or complaint of which the licensee has notice shall be retained by the licensee until such claim or complaint has been fully satisfied or until the same has been barred by statute limiting the time for filing of suits upon such claims.

(b) Logs may be retained on microfilm, microfiche or other data-storage systems subject to the following conditions:

(1) Suitable viewing—reading devices shall be available to permit FCC inspection of logs pursuant to §73.1226, availability to FCC of station logs and records.

(2) Reproduction of logs, stored on data-storage systems, to full-size copies, is required of licensees if requested by the FCC or the public as authorized by FCC rules. Such reproductions must be completed within 2 full work days of the time of the request.

(3) Corrections to logs shall be made:

(i) Prior to converting to a data-storage system pursuant to the requirements of §73.1800 (c) and (d), (§73.1800, General requirements relating to logs).

(ii) After converting to a data-storage system, by separately making such corrections and then associating with the related data-stored logs. Such corrections shall contain sufficient information to allow those reviewing the logs to identify where corrections have been made, and when and by whom the corrections were made.

(4) Copies of any log required to be filed with any application; or placed in the station's local public inspection file as part of an application; or filed with reports to the FCC must be reproduced in fullsize form when complying with these requirements.

[45 FR 41151, June 18, 1980, as amended at 46 FR 13907, Feb. 24, 1981; 46 FR 18557, Mar. 25, 1981; 49 FR 33663, Aug. 24, 1984]

§ 73.1870 Chief operators.

(a) The licensee of each AM, FM, TV or Class A TV broadcast station must designate a person 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 person 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 station

license. Agreements with chief operators serving on a contract basis must be in writing with a copy kept in the 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) Inspections and calibrations of the transmission system, required monitors, metering and control systems; and any necessary repairs or adjustments where indicated. (See § 73.1580.)

(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 records at least once each week to determine if required entries are being made correctly. Additionally, verification must be made that the station has been operated as required by the rules or the station authorization. Upon completion of the review, the chief operator or his designee must date and sign the log, initiate any corrective action which may be necessary, and advise the station licensee of any condition which is repetitive.

(4) Any entries which may be required in the station records. (See § 73.1820.)

[46 FR 35463, July 8, 1981, as amended at 47 FR 31580, July 21, 1982; 48 FR 38482, Aug. 24, 1983; 48 FR 44806, Sept. 30, 1983; 49 FR 20670, May 16, 1984; 49 FR 50048, Dec. 26, 1984; 50 FR 32416, Aug. 12, 1985; 60 FR 55482, Nov. 1, 1995; 65 FR 30006, May 10, 2000]

§ 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 paragraph (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 in 47 CFR chapter I, 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 the 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 9 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.

[57 FR 27708, June 22, 1992]

§ 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 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) that is not exempt under paragraphs 73.1941 (a)(1) through (a)(4) of this section.

(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.

[57 FR 208, Jan. 3, 1992, as amended at 59 FR 14568, Mar. 29, 1994]

§ 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 nonpremptible, 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 define all such classes, fully disclose them and make available to candidates.

(v) Stations may treat nonpreemptible 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-period 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 such 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) Makes 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, perspectively 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 changes 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 candidate 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 non-commercial operation.

[57 FR 209, Jan. 3, 1992, as amended at 57 FR 27709, June 22, 1992]

§ 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.

(d) *Location of the file.* A licensee or applicant must post all of the contents added to its political file after the effective date of this paragraph in the political file component of its online public file hosted by the Commission. A station must retain in its political file maintained at the station, at the location specified in §73.3526(b) or §73.3527(b), all material required to be included in the political file and added to the file prior to the effective date of this paragraph, unless the station elects voluntarily to place these materials in the Commission's online public file. The online political file must be updated in the same manner as paragraph (c) of this section.

[57 FR 210, Jan. 3, 1992, as amended at 77 FR 27655, May 11, 2012; 81 FR 10123, Feb. 29, 2016]

§ 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.

[57 FR 210, Jan. 3, 1992]

§ 73.2080 Equal employment opportunities (EEO).

(a) *General EEO policy.* Equal opportunity in employment shall be afforded by all licensees or permittees of commercially or noncommercially operated AM, FM, TV, Class A TV or international broadcast stations (as defined in this part) to all qualified persons, and no person shall be discriminated against in employment by such stations because of race, color, religion, national origin, or sex. Religious radio broadcasters may establish religious belief or affiliation as a job qualification for all station employees. However, they cannot discriminate on the basis of race, color, national origin or gender from among those who share their religious affiliation or belief. For purposes of this rule, a religious broadcaster is a licensee which is, or is closely affiliated with, a church, synagogue, or other religious entity, including a subsidiary of such an entity.

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

(1) Define the responsibility of each level of management to ensure vigorous enforcement of its 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 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 to ensure genuine equality of opportunity to participate fully in all organizational units, occupations, and levels of responsibility.

(c) *Specific EEO program requirements.* Under the terms of its program, a station employment unit must:

(1) Recruit for every full-time job vacancy in its operation. A job filled by an internal promotion is not considered a vacancy for which recruitment is necessary. Religious radio broadcasters who establish religious affiliation as a qualification for a job position are not required to comply with these recruitment requirements with respect to that job position or positions, but will be expected to make reasonable, good faith efforts to recruit applicants who are qualified based on their religious affiliation. Nothing in this section shall be interpreted to require a broadcaster to grant preferential treatment to any individual or group based on race, color, national origin, religion, or gender.

(i) A station employment unit shall use recruitment sources for each vacancy sufficient in its reasonable, good faith judgment to widely disseminate information concerning the vacancy.

(ii) In addition to such recruitment sources, a station employment unit shall provide notification of each full-time vacancy to any organization that distributes information about employment opportunities to job seekers or refers job seekers to employers, upon request by such organization. To be entitled to notice of vacancies, the requesting organization must provide the station employment unit with its name, mailing address, e-mail address (if applicable), telephone number, and contact person, and identify the category or categories of vacancies of which it requests notice. (An organization may request notice of all vacancies).

(2) Engage in at least four (if the station employment unit has more than ten full-time employees and is not located in a smaller market) or two (if it has five to ten full-time employees and/or is located entirely in a smaller market) of the following initiatives during each two-year period beginning with the date stations in the station employment unit are required to file renewal applications, or the second, fourth or sixth anniversaries of that date.

(i) Participation in at least four job fairs by station personnel who have substantial responsibility in the making of hiring decisions;

(ii) Hosting of at least one job fair;

(iii) Co-sponsoring at least one job fair with organizations in the business and professional community whose membership includes substantial participation of women and minorities;

(iv) Participation in at least four events sponsored by organizations representing groups present in the community interested in broadcast employment issues, including conventions, career days, workshops, and similar activities;

(v) Establishment of an internship program designed to assist members of the community to acquire skills needed for broadcast employment;

(vi) Participation in job banks, Internet programs, and other programs designed to promote outreach generally (*i.e.,* that are not primarily directed to providing notification of specific job vacancies);

(vii) Participation in scholarship programs designed to assist students interested in pursuing a career in broadcasting;

(viii) Establishment of training programs designed to enable station personnel to acquire skills that could qualify them for higher level positions;

(ix) Establishment of a mentoring program for station personnel;

(x) Participation in at least four events or programs sponsored by educational institutions relating to career opportunities in broadcasting;

(xi) Sponsorship of at least two events in the community designed to inform and educate members of the public as to employment opportunities in broadcasting;

(xii) Listing of each upper-level category opening in a job bank or newsletter of media trade groups whose membership includes substantial participation of women and minorities;

(xiii) Provision of assistance to unaffiliated non-profit entities in the maintenance of web sites that provide counseling on the process of searching for broadcast employment and/or other career development assistance pertinent to broadcasting;

(xiv) Provision of training to management level personnel as to methods of ensuring equal employment opportunity and preventing discrimination;

(xv) Provision of training to personnel of unaffiliated non-profit organizations interested in broadcast employment opportunities that would enable them to better refer job candidates for broadcast positions;

(xvi) Participation in other activities designed by the station employment unit reasonably calculated to further the goal of disseminating information as to employment opportunities in broadcasting to job candidates who might otherwise be unaware of such opportunities.

(3) Analyze its recruitment program on an ongoing basis to ensure that it is effective in achieving broad outreach to potential applicants, and address any problems found as a result of its analysis.

(4) Periodically analyze measures taken to:

(i) Disseminate the station's equal employment opportunity program to job applicants and employees;

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

(iii) Examine rates of pay and fringe benefits for employees having the same duties, and eliminate any inequities based upon race, national origin, color, religion, or sex discrimination;

(iv) Utilize media for recruitment purposes in a manner that will contain no indication, either explicit or implicit, of a preference for one race, national origin, color, religion or sex over another;

(v) Ensure that promotions to positions of greater responsibility are made in a nondiscriminatory manner;

(vi) Where union agreements exist, cooperate with the union or unions in the development of programs to ensure all persons of equal opportunity for employment, irrespective of race, national origin, color, religion, or sex, and include an effective nondiscrimination clause in new or renegotiated union agreements; and

(vii) Avoid the use of selection techniques or tests that have the effect of discriminating against any person based on race, national origin, color, religion, or sex.

(5) Retain records to document that it has satisfied the requirements of paragraphs (c)(1) and (2) of this section. Such records, which may be maintained in an electronic format, shall be retained until after grant of the renewal application for the term during which the vacancy was filled or the initiative occurred. Such records need not be submitted to the FCC unless specifically requested. The following records shall be maintained:

(i) Listings of all full-time job vacancies filled by the station employment unit, identified by job title;

(ii) For each such vacancy, the recruitment sources utilized to fill the vacancy (including, if applicable, organizations entitled to notification pursuant to paragraph (c)(1)(ii) of this section, which should be separately identified), identified by name, address, contact person and telephone number;

(iii) Dated copies of all advertisements, bulletins, letters, faxes, e-mails, or other communications announcing vacancies;

(iv) Documentation necessary to demonstrate performance of the initiatives required by paragraph (c)(2) of this section, including sufficient information to fully disclose the nature of the initiative and the scope of the station's participation, including the station personnel involved;

(v) The total number of interviewees for each vacancy and the referral source for each interviewee; and

(vi) The date each vacancy was filled and the recruitment source that referred the hiree.

(6) Annually, on the anniversary of the date a station is due to file its renewal application, the station shall place in its public file, maintained pursuant to §73.3526 or §73.3527, and on its web site, if it has one, an EEO public file report containing the following information (although if any broadcast licensee acquires a station pursuant to FCC Form 314 or FCC Form 315 during the twelve months covered by the EEO public file report, its EEO public file report shall cover the period starting with the date it acquired the station):

(i) A list of all full-time vacancies filled by the station's employment unit during the preceding year, identified by job title;

(ii) For each such vacancy, the recruitment source(s) utilized to fill the vacancy (including, if applicable, organizations entitled to notification pursuant to paragraph (c)(1)(ii) of this section, which should be separately identified), identified by name, address, contact person and telephone number;

(iii) The recruitment source that referred the hiree for each full-time vacancy during the preceding year;

(iv) Data reflecting the total number of persons interviewed for full-time vacancies during the preceding year and the total number of interviewees referred by each recruitment source utilized in connection with such vacancies; and

(v) A list and brief description of initiatives undertaken pursuant to paragraph (c)(2) of this section during the preceding year.

(d) *Small station exemption.* The provisions of paragraphs (b) and (c) of this section shall not apply to station employment units that have fewer than five full-time employees.

(e) *Definitions.* For the purposes of this rule:

(1) A *full-time employee* is a permanent employee whose regular work schedule is 30 hours per week or more.

(2) A *station employment unit* is a station or a group of commonly owned stations in the same market that share at least one employee.

(3) A *smaller market* includes metropolitan areas as defined by the Office of Management and Budget with a population of fewer than 250,000 persons and areas outside of all metropolitan areas as defined by the Office of Management and Budget.

(f) *Enforcement.* The following provisions apply to employment activity concerning full-time positions at each broadcast station employment unit (defined in this part) employing five or more persons in full-time positions, except where noted.

(1) All broadcast stations, including those that are part of an employment unit with fewer than five full-time employees, shall file a Broadcast Equal Employment Opportunity Program Report (Form 396) with their renewal application. Form 396 is filed on the date the station is due to file its application for renewal of license. If a broadcast licensee acquires a station pursuant to FCC Form 314 or FCC Form 315 during the period that is to form the basis for the Form 396, information provided on its Form 396 should cover the licensee's EEO recruitment activity during the period starting with the date it acquired the station. Stations are required to maintain a copy of their Form 396 in the station's public file in accordance with the provisions of §§73.3526 and 73.3527.

(2) The Commission will conduct a mid-term review of the employment practices of each broadcast television station and each radio station that is part of an employment unit of more than ten full-time employees four years following the station's most recent license expiration date as specified in §73.1020. Each such licensee is required to file with the Commission the Broadcast Mid-Term Report (FCC Form 397) four months prior to that date. If a broadcast licensee acquires a station pursuant to FCC Form 314 or FCC Form 315 during the period that is to form the basis for the Form 397, its Report should cover the licensee's EEO recruitment activity during the period starting with the date it acquired the station.

(3) If a station is subject to a time brokerage agreement, the licensee shall file Forms 396, Forms 397, and EEO public file reports concerning only its own recruitment activity. If a licensee is a broker of another station or

stations, the licensee-broker shall include its recruitment activity for the brokered station(s) in determining the bases of Forms 396, Forms 397 and the EEO public file reports for its own station. If a licensee-broker owns more than one station, it shall include its recruitment activity for the brokered station in the Forms 396, Forms 397, and EEO public file reports filed for its own station that is most closely affiliated with, and in the same market as, the brokered station. If a licensee-broker does not own a station in the same market as the brokered station, then it shall include its recruitment activity for the brokered station in the Forms 396, Forms 397, and EEO public file reports filed for its own station that is geographically closest to the brokered station.

(4) Broadcast stations subject to this section shall maintain records of their recruitment activity necessary to demonstrate that they are in compliance with the EEO rule. Stations shall ensure that they maintain records sufficient to verify the accuracy of information provided in Forms 396, Forms 397, and EEO public file reports. To determine compliance with the EEO rule, the Commission may conduct inquiries of licensees at random or if it has evidence of a possible violation of the EEO rule. In addition, the Commission will conduct random audits. Specifically, each year approximately five percent of all licensees in the television and radio services will be randomly selected for audit, ensuring that, even though the number of radio licensees is significantly larger than television licensees, both services are represented in the audit process. Upon request, stations shall make records available to the Commission for its review.

(5) The public may file complaints throughout the license term based on a station's Form 397 or the contents of a station's public file. Provisions concerning filing, withdrawing, or non-filing of informal objections or petitions to deny license renewal, assignment, or transfer applications are delineated in §§ 73.3584 and 73.3587–3589 of the Commission's rules.

(g) *Sanctions and remedies.* The Commission may issue appropriate sanctions and remedies for any violation of this rule.

[68 FR 689, Jan. 7, 2003]

§ 73.2090 Ban on discrimination in broadcast transactions.

No qualified person or entity shall be discriminated against on the basis of race, color, religion, national origin or sex in the sale of commercially operated AM, FM, TV, Class A TV or international broadcast stations (as defined in this part).

[73 FR 28369, May 16, 2008]

§ 73.3500 Application and report forms.

(a) Following are the FCC broadcast application and report forms, listed by number.

Form number	Title
175	Application to Participate in an FCC Auction
301	Application for Authority to Construct or Make Changes in a Commercial Broadcast Station.
301–A	Application for Authority to Operate a Broadcast Station by Remote Control or to Make Changes in a Remote Control Authorization.
302–AM	Application for AM Broadcast Station License.
302–CA	Application for Class A Television Broadcasting Station Construction Permit or License.
302–FM	Application for FM Broadcast Station License.
302–TV	Application for Television Broadcast Station License.
303–S Application for Renewal of License for AM, FM, TV, Translator, or LPTV Station.	
307	Application for Extension of Broadcast Construction Permit or to Replace Expired Construction Permit.
308	Application for Permit to Deliver Programs to Foreign Broadcast Stations.
309	Application for Authority to Construct or Make Changes in an International or Experimental Broadcast Station.
310	Application for an International or Experimental Broadcast Station License.
311	Application for Renewal of an International or Experimental Broadcast Station License.
314	Application for Consent to Assignment of Broadcast Station Construction Permit or License.
315	Application for Consent to Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License.
316	Application for Consent to Assignment of Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License.
323	Ownership Report.

Form number	Title
323–E	Ownership Report for Noncommercial Educational Broadcast Station.
340	Application for Authority to Construct or Make Changes in a Noncommercial Educational Broadcast Station.
345	Application for Consent to Assignment of a TV or FM Translator Station Construction Permit or License.
346	Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator or TV Booster Station.
347	Application for a Low Power TV, TV Translator or TV Booster Station License.
349	Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station.
350	Application for an FM Translator or FM Booster Station License.
395–B	Annual Employment Report and instructions.
396	Broadcast Equal Employment Opportunity Program Report.
396–A	Broadcast Equal Employment Opportunity Model Program Report.
398	Children's Television Programming Report.
601	FCC Application for Wireless Telecommunications Bureau Radio Service Authorization.
603	FCC Wireless Telecommunications Bureau Application for Assignments of Authorization and Transfers of Control.

(b) Following are the FCC broadcast application and report forms, listed by number, that must be filed electronically in accordance with the filing instructions set forth in the application and report form.

(1) Form 398, in electronic form as of January 10, 1999.

[44 FR 38486, July 2, 1979]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 73.3500, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§ 73.3511 Applications required.

(a) *Formal application* means any request for authorization where an FCC form for such request is prescribed. The prescription of an FCC form includes the requirement that the proper edition of the form is used. Formal applications on obsolete forms are subject to the provisions of § 73.3564 concerning acceptance of applications and § 73.3566 concerning defective applications.

(b) *Informal application*1 means all other written requests for authorization. All such applications should contain a caption clearly indicating the nature of the request submitted therein.

(c) Formal and informal applications must comply with the requirements as to signing specified herein and in § 73.3513.

[44 FR 38486, July 2, 1979, as amended at 47 FR 40172, Sept. 13, 1982]

§ 73.3512 Where to file; number of copies.

All applications for authorizations required by § 73.3511 shall be filed at the FCC in Washington, DC (Applications requiring fees as set forth at part 1, subpart G of this chapter must be filed in accordance with § 0.401(b) of the rules.) The number of copies required for each application is set forth in the FCC Form which is to be used in filing such application.

[52 FR 10231, Mar. 31, 1987]

§ 73.3513 Signing of applications.

(a) Applications, amendments thereto, and related statements of fact required by the FCC must be signed by the following persons:

(1) *Individual Applicant*. The applicant, if the applicant is an individual.

(2) *Partnership*. One of the partners, if the applicant is a partnership.

(3) *Corporation*. An officer, if the applicant is a corporation.

(4) *Unincorporated Association*. A member who is an officer, if the applicant is an unincorporated association.

(5) *Governmental Entity*. Such duly elected or appointed officials as may be competent to do so under the law of the applicable jurisdiction, if the applicant is an eligible governmental entity, such as a State or Territory of the United States and political subdivisions thereof, the District of Columbia, and a unit of local government, including an unincorporated municipality.

(b) Applications, amendments thereto, and related statements of fact required by the FCC may be signed by the applicant's attorney in case of the applicant's physical disability or of his absence from the United States. The attorney shall in that event separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his knowledge), he shall

separately set forth his reasons for believing that such statements are true.

(c) Facsimile signatures are acceptable. Only the original of applications, amendments, or related statements of fact, need be signed; copies may be conformed.

(d) Applications, amendments, and related statements of fact need not be submitted under oath. Willful false statements made therein however, will be considered a violation of § 73.1015, are also punishable by fine and imprisonment, U.S. Code, Title 18, section 1001, and by appropriate adminstrative sanctions including revocation of station license pursuant to section 312(a)(i) of the Communications Act.

[44 FR 38487, July 2, 1979, as amended at 51 FR 3069, Jan. 23, 1986; 64 FR 56978, Oct. 22, 1999]

§ 73.3514 Content of applications.

(a) Each application shall include all information called for by the particular form on which the application is required to be filed, unless the information called for is inapplicable, in which case this fact shall be indicated.

(b) The FCC may require an applicant to submit such documents and written statements of fact as in its judgment may be necessary. The FCC may also, upon its own motion or upon motion of any party to a proceeding, order the applicant to amend the application so as to make it more definite and certain.

[44 FR 38487, July 2, 1979]

§ 73.3516 Specification of facilities.

(a) An application for facilities in the AM, FM, TV or Class A TV broadcast services, or low power TV service shall be limited to one frequency, or channel, and no application will be accepted for filing if it requests an alternate frequency or channel. Applications specifying split frequency AM operations using one frequency during daytime hours complemented by a different frequency during nighttime hours will not be accepted for filing.

(b) An application for facilities in the experimental and auxiliary broadcast services may request the assignment of more than one frequency if consistent with applicable rules in Part 74. Such applications must specify the frequency or frequencies requested and may not request alternate frequencies.

(c) An application for a construction permit for a new broadcast station, the facilities for which are specified in an outstanding construction permit or license, will not be accepted for filing.

(d) An application for facilities in the International broadcast service may be filed without a request for specific frequency, as the FCC will assign frequencies from time to time in accordance with §§ 73.702 and 73.711.

(e) An application for construction permit for a new broadcast station or for modification of construction permit or license of a previously authorized broadcast station will not be accepted for filing if it is mutually exclusive with an application for renewal of license of an existing broadcast station unless the application for renewal of license is filed on or before May 1, 1995 and unless the mutually exclusive construction permit application is tendered for filing by the end of the first day of the last full calendar month of the expiring license term. A petition to deny an application for renewal of license of an existing broadcast station will be considered as timely filed if it is tendered for filing by the end of the first day of the last full calendar month of the expiring license term.

(1) If the license renewal application is not timely filed as prescribed in § 73.3539, the deadline for filing petitions to deny thereto is the 90th day after the FCC gives public notice that it has accepted the late-filed renewal application for filing. In the case of a renewal application filed on or before May 1, 1995, if the license renewal application is not timely filed as prescribed in § 73.3539, the deadline for filing applications mutually exclusive therewith is the 90th day after the FCC gives public notice that it has accepted the late-filed renewal application for filing.

(2) If any deadline falls on a nonbusiness day, the cutoff shall be the close of business of the first full business day thereafter.

(3) The dates when the licenses of all broadcast and broadcast auxiliary services regularly expire are listed in §§ 73.733, 73.1020 and 74.15.

[44 FR 38487, July 2, 1979, as amended at 47 FR 21494, May 18, 1982; 49 FR 47843, Dec. 7, 1984; 51 FR 44071, Dec. 8, 1986; 56 FR 64873, Dec. 12, 1991; 61 FR 18291, Apr. 25, 1996; 65 FR 30006, May 10, 2000]

§ 73.3517 Contingent applications.

Contingent applications for new stations and for changes in facilities of existing stations are not acceptable for filing. Contingent applications will be accepted for filing under circumstances described below:

(a) Upon filing of an application for the assignment of a license or construction permit, or for a transfer of control of a licensee or permittee, the proposed assignee or transferee may, upon payment of the processing fee prescribed in Subpart G, Part 1 of this chapter, file applications in its own name for authorization to make changes in the facilities to be assigned or transferred contingent upon approval and consummation of the assignment or transfer. Any application filed pursuant to this paragraph must be accompanied by a written statement from the existing licensee which specifically grants permission to the assignee or permittee to file such application. The processing fee will not be refundable should the assignment or transfer not be approved. The existing licensee or permittee may also file a contingent application in its own name, but fees in such cases also not refundable.

(b) Whenever the FCC determines that processing of any application filed pursuant to paragraph (a) of this section, would be contrary to sound administrative practice or would impose an unwarranted burden on its staff and resources, the FCC may defer processing of such application until the assignment or transfer has been granted and consummated.

(c) Upon payment of the filing fees prescribed in §1.1111 of this chapter, the Commission will accept two or more applications filed by existing AM licensees for modification of facilities that are contingent upon granting of both, if granting such contingent applications will reduce interference to one or more AM stations or will otherwise increase the area of interference-free service. The applications must state that they are filed pursuant to an interference reduction arrangement and must cross-reference all other contingent applications.

(d) Modified proposals curing conflicts between mutually exclusive clusters of applications filed in accordance with paragraphs (c) of this section will be accepted for 60 days following issuance of a public notice identifying such conflicts.

(e) The Commission will accept up to four contingently related applications filed by FM licensees and/or permittees for minor modification of facilities. Two applications are related if the grant of one is necessary to permit the grant of the second application. Each application must state that it is filed as part of a related group of applications to make changes in facilities, must cross-reference each of the related applications, and must include a copy of the agreement to undertake the coordinated facility modifications. All applications must be filed on the same date. Any coordinated facility modification filing that proposes the cancellation of a community's sole noncommercial educational FM station license also must include a public interest justification. Dismissal of any one of the related applications as unacceptable will result in the dismissal of all the related applications.

NOTE 1: No application to move to a frequency in the 1605–1705 kHz band may be part of any package of contingent applications associated with a voluntary agreement.

NOTE 2: In cases where no modified proposal is filed pursuant to paragraph (d) of this section, the Commission will grant the application resulting in the greatest net interference reduction.

[44 FR 38487, July 2, 1979, as amended at 45 FR 41152, June 18, 1980; 52 FR 5294, Feb. 20, 1987; 53 FR 36787, Sept. 22, 1988; 56 FR 64873, Dec. 12, 1991; 64 FR 19501, Apr. 21, 1999]

§ 73.3518 Inconsistent or conflicting applications.

While an application is pending and undecided, no subsequent inconsistent or conflicting application may be filed by or on behalf of or for the benefit of

the same applicant, successor or assignee.

[44 FR 38487, July 2, 1979]

§ 73.3519 Repetitious applications.

(a) Where the FCC has denied an application for a new station or for any modification of services or facilities, or dismissed such application with prejudice, no like application involving service of the same kind for substantially the same area by substantially the same applicant, or his successor or assignee, or on behalf or for the benefit of the original parties in interest, may be filed within 12 months from the effective date of the FCC's action. However, applicants whose applications have been denied in a comparative hearing may apply immediately for another available facility.

(b) Where an appeal has been taken from the action of the FCC in denying a particular application, another application for the same class of broadcast station and for the same area, in whole or in part, filed by the same applicant, or his successor or assignee, or on behalf of, or for the benefit of the original parties in interest, will not be considered until final disposition of such appeal.

[44 FR 38488, July 2, 1979]

§ 73.3520 Multiple applications.

Where there is one application for new or additional facilities pending, no other application for new or additional facilities for a station of the same class to serve the same community may be filed by the same applicant, or successor or assignee, or on behalf of, or for the benefit of the original parties in interest. Multiple applications may not be filed simultaneously.

[44 FR 38488, July 2, 1979]

§ 73.3521 Mutually exclusive applications for low power television, television translators and television booster stations.

When there is a pending application for a new low power television, television translator, or television booster station, or for major changes in an existing station, no other application which would be directly mutually exclusive with the pending application may be filed by the same applicant or by any applicant in which any individual in common with the pending application has any interest, direct or indirect, except that interests or less than 1% will not be considered.

[52 FR 31400, Aug. 20, 1987]

§ 73.3522 Amendment of applications.

(a) *Broadcast services subject to competitive bidding.* (1) Applicants in all broadcast services subject to competitive bidding will be subject to the provisions of §§ 73.5002 and 1.2105(b) regarding the modification of their short-form applications.

(2) Subject to the provision of § 73.5005, if it is determined that a long form application submitted by a winning bidder or a non-mutually exclusive applicant for a new station or a major change in an existing station in all broadcast services subject to competitive bidding is substantially complete, but contains any defect, omission, or inconsistency, a deficiency letter will be issued affording the applicant an opportunity to correct the defect, omission or inconsistency. Amendments may be filed pursuant to the deficiency letter curing any defect, omission or inconsistency identified by the Commission, or to make minor modifications to the application, or pursuant to § 1.65. Such amendments should be filed in accordance with § 73.3513. If a petition to deny has been filed, the amendment shall be served on the petitioner.

(3) Subject to the provisions of §§ 73.3571, 73.3572 and 73.3573, deficiencies, omissions or inconsistencies in long-form applications may not be cured by major amendment. The filing of major amendments to long-form applications is not permitted. An application will be considered to be newly filed if it is amended by a major amendment.

(4) Paragraph (a) of this section is not applicable to applications for minor modifications of facilities in the non-reserved FM broadcast service, nor to any application for a reserved band FM station.

(b) *Reserved Channel FM and reserved noncommercial educational television stations.* Applications may be amended

after Public Notice announcing a period for filing amendments. Amendments, when applicable, are subject to the provisions of §§ 73.3514, 73.3525, 73.3572, 73.3573, 73.3580, and § 1.65 of this chapter. Unauthorized or untimely amendments are subject to return by the FCC's staff without consideration. Amendments will be accepted as described below and otherwise will only be considered upon a showing of good cause for late filing or pursuant to § 1.65 of this chapter or § 73.3514:

(1) A § 73.7002 Selectee. A Public Notice will announce that the application of a § 73.7002 Selectee (selected based on fair distribution) has been found acceptable for filing. If any Selectee's application is determined unacceptable the application will be returned and the Selectee will be provided one opportunity for curative amendment by filing a petition for reconsideration requesting reinstatement of the application. All amendments filed in accordance with this paragraph must be minor and must not alter the § 73.7002 preference.

(2) A § 73.7003 Tentative Selectee. A Public Notice will announce that the application of a § 73.7003 Tentative Selectee (selected through a point system) has been found acceptable for filing. If any Tentative Selectee's application is determined unacceptable the application will be returned and the Tentative Selectee will be provided one opportunity for curative amendment by filing a petition for reconsideration requesting reinstatement of the application. All amendments filed in accordance with this paragraph must be minor and must claim the same number of qualitative points as originally claimed, or more points than claimed by the applicant with the next highest point total.

(3) A Public Notice will identify all other reserved channel applications, such as non-mutually exclusive applications and the sole remaining application after a settlement among mutually exclusive applications. If any such application is determined unacceptable the application will be returned and the applicant will be provided one opportunity for curative amendment by filing a petition for reconsideration requesting reinstatement of the application. All amendments filed in accordance with this paragraph must be minor.

(c) Minor modifications of facilities in the non-reserved FM broadcast service.

(1) Subject to the provisions of §§ 73.3525, 73.3573, and 73.3580, for a period of 30 days following the FCC's issuance of a Public Notice announcing the tender of an application for minor modification of a non-reserved band FM station, (other than Class D stations), minor amendments may be filed as a matter of right.

(2) For applications received on or after August 7, 1992, an applicant whose application is found to meet minimum filing requirements, but nevertheless is not complete and acceptable, shall have the opportunity during the period specified in the FCC staff's deficiency letter to correct all deficiencies in the tenderability and acceptability of the underlying application, including any deficiency not specifically identified by the staff. [For minimum filing requirements see § 73.3564(a). Examples of tender defects appear at 50 FR 19936 at 19945–46 (May 13, 1985), reprinted as Appendix D, Report and Order, MM Docket No. 91–347, 7 FCC Rcd 5074, 5083–88 (1992). For examples of acceptance defects, see 49 FR 47331.] Prior to the end of the period specified in the deficiency letter, a submission seeking to correct a tender and/or acceptance defect in an application meeting minimum filing requirements will be treated as an amendment for good cause if it would successfully and directly correct the defect. Other amendments submitted prior to grant will be considered only upon a showing of good cause for late filing or pursuant to § 1.65 or § 73.3514.

(3) Unauthorized or untimely amendments are subject to return by the Commission without consideration. However, an amendment to a non-reserved band application will not be accepted if the effect of such amendment is to alter the proposed facility's coverage area so as to produce a conflict with an applicant who files subsequent to the initial applicant but prior to the amendment application. Similarly, an applicant subject to ''first come/first serve'' processing will not be permitted

to amend its application and retain filing priority if the result of such amendment is to alter the facility's coverage area so as to produce a conflict with an applicant which files subsequent to the initial applicant but prior to the amendment.

NOTE 1 TO §73.3522: When two or more broadcast applications are tendered for filing which are mutually exclusive with each other but not in conflict with any previously filed applications which have been accepted for filing, the FCC, where appropriate, will announce acceptance of the earliest tendered application and place the later filed application or applications on a subsequent public notice of acceptance for filing in order to establish a deadline for the filing of amendments as a matter of right for all applicants in the group.

[63 FR 48623, Sept. 11, 1998, as amended at 65 FR 36378, June 8, 2000]

§ 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 the 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 the dismissal or withdrawal of the application.

(d) For the purpose 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 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 nonfinancial concessions that confer any type of benefit on the recipient.

[54 FR 22598, May 25, 1989, as amended at 61 FR 18291, Apr. 25, 1996]

§ 73.3525 Agreements for removing application conflicts.

(a) Except as provided in § 73.3523 regarding dismissal of applications in comparative renewal proceedings, whenever applicants for a construction permit for a broadcast station enter into an agreement to procure the removal of a conflict between applications pending before the FCC by withdrawal or amendment of an application or by its dismissal pursuant to § 73.3568, all parties thereto shall, within 5 days after entering into the agreement, file with the FCC a joint request for approval of such agreement. The joint request shall be accompanied by a copy of the agreement, including any ancillary agreements, and an affidavit of each party to the agreement setting forth:

(1) The reasons why it is considered that such agreement is in the public interest;

(2) A statement that its application was not filed for the purpose of reaching or carrying out such agreement;

(3) A certification that neither the applicant nor its principals has received any money or other consideration in excess of the legitimate and prudent expenses of the applicant; *Provided* That this provision shall not apply to *bona fide* merger agreements;

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

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

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

(b) Whenever two or more conflicting applications for construction permits for broadcast stations pending before the FCC involve a determination of fair, efficient and equitable distribution of service pursuant to section 307(b) of the Communications Act, and an agreement is made to procure the withdrawal (by amendment to specify a different community or by dismissal pursuant to § 73.3568) of the only application or applications seeking the same facilities for one of the communities involved, all parties thereto shall file the joint request and affidavits specified in paragraph (a) of this section.

(1) If upon examination of the proposed agreement the FCC finds that withdrawal of one of the applications would unduly impede achievement of a fair, efficient and equitable distribution of radio servce among the several States and communities, then the FCC shall order that further opportunity be afforded for other persons to apply for the facilities specified in the application or applications to be withdrawn before acting upon the pending request for approval of the agreement.

(2) Upon release of such order, any party proposing to withdraw its application shall cause to be published a notice of such proposed withdrawal at least twice a week for 2 consecutive weeks within the 3-week period immediately following release of the FCC's order, in a daily newspaper of general circulation published in the community in which it was proposed to locate the station. However, if there is no

such daily newspaper published in the community, the notice shall be published as follows:

(i) If one or more weekly newspapers of general circulation are published in the community in which the station was proposed to be located, notice shall be published in such a weekly newspaper once a week for 3 consecutive weeks within the 4-week period immediately following the release of the FCC's order.

(ii) If no weekly newspaper of general circulation is published in the community in which the station was proposed to be located, notice shall be published at least twice a week for 2 consecutive weeks within the 3-week period immediately following the release of the FCC's order in the daily newspaper having the greatest general circulation in the community in which the station was proposed to be located.

(3) The notice shall state the name of the applicant; the location, frequency and power of the facilities proposed in the application; the location of the station or stations proposed in the applications with which it is in conflict; the fact that the applicant proposes to withdraw the application; and the date upon which the last day of publication shall take place.

(4) Such notice shall additionally include a statement that new applications for a broadcast station on the same frequency, in the same community, with substantially the same engineering characteristics and proposing to serve substantially the same service area as the application sought to be withdrawn, timely filed pursuant to the FCC's rules, or filed, in any event, within 30 days from the last date of publication of the notice (notwithstanding any provisions normally requiring earlier filing of a competing application), will be entitled to comparative consideration with other pending mutually exclusive affidavits.

(5) Within 7 days of the last day of publication of the notice, the applicant proposing to withdraw shall file a statement in triplicate with the FCC giving the dates on which the notice was published, the text of the notice and the name and location of the newspaper in which the notice was published.

(6) Where the FCC orders that further opportunity be afforded for other persons to apply for the facilities sought to be withdrawn, no application of any party to the agreement will be acted upon by the FCC less than 30 days from the last day of publication of the notice specified in paragraph (b)(2) of this section. Any applications for a broadcast station on the same frequency in the same community, with substantially the same engineering characteristics and proposing to serve substantially the same service area as the application sought to be withdrawn, filed within the 30-day period following the last date of publication of the notice (notwithstanding any provisions normally requiring earlier filing of a competing application), or otherwise timely filed, will be entitled to comparative consideration with other pending mutually exclusive applications. If the application of any party to which the new application may be in conflict has been designated for hearing, any such new application will be entitled to consolidation in the proceeding.

(c) Except where a joint request is filed pursuant to paragraph (a) of this section, any applicant filing an amendment pursuant to § 73.3522 (b)(1) and (c), or a request for dismissal pursuant to § 73.3568 (b)(1) and (c), which would remove a conflict with another pending application; or a petition for leave to amend pursuant to § 73.3522(b)(2) which would permit a grant of the amended application or an application previously in conflict with the amended application; or a request for dismissal pursuant to § 73.3568(b)(2), shall file with it an affidavit as to whether or not consideration (including an agreement for merger of interests) has been promised to or received by such applicant, directly or indirectly, in connection with the amendment, petition or request.

(d) Upon the filing of a petition for leave to amend or to dismiss an application for broadcast facilities which has been designated for hearing or upon the dismissal of such application on the FCC's own motion pursuant to

§ 73.3568, each applicant or party remaining in hearing, as to whom a conflict would be removed by the amendment or dismissal shall submit for inclusion in the record of that proceeding an affidavit stating whether or not he has directly or indirectly paid or promised consideration (including an agreement for merger of interests) in connection with the removal of such conflict.

(e) Where an affidavit filed pursuant to paragraph (c) of this section states that consideration has been paid or promised, the affidavit shall set forth in full all relevant facts, including, but not limited to, the material listed in paragraph (a) of this section for inclusions in affidavits.

(f) 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.

(g) Requests and affidavits which relate to an application which has not been designated for hearing shall bear the file number of such application. If the affiant is also an applicant, the affidavit shall also bear the file number of affiant's pending application(s). Requests and affidavits which relate to an application which is designated for hearing shall bear the file number of that application and the hearing docket number and will be acted on by the presiding officer.

(h) For the purposes of this section an application shall be deemed to be ''pending'' before the FCC and a party shall be considered to have the status of an ''applicant'' from the time an application is filed with the FCC until an order of the FCC granting or denying it is no longer subject to reconsideration by the FCC or to review by any court.

(i) For purposes of this section, ''legitimate and prudent expenses'' are those expenses reasonably incurred by an applicant in preparing, filing, prosecuting, and settling its application for which reimbursement is being sought.

(j) For purposes of this section, ''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.

(k) For purposes of this section, an ''ancillary agreement'' means any agreement relating to the dismissal of an application or settling of a proceeding, including any agreement on the part of an applicant or principal of an applicant to render consulting services to another party or principal of another party in the poroceeding.

(l) The prohibition of collusion as set forth in §§ 1.2105(c) and 73.5002 of this section, which becomes effective upon the filing of short-form applications, shall apply to all broadcast services subject to competitive bidding.

NOTE: Although § 74.780 of the Rules makes this section generally applicable to low power TV, TV translators, and TV booster stations, paragraph (b) of this section shall not be applicable to such stations.

[56 FR 28097, June 19, 1991, as amended at 63 FR 48624, Sept. 11, 1998]

§ 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, TV or Class A 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 or Class A 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 located as follows: (1) For radio licensees temporarily exempt from the online public file hosted by the Commission, as discussed in paragraph (b)(2) of this section, a hard copy of the public inspection file shall be maintained at the main studio of the station, unless the licensee elects voluntarily to place the file online as discussed in paragraph (b)(2) of this section. 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.

(2)(i) A television station licensee or applicant, and any radio station licensee or applicant not temporarily exempt as described in this paragraph, shall place the contents required by paragraph (e) of this section of its public inspection file in the online public file hosted by the Commission, with the exception of the political file as required by paragraph (e)(6) of this section, as discussed in paragraph (b)(3) of this section. Any radio station not in the top 50 Nielsen Audio markets, and any radio station with fewer than five full-time employees, shall continue to retain the public inspection file at the station in the manner discussed in paragraph (b)(1) of this section until March 1, 2018. However, any radio station that is not required to place its public inspection file in the online public file hosted by the Commission before March 1, 2018 may choose to do so, instead of retaining the public inspection file at the station in the manner discussed in paragraph (b)(1) of this section.

(ii) A station must provide a link to the public inspection file hosted on the Commission's Web site from the home page of its own Web site, if the station has a Web site, and provide contact information on its Web site for a station representative that can assist any person with disabilities with issues related to the content of the public files. A station also is required to include in the online public file the station's main studio address and telephone number, and the email address of the station's designated contact for questions about the public file. To the extent this section refers to the local public inspection file, it refers to the public file of an individual station, which is either maintained at the station or on the Commission's Web site, depending upon where the documents are required to be maintained under the Commission's rules.

(3)(i) A licensee or applicant shall place the contents required by paragraph (e)(6) of this section of its political inspection file in the online public file hosted by the Commission. Political inspection file material already in existence 30 days after the effective date of this provision, if not placed in the online public file hosted by the Commission, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) of this section until the end of its retention period.

(ii) Any television station not in the top 50 DMAs, and any station not affiliated with one of the top four broadcast networks, regardless of the size of the market it serves, shall continue to retain the political file at the station in the manner discussed in paragraph (b)(1) of this section until July 1, 2014. For these stations, effective July 1, 2014, any new political file material shall be placed in the online file hosted by the Commission, while the material in the political file as of July 1, 2014, if not placed in the Commission's Web site, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) of this section until the end of its retention period. However, any station that is not required to place its political file in the online file hosted by the Commission before July 1, 2014 may choose to do so, instead of retaining the political file at the station in the manner discussed in paragraph (b)(1) of this section.

(iii) Any radio station not in the top 50 Nielsen Audio markets, and any radio station with fewer than five full-

time employees, shall continue to retain the political file at the station in the manner discussed in paragraph (b)(1) of this section until March 1, 2018. For these stations, effective March 1, 2018, any new political file material shall be placed in the online public file hosted by the Commission, while the material already existing in the political file as of March 1, 2018, if not placed in the online public file hosted by the Commission, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) of this section until the end of its retention period. However, any station that is not required to place its political file on the Commission's Web site before March 1, 2018, may choose to do so, instead of retaining the political file at the station in the manner discussed in paragraph (b)(1) of this section.

(4) The Commission will automatically link the following items to the electronic version of all licensee and applicant public inspection files, to the extent that the Commission has these items electronically: authorizations, applications, contour maps; ownership reports and related materials; portions of the Equal Employment Opportunity file held by the Commission; ''The Public and Broadcasting''; Letters of Inquiry and other investigative information requests from the Commission, unless otherwise directed by the inquiry itself; Children's television programming reports; and DTV transition education reports. In the event that the online public file does not reflect such required information, the licensee will be responsible for posting such material.

(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 shortened 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) *Equal Employment Opportunity file.* Such information as is required by § 73.2080 to be kept in the public inspection file. 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) [Reserved]

(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 and Class A 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 and Class A 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 U.S.C. 303a and 47 CFR 73.670. The records for each calendar quarter must 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.). 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, both analog and digital, 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 placed in the public inspection file by the tenth day of the succeeding calendar quarter. By this date, a copy of the Report for each quarter is also to be filed electronically with the FCC. 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 comments on the station's compliance with the Children's Television Act, and it shall be separated from other materials in the public inspection file. The Report shall also identify the program guide publishers to which information regarding the licensee's educational and informational programming was provided as required in §73.673, as well as the station's license renewal date. 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.

(iv) *DTV transition education reports.* For full-power commercial TV broadcast stations, both analog and digital, on a quarterly basis, a completed Form 388, DTV Consumer Education Quarterly Activity Report. The Report for each quarter is to be placed in the public inspection file by the tenth day of the succeeding calendar quarter. By this date, a copy of the Report for each quarter must be filed electronically using the Commission's Consolidated DataBase System (CDBS). Stations electing to conform to the requirements of §73.674(b) must also provide

the form on the station's public Web site, if such exists. The Report shall be separated from other materials in the public inspection file. The first Report, covering the first quarter of 2008, must be filed no later than April 10, 2008. The Reports must continue to be included up to and including the quarter in which a station concludes its education campaign. These Reports shall be retained in the public inspection file for one year. Licensees and permittees shall publicize in an appropriate manner the existence and location of these Reports.

(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 or Class A television station's election with respect to either must-carry or re-transmission consent, as defined in §§ 76.64 and 76.1608 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.

(17) *Class A TV continuing eligibility.* Documentation sufficient to demonstrate that the Class A television station is continuing to meet the eligibility requirements set forth at § 73.6001.

(18) *Shared service agreements.* For commercial television stations, a copy of every Shared Service Agreement for the station (with the substance of oral agreements reported in writing), regardless of whether the agreement involves commercial television stations in the same market or in different markets, with confidential or proprietary information redacted where appropriate. For purposes of this paragraph, a Shared Service Agreement is any agreement or series of agreements in which:

(1) A station provides any station-related services, including, but not limited to, administrative, technical, sales, and/or programming support, to a station that is not directly or indirectly under common de jure control permitted under the Commission's regulations; or

(2) Stations that are not directly or indirectly under common de jure control permitted under the Commission's regulations collaborate to provide or enable the provision of station-related services, including, but not limited to, administrative, technical, sales, and/or programming support, to one or more of the collaborating stations. For purposes of this paragraph, the term ''station'' includes the licensee, including any subsidiaries and affiliates, and any other individual or entity with an attributable interest in the station.

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.

[63 FR 49497, Sept. 16, 1998, as amended at 63 FR 70049, Dec. 18, 1998; 64 FR 35947, July 2, 1999; 64 FR 50645, Sept. 17, 1999; 65 FR 7457, Feb. 15, 2000; 65 FR 30006, May 10, 2000; 65 FR 53614, Sept. 5, 2000; 65 FR 67288, Nov. 9, 2000; 70 FR 38, Jan. 3, 2005; 73 FR 15450, Mar. 24, 2008; 73 FR 36283, June 26, 2008; 76 FR 71269, Nov. 17, 2011; 77 FR 27655, May 11, 2012; 81 FR 10123, Feb. 29, 2016; 81 FR 76262, Nov. 1, 2016; 82 FR 11412, Feb. 23, 2017]

§ 73.3527 Local public inspection file of noncommercial educational 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 noncommercial educational broadcast services shall maintain a public inspection file containing the material, relating to that station, described in paragraph (e)(2) and (e)(11) 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 noncommercial educational broadcast services shall maintain a public inspection file containing the material, relating to that station, described in paragraphs (e)(1) through (e)(11) of this section. In addition, every permittee or licensee of a noncommercial educational TV station shall maintain for public inspection a file containing material, relating to that station, described in paragraphs (e)(12) 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 located as follows:

(1) For radio licensees, a hard copy of the public inspection file shall be maintained at the main studio of the station until March 1, 2018, except that, as discussed in paragraph (b)(2)(ii) of this section, any radio station may voluntarily place its public inspection file in the online public file hosted by the Commission before March 1, 2018, if it chooses to do so, instead of retaining the file at 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.

(2)(i) A noncommercial educational television station licensee or applicant shall place the contents required by paragraph (e) of this section of its public inspection file in the online public file hosted by the Commission, with the exception of the political file as required by paragraph (e)(5) of this section, which may be retained at the station in the manner discussed in paragraph (b)(1) of this section until July 1, 2014. Effective July 1, 2014, any new political file material shall be placed in the online public file hosted by the Commission, while the material in the political file as of July 1, 2014, if not placed in the Commission's online public file, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) of this section until

the end of its retention period. However, any noncommercial educational station that is not required to place its political file in the online public file hosted by the Commission before July 1, 2014 may choose to do so instead of retaining the political file at the station in the manner discussed in paragraph (b)(1) of this section.

(ii) Beginning March 1, 2018, noncommercial educational radio station licensees and applicants shall place the contents required by paragraph (e) in the online public inspection file hosted by the Commission. For these stations, effective March 1, 2018, any new political file material shall be placed in the Commission's online public file, while the material in the political file as of March 1, 2018, if not placed in the Commission's online public file, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) of this section until the end of its retention period. However, any radio station that is not required to place its public inspection file in the online public file hosted by the Commission before March 1, 2018, may choose to do so, instead of retaining the public inspection file at the station in the manner discussed in paragraph (b)(1).

(iii) A station must provide a link to the online public inspection file hosted by the Commission from the home page of its own Web site, if the station has a Web site, and provide contact information for a station representative on its Web site that can assist any person with disabilities with issues related to the content of the public files. A station also is required to include in the online public file hosted by the Commission the station's main studio address and telephone number, and the email address of the station's designated contact for questions about the public file. To the extent this section refers to the local public inspection file, it refers to the public file of an individual station, which is either maintained at the station or on the Commission's Web site, depending upon where the documents are required to be maintained under the Commission's rules.

(3) The Commission will automatically link the following items to the electronic version of all licensee and applicant public inspection files, to the extent that the Commission has these items electronically: Authorizations; applications; contour maps; ownership reports and related materials; portions of the Equal Employment Opportunity file held by the Commission; and ''The Public and Broadcasting''.

(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* § 73.3527(c)(1)), excluding the political file (*see* § 73.3527(e)(5)), 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 protected service contour in a particular service: Grade B contour for TV, 1 mVm 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, including supporting documentation of any points claimed in the application pursuant to §73.7003, and copies of FCC decisions 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 shortened license term.

(3) *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.

(4) *Ownership reports and related materials.* A copy of the most recent, complete ownership report filed with the FCC for the station, together with any subsequent statement 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(d)(3), or an up-to-date list of such contracts. Licensees and permittees who choose to maintain a list of contracts must provide a copy of any contracts to requesting parties within 7 days.

(5) *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).

(6) *Equal Employment Opportunity file.* Such information as is required by §73.2080 to be kept in the public inspection file. These materials shall be retained until final action has been taken on the station's next license renewal application.

(7) *The Public and Broadcasting.* At all times, a copy of the most recent version of the manual entitled ''The Public and Broadcasting.''

(8) *Issues/Programs lists.* For nonexempt noncommercial educational 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.

(9) *Donor lists.* The lists of donors supporting specific programs. These lists shall be retained for two years from the date of the broadcast of the specific program supported.

(10) *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).

(11) *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.

(12) *Must-carry requests.* Noncommercial television stations requesting mandatory carriage on any cable system pursuant to §§76.56, 76.1614, 76.1620, and 76.1709 of this chapter shall place a copy of such request in its public file and shall retain both the request and relevant correspondence for the duration of any period to which the request applies.

(13) *DTV transition education reports.* For full-power noncommercial educational TV broadcast stations, both analog and digital, on a quarterly basis, a completed Form 388, DTV Consumer Education Quarterly Activity Report. The Report for each quarter is to be placed in the public inspection file by the tenth day of the succeeding calendar quarter. By this date, a copy of the Report for each quarter must be filed electronically using the Commission's Consolidated DataBase System (CDBS). Stations electing to conform to the requirements of §73.674(b) must also provide the form on the station's public Web site, if such exists. The Report shall be separated from other materials in the public inspection file. The first Report, covering the first quarter of 2008, must be filed no later than April 10, 2008. The Reports must continue to be included up to and including the quarter in which a station concludes its education campaign. These Reports shall be retained in the public inspection file for one year. Licensees and permittees shall publicize in an appropriate manner the existence and location of these Reports.

(14) *Information on Third-Party Fundraising.* For noncommercial educational broadcast stations that interrupt regular programming to conduct fundraising activities on behalf of a third-party non-profit organization pursuant to §73.503(e) (FM stations) or §73.621(f) (television stations), every three months, the following information for each third-party fundraising program or activity: The date, time, and duration of the fundraiser; the type of fundraising activity; the name of the non-profit organization benefitted by the fundraiser; a brief description of the specific cause or project, if any, supported by the fundraiser; and,

to the extent that the station participated in tallying or receiving any funds for the non-profit group, an approximation of the total funds raised. The information 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.).

NOTE 1 TO PARAGRAPH (e): For purposes of this section, a decision made with respect to an application tendered with the FCC becomes final when that decision 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 the rules are open for public inspection at the offices of the FCC.

[63 FR 49499, Sept. 16, 1998, as amended at 64 FR 35947, July 2, 1999; 65 FR 7457, Feb. 15, 2000; 65 FR 36378, June 8, 2000; 65 FR 53614, Sept. 5, 2000; 73 FR 15450, Mar. 24, 2008; 73 FR 36283, June 26, 2008; 76 FR 71269, Nov. 17, 2011; 77 FR 27656, May 11, 2012; 81 FR 10123, Feb. 29, 2016; 82 FR 21136, May 5, 2017]

EFFECTIVE DATE NOTE: At 82 FR 21136, May 5, 2017, §73.3527 was amended by adding paragraph (e)(14). This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 73.3533 Application for construction permit or modification of construction permit.

(a) Application for construction permit, or modification of a construction permit, for a new facility or change in an existing facility is to be made on the following forms:

(1) FCC Form 301, ''Application for Authority to Construct or Make Changes in an Existing Commercial Broadcast Station.''

(2) FCC Form 309, ''Application for Authority to Construct or Make Changes in an Existing International or Experimental Broadcast Stations.''

(3) [Reserved]

(4) FCC Form 340, ''Application for Authority to Construct or Make Changes in a Noncommercial Educational Broadcast Station.''

(5) FCC Form 346, ''Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator or TV Booster Station.''

(6) FCC Form 349, ''Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station.''

(7) FCC Form 318, ''Application for Construction Permit for a Low Power FM Broadcast Station.''

(b) The filing of an application for modification of construction permit does not extend the expiration date of the construction permit. Extension of the expiration date must be applied for on FCC Form 307, in accordance with the provisions of §73.3534.

(c) In each application referred to in paragraph (a) of this section, the applicant will provide the Antenna Structure Registration Number (FCC Form 854R) of the antenna structure upon which it will locate its proposed antenna. In the event the antenna structure does not already have a Registration Number, either the antenna structure owner shall file FCC Form 854 (''Application for Antenna Structure Registration'') in accordance with part 17 of this chapter or the applicant shall provide a detailed explanation why registration and clearance of the antenna structure is not necessary.

[44 FR 38494, July 2, 1979, as amended at 47 FR 28388, June 30, 1982; 49 FR 32582, Aug. 15, 1984; 50 FR 40016, Oct. 1, 1985; 53 FR 36788, Sept. 22, 1988; 61 FR 4367, Feb. 6, 1996; 65 FR 7648, Feb. 15, 2000; 68 FR 12761, Mar. 17, 2003; 69 FR 72043, Dec. 10, 2004]

§ 73.3534 [Reserved]

§ 73.3536 Application for license to cover construction permit.

(a) The application for station license shall be filed by the permittee pursuant to the requirements of §73.1620 Program tests.

(b) The following application forms shall be used:

(1)(i) Form 302–AM for AM stations, ''Application for New AM Station Broadcast License.''

(ii) Form 302–FM for FM stations, ''Application for FM Station License.''

(iii) Form 302–TV for television stations, ''Application for TV Station Broadcast License.''

(2) FCC Form 310, ''Application for an International or Experimental Broadcast Station License.''

(3) [Reserved]

(4) FCC Form 347, ''Application for a Low Power TV, TV Translator or TV Booster Station License.''

(5) FCC Form 350, ''Application for an FM Translator or FM Booster Station License.''

(6) FCC Form 319, ''Application for a Low Power FM Broadcast Station License.''

(c) Eligible low power television stations which have been granted a certificate of eligibility may file FCC Form 302-CA, ''Application for Class A Television Broadcast Station Construction Permit Or License.''

[44 FR 38495, July 2, 1979, as amended at 49 FR 32582, Aug. 15, 1984; 50 FR 40016, Oct. 1, 1985; 51 FR 18451, May 20, 1986; 51 FR 32088, Sept. 9, 1986; 52 FR 31400, Aug. 20, 1987; 53 FR 36788, Sept. 22, 1988; 62 FR 51063, Sept. 30, 1997; 65 FR 7648, Feb. 15, 2000; 65 FR 30007, May 10, 2000; 68 FR 12761, Mar. 17, 2003; 69 FR 72043, Dec. 10, 2004]

§ 73.3537 Application for license to use former main antenna as an auxiliary.

See § 73.1675, *Auxiliary facility*.

[62 FR 51063, Sept. 30, 1997]

§ 73.3538 Application to make changes in an existing station.

Where prior authority is required from the FCC to make changes in an existing station, the following procedures shall be used to request that authority:

(a) An application for construction permit using the forms listed in § 73.3533 must be filed for authority to:

(1) Make any of the changes listed in § 73.1690(b).

(2) Change the hours of operation of an AM station, where the hours of operation are specified on the license or permit.

(3) Install a transmitter which has not been approved (type accepted) by the FCC for use by licensed broadcast stations.

(4) Any change in the location, height, or directional radiating characteristics of the antenna or antenna system.

(b) An informal application filed in accordance with § 73.3511 is to be used to obtain authority to make the following changes in the station authorization:

(1) To modify or discontinue the obstruction marking or lighting of the antenna supporting structure where that specified on the station authorization either differs from that specified in 47 CFR 17, or is not appropriate for other reasons.

(2) Relocation of a main studio outside the principal community contour may require the filing and approval of a letter request for authority to make this change prior to implementation. See § 73.1125.

[44 FR 38495, July 2, 1979, as amended at 44 FR 69935, Dec. 5, 1979; 49 FR 4000, Feb. 1, 1984; 52 FR 21685, June 9, 1987; 62 FR 51063, Sept. 30, 1997; 66 FR 20758, Apr. 25, 2001]

§ 73.3539 Application for renewal of license.

(a) Unless otherwise directed by the FCC, an application for renewal of license shall be filed not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be renewed, except that applications for renewal of license of an experimental broadcast station shall be filed not later than the first day of the second full calendar month prior to the expiration date of the license sought to be renewed. If any deadline prescribed in this paragraph falls on a nonbusiness day, the cutoff shall be the close of business of the first full business day thereafter.

(b) No application for renewal of license of any broadcast station will be considered unless there is on file with the FCC the information currently required by §§ 73.3612 through 73.3615, inclusive, for the particular class of station.

(c) Whenever the FCC regards an application for a renewal of license as essential to the proper conduct of a hearing or investigation, and specifically directs that it be filed by a date certain, such application shall be filed

within the time thus specified. If the licensee fails to file such application within the prescribed time, the hearing or investigation shall proceed as if such renewal application had been received.

(d) Renewal application forms titles and numbers are listed in § 73.3500, Application and Report Forms.

[44 FR 38495, July 2, 1979, as amended at 47 FR 28388, June 30, 1982; 49 FR 32582, Aug. 15, 1984]

§ 73.3540 Application for voluntary assignment or transfer of control.

(a) Prior consent of the FCC must be obtained for a voluntary assignment or transfer of control.

(b) Application should be filed with the FCC at least 45 days prior to the contemplated effective date of assignment or transfer of control.

(c) Application for consent to the assignment of construction permit or license must be filed on FCC Form 314 ''Assignment of license'' or FCC Form 316 ''Short form'' (See paragraph (f) of this section).

(d) Application for consent to the transfer of control of a corporation holding a construction permit or license must be filed on FCC Form 315 ''Transfer of Control'' or FCC Form 316 ''Short form'' (see paragraph (f) of this section).

(e) Application for consent to the assignment of construction permit or license or to the transfer of control of a corporate licensee or permittee for an FM or TV translator station, a low power TV station and any associated auxiliary station, such as translator microwave relay stations and UHF translator booster stations, only must be filed on FCC Form 345 ''Application for Transfer of Control of Corporate Licensee or Permittee, or Assignment of License or Permit for an FM or TV translator Station, or a Low Power TV Station.''

(f) The following assignment or transfer applications may be filed on FCC ''Short form'' 316:

(1) Assignment from an individual or individuals (including partnerships) to a corporation owned and controlled by such individuals or partnerships without any substantial change in their relative interests;

(2) Assignment from a corporation to its individual stockholders without effecting any substantial change in the disposition of their interests;

(3) Assignment or transfer by which certain stockholders retire and the interest transferred is not a controlling one;

(4) Corporate reorganization which involves no substantial change in the beneficial ownership of the corporation;

(5) Assignment or transfer from a corporation to a wholly owned subsidiary thereof or vice versa, or where there is an assignment from a corporation to a corporation owned or controlled by the assignor stockholders without substantial change in their interests; or

(6) Assignment of less than a controlling interest in a partnership.

[44 FR 38496, July 2, 1979, as amended at 48 FR 21486, May 12, 1983; 49 FR 47843, Dec. 7, 1984; 50 FR 32416, Aug. 12, 1985]

§ 73.3541 Application for involuntary assignment of license or transfer of control.

(a) The FCC shall be notified in writing promptly of the death or legal disability of an individual permittee or licensee, a member of a partnership, or a person directly or indirectly in control of a corporation which is a permittee or licensee.

(b) Within 30 days after the occurrence of such death or legal disability, an application on FCC Form 316 shall be filed requesting consent to involuntary assignment of such permit or license or for involuntary transfer of control of such corporation to a person or entity legally qualified to succeed to the foregoing interests under the laws of the place having jurisdiction over the estate involved.

[44 FR 38496, July 2, 1979]

§ 73.3542 Application for emergency authorization.

(a) Authority may be granted, on a temporary basis, in extraordinary circumstances requiring emergency operation to serve the public interest. such situations include: emergencies involving danger to life and property; a national emergency proclaimed by the President or the Congress of the U.S.A

and; the continuance of any war in which the United States is engaged, and where such action is necessary for the national defense or security or otherwise in furtherance of the war effort.

(1) An informal application may be used. The FCC may grant such construction permits, station licenses, modifications or renewals thereof, without the filing of a formal application.

(2) No authorization so granted shall continue to be effective beyond the period of the emergency or war requiring it.

(3) Each individual request submitted under the provisions of this paragraph shall contain, as a minimum requirement, the following information:

(i) Name and address of applicant.

(ii) Location of proposed installation or operation.

(iii) Official call letters of any valid station authorization already held by applicant and the station location.

(iv) Type of service desired (not required for renewal or modification unless class of station is to be modified).

(v) Frequency assignment, authorized transmitter power(s), authorized class(es) of emission desired (not required for renewal; required for modification only to the extent such information may be involved).

(vi) Equipment to be used, specifying the manufacturer and type or model number (not required for renewal; required for modification only to the extent such information may be involved).

(vii) Statements to the extent necessary for the FCC to determine whether or not the granting of the desired authorization will be in accordance with the citizenship eligibility requirements of section 310 of the Cummunications Act.

(viii) Statement of facts which, in the opinion of the applicant, constitute an emergency to be found by the FCC for the purpose of this section. This statement must also include the estimated duration of the emergency and if during an emergency or war declared by the President or Congress, why such action, without formal application, is necessary for the national defense or security or in furtherance of the war effort.

(b) Emergency operating authority issued under this section may be cancelled or modified by the FCC without prior notice or right to hearing. *See also* § 73.1250, Broadcasting Emergency Information, for situations in which emergency operation may be conducted without prior authorization, and § 73.1635, Special Temporary Authorization (STA), for temporary operating authorizations necessitated by circumstances not within the ambit of this section.

[50 FR 30948, July 31, 1985, as amended at 63 FR 33878, June 22, 1998]

§ 73.3543 Application for renewal or modification of special service authorization.

(a) No new special service authorization will be issued. However, consideration will be given to renewal or modification of a special service authorization which was outstanding on February 3, 1958, providing a satisfactory showing has been made in regard to the following, among others:

(1) That the requested operation may not be granted on a regular basis under the existing rules governing the operation of AM stations;

(2) That experimental operation is not involved as provided for by § 73.1510 (Experimental authorizations); and

(3) That public interest, convenience and necessity will be served by the authorization requested.

[44 FR 38496, July 2, 1979]

§ 73.3544 Application to obtain a modified station license.

Where prior authority from the FCC is not required to make certain changes in the station authorization or facilities, but a modified station license must be obtained, the following procedures shall be used to obtain modification of the station license:

(a) The changes specified in § 73.1690(c) may be made by the filing of a license application using the forms listed in § 73.3536(b)(1).

(b) An informal application, see § 73.3511(b), may be filed with the FCC in Washington, DC, Attention: Audio Division (radio) or Video Services Division (television), Media Bureau, to cover the following changes:

(1) A correction of the routing instructions and description of an AM station directional antenna system field monitoring point, when the point itself is not changed.

(2) A change in the type of AM station directional antenna monitor. See § 73.69.

(3) A change in the location of the station main studio when prior authority to move the main studio location is not required.

(4) The location of a remote control point of an AM or FM station when prior authority to operate by remote control is not required.

(c) A change in the name of the licensee where no change in ownership or control is involved may be accomplished by written notification by the licensee to the Commission.

[44 FR 38497, July 2, 1979, as amended at 45 FR 20483, Mar. 28, 1980; 50 FR 32416, Aug. 12, 1985; 62 FR 51063, Sept. 30, 1997; 63 FR 33878, June 22, 1998; 67 FR 13232, Mar. 21, 2002]

§ 73.3545 Application for permit to deliver programs to foreign stations.

Application under section 325(c) of the Communications Act for authority to locate, use, or maintain a broadcast studio in connection with a foreign station consistently received in the United States, should be made on FCC Form 308, ''Application for Permit to Deliver Programs to Foreign Broadcast Stations.'' An informal application may be used by applicants holding an AM, FM or TV broadcast station license or construction permit. Informal applications must, however, contain a description of the nature and character of the programming proposed, together with other information requested on Page 4 of Form 308.

[44 FR 38497, July 2, 1979, as amended at 58 FR 51250, Oct. 1, 1993]

§ 73.3549 Requests for extension of time to operate without required monitors, indicating instruments, and EAS encoders and decoders.

Requests for extension of authority to operate without required monitors, transmission system indicating instruments, or encoders and decoders for monitoring and generating the EAS codes and Attention Signal should be made to the FCC in Washington, DC, Attention: Audio Division (radio) or Video Division (television), Media Bureau. Such requests must contain information as to when and what steps were taken to repair or replace the defective equipment and a brief description of the alternative procedures being used while the equipment is out of service.

[67 FR 13233, Mar. 21, 2002]

§ 73.3550 Requests for new or modified call sign assignments.

(a) All requests for new or modified call sign assignments for radio and television broadcast stations shall be made via the FCC's on-line call sign reservation and authorization system accessible through the Internet's World Wide Web by specifying *http://www.fcc.gov*. Licensees and permittees may utilize this on-line system to determine the availability and licensing status of any call sign; to select an initial call sign for a new station; to change a station's currently assigned call sign; to modify an existing call sign by adding or deleting an ''-FM'' or ''-TV'' suffix; to exchange call signs with another licensee or permittee in the same service; or to reserve a different call sign for a station being transferred or assigned.

(b) No request for an initial call sign assignment will be accepted from a permittee for a new radio or full-service television station until the FCC has granted a construction permit. Each such permittee shall request the assignment of its station's initial call sign expeditiously following the grant of its construction permit. All initial construction permits for low power TV stations will be issued with a five-character low power TV call sign, in accordance with § 74.783(d) of this chapter.

(c) Following the filing of a transfer or assignment application, the proposed assignee/transferee may request a new call sign for the station whose license or construction permit is being transferred or assigned. No change in call sign assignment will be effective until such transfer or assignment application is granted by the FCC and notification of consummation of the transaction is received by the FCC.

(d) Where an application is granted by the FCC for transfer or assignment of the construction permit or license of a station whose existing call sign conforms to that of a commonly-owned station not part of the transaction, the new licensee of the transferred or assigned station shall expeditiously request a different call sign, unless consent to retain the conforming call sign has been obtained from the primary holder and from the licensee of any other station that may be using such conforming call sign.

(e) Call signs beginning with the letter ''K'' will not be assigned to stations located east of the Mississippi River, nor will call signs beginning with the letter ''W'' be assigned to stations located west of the Mississippi River.

(f) Only four-letter call signs (plus an LP, FM, TV or CA suffix, if used) will be assigned. The four letter call sign for LPFM stations will be followed by the suffix ''-LP.'' However, subject to the other provisions of this section, a call sign of a station may be conformed to a commonly owned station holding a three-letter call assignment (plus FM, TV, CA or LP suffixes, if used).

(g) Subject to the foregoing limitations, applicants may request call signs of their choice if the combination is available. Objections to the assignment of requested call signs will not be entertained at the FCC. However, this does not hamper any party from asserting such rights as it may have under private law in some other forum. Should it be determined by an appropriate forum that a station should not utilize a particular call sign, the initial assignment of a call sign will not serve as a bar to the making of a different assignment.

(h) Stations in different broadcast services (or operating jointly in the 535–1605 kHz band and in the 1605–1705 kHz band) which are under common control may request that their call signs be conformed by the assignment of the same basic call sign if that call sign is not being used by a non-commonly owned station. For the purposes of this paragraph, 50% or greater common ownership shall constitute a prima facie showing of common control.

(i) The provisions of this section shall not apply to International broadcast stations or to stations authorized under part 74 of this chapter (except as provided in § 74.783).

(j) A change in call sign assignment will be made effective on the date specified in the postcard acknowledging the assignment of the requested new call sign and authorizing the change. Unless the requested change in call sign assignment is subject to a pending transfer or assignment application, the requester is required to include in its on-line call sign request a specific effective date to take place within 45 days of the submission of its electronic call sign request. Postponement of the effective date will be granted only in response to a timely request and for only the most compelling reasons.

(k) Four-letter combinations commencing with ''W'' or ''K'' which are assigned as call signs to ships or to other radio services are not available for assignment to broadcast stations, with or without the ''-FM'' or ''-TV'' suffix.

(l) Users of nonlicensed, low-power devices operating under part 15 of this chapter may use whatever identification is currently desired, so long as propriety is observed and no confusion results with a station for which the FCC issues a license.

(m) Where a requested call sign, without the ''-FM,' ''-TV,'' ''-CA'' or ''LP'' suffix, would conform to the call sign of any other non-commonly owned station(s) operating in a different service, an applicant utilizing the on-line reservation and authorization system will be required to certify that consent to use the secondary call sign has been obtained from the holder of the primary call sign.

[63 FR 71603, Dec. 29, 1998, as amended at 65 FR 30007, May 10, 2000]

§ 73.3555 Multiple ownership.

(a)(1) *Local radio ownership rule.* A person or single entity (or entities under common control) may have a cognizable interest in licenses for AM or FM radio broadcast stations in accordance with the following limits:

(i) In a radio market with 45 or more full-power, commercial and noncommercial radio stations, not more

than 8 commercial radio stations in total and not more than 5 commercial stations in the same service (AM or FM);

(ii) In a radio market with between 30 and 44 (inclusive) full-power, commercial and noncommercial radio stations, not more than 7 commercial radio stations in total and not more than 4 commercial stations in the same service (AM or FM);

(iii) In a radio market with between 15 and 29 (inclusive) full-power, commercial and noncommercial radio stations, not more than 6 commercial radio stations in total and not more than 4 commercial stations in the same service (AM or FM); and

(iv) In a radio market with 14 or fewer full-power, commercial and noncommercial radio stations, not more than 5 commercial radio stations in total and not more than 3 commercial stations in the same service (AM or FM); provided, however, that no person or single entity (or entities under common control) may have a cognizable interest in more than 50% of the full-power, commercial and noncommercial radio stations in such market unless the combination of stations comprises not more than one AM and one FM station.

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

(1) The digital noise limited service contours of the stations (computed in accordance with §73.622(e)) do not overlap; or

(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 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. Count only those TV stations the digital noise limited service contours of which overlap with the digital noise limited service contour of at least one of the stations in the proposed combination. In areas where there is no DMA, count the TV stations present in an area that would be the functional equivalent of a TV market. Count only those TV stations digital noise limited service contours of which overlap with the digital noise limited service contour of at least one of the stations in the proposed combination.

(2) [Reserved]

(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) encompasses the entire community of license of an existing or proposed commonly owned TV broadcast station(s), or the principal community contour(s) of the TV broadcast station(s) (computed in accordance with §73.625) 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 §73.186), encompasses the entire community of license of an existing or proposed commonly owned TV broadcast station(s), or the principal community contour(s) of the TV broadcast station(s) (computed in accordance with §73.625) 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 in paragraph (c)(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 and operating full-power broadcast TV stations within the DMA of the TV station's (or stations') community (or communities) of license that have digital noise limited service contours (computed in accordance with §73.622(e)) that overlap with the digital noise limited service contour(s) of the TV station(s) at issue;

(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:* Newspapers that are published at least four days a week within the TV station's DMA in the dominant language of the market 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) *Newspaper/broadcast cross-ownership rule.* (1) No party (including all parties under common control) may directly or indirectly own, operate, or control a daily newspaper and a full-power commercial broadcast station (AM, FM, or TV) if:

(i) The predicted or measured 2 mV/m groundwave contour of the AM station (computed in accordance with §73.183 or §73.186) encompasses the entire community in which the newspaper is published and, in areas designated as Nielsen Audio Metro markets, the AM station and the community of publication of the newspaper are located in the same Nielsen Audio Metro market;

(ii) The predicted or measured 1 mV/m contour of the FM station (computed in accordance with §73.313) encompasses the entire community in which the newspaper is published and, in areas designated as Nielsen Audio Metro markets, the FM station and the community of publication of the newspaper are located in the same Nielsen Audio Metro market; or

(iii) The principal community contour of the TV station (computed in accordance with §73.625) encompasses the entire community in which the newspaper is published; and the community of license of the TV station and the community of publication of the newspaper are located in the same DMA.

(2) The prohibition in paragraph (d)(1) of this section shall not apply upon a showing that either the newspaper or television station is failed or failing.

(e) *National television multiple ownership rule.* (1) No license for a commercial television 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 having a cognizable interest in television stations which have an aggregate national audience reach exceeding thirty-nine (39) percent.

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

(i) *National audience reach means* the total number of television households in the Nielsen Designated Market Areas (DMAs) 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.

(3) *Divestiture.* A person or entity that exceeds the thirty-nine (39) percent national audience reach limitation for television stations in paragraph (e)(1) of this section through grant, transfer, or assignment of an additional license for a commercial television broadcast station shall have not more than 2 years after exceeding such limitation to come into compliance with such limitation. This divestiture requirement shall not apply to persons or entities that exceed the 39 percent national audience reach limitation through population growth.

(f) The ownership limits of this section are not applicable to noncommercial educational FM and noncommercial educational TV stations. However, the attribution standards set forth in the Notes to this section will be used to determine attribution for noncommercial educational FM and TV applicants, such as in evaluating mutually exclusive applications pursuant to subpart K of part 73.

NOTE 1 TO §73.3555: The words ''cognizable interest'' as used herein include any interest, direct or indirect, that allows a person or entity to own, operate or control, or that otherwise provides an attributable interest in, a broadcast station.

NOTE 2 TO §73.3555: 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. 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. Holdings by a bank or insurance company will be aggregated if the bank or insurance company has any right to determine how the stock will be voted. Holdings by investment companies will be aggregated if under common management.

c. 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 purposes of paragraph i. of this note, 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 organizations 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, and the ownership percentage for any link in the chain that exceeds 50% shall be included for purposes of this multiplication. [For example, except for purposes of paragraph (i) of this note, 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 because X's interest in Y exceeds 50%), and A's interest in ''Licensee'' would be 2.5% (0.1×0.25). Under the 5% attribution benchmark,

X's interest in ''Licensee'' would be cognizable, while A's interest would not be cognizable. For purposes of paragraph i. of this note, X's interest in ''Licensee'' would be 15% (0.6 × 0.25) and A's interest in ''Licensee'' would be 1.5% (0.1 × 0.6 × 0.25). Neither interest would be attributed under paragraph i. of this note.]

d. 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.

e. Subject to paragraph i. of this note, holders of non-voting stock shall not be attributed an interest in the issuing entity. Subject to paragraph i. 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.

f. 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. For a licensee or system that is a limited partnership to make the certification set forth in paragraph f. 1. of this note, it must verify that the partnership agreement or certificate of limited partnership, with respect to the particular limited partner exempt from attribution, establishes that the exempt limited partner has no material involvement, directly or indirectly, in the management or operation of the media activities of the partnership. For a licensee or system that is an LLC or RLLP to make the certification set forth in paragraph f. 1. of this note, 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.

g. 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.

h. 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 h. 1. of this note plus the sum of the interests computed under paragraph h. 2. of this note is equal to or exceeds 20 percent.

i.1. Notwithstanding paragraphs e. and f. 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:

A. 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

B.(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 i.; 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 ownership rule 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 local television multiple ownership rule contained in paragraph (b) of this section.

2. Notwithstanding paragraph i.1. of this Note, the interest holder may exceed the 33 percent threshold therein without triggering attribution where holding such interest would enable an eligible entity to acquire a broadcast station, provided that:

i. The combined equity and debt of the interest holder in the eligible entity is less than 50 percent, or

ii. The total debt of the interest holder in the eligible entity does not exceed 80 percent of the asset value of the station being acquired by the eligible entity and the interest holder does not hold any equity interest, option, or promise to acquire an equity interest in the eligible entity or any related entity. For purposes of this paragraph i.2, an ''eligible entity'' shall include any entity that qualifies as a small business under the Small Business Administration's size standards for its industry grouping, as set forth in 13 CFR 121.201, at the time the transaction is approved by the FCC, and holds:

A. 30 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet; or

B. 15 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet, provided that no other person or entity owns or controls more than 25 percent of the outstanding stock or partnership interests; or

C. More than 50 percent of the voting power of the corporation that will own the media outlet if such corporation is a publicly traded company.

j. ''Time brokerage'' (also known as ''local marketing'') is the sale by a licensee of discrete blocks of time to a ''broker'' that supplies the programming to fill that time and sells the commercial spot announcements in it.

1. Where two radio stations are both located in the same market, as defined for purposes of the local radio ownership rule contained in paragraph (a) of this section, and a party (including all parties under common control) with a cognizable 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 located in the same market, as defined in the local television ownership rule contained in paragraph (b) of this section, and a party (including all parties under common control) with a cognizable 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), (c), and (d) of this section if the brokering station is a television station or with paragraphs (a), (c), and (d) of this section if the brokering station is a radio station.

k. ''Joint Sales Agreement'' is an agreement with a licensee of a ''brokered station'' that authorizes a ''broker'' to sell advertising time for the ''brokered station.''

1. Where two radio stations are both located in the same market, as defined for purposes of the local radio ownership rule contained in paragraph (a) of this section, and a party (including all parties under common control) with a cognizable interest in one such station sells more than 15 percent of the advertising 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.

2. Where two television stations are both located in the same market, as defined for purposes of the local television ownership rule contained in paragraph (b) of this section, and a party (including all parties under common control) with a cognizable interest in one such station sells more than 15 percent of the advertising 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.

3. Every joint sales 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 limitations set forth in paragraphs (b), (c), and (d) of this section if the brokering station is a television station or with paragraphs (a), (c), and (d) of this section if the brokering station is a radio station.

NOTE 3 TO §73.3555: 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 TO §73.3555: Paragraphs (a) through (d) of this section will not be applied so as to require divestiture, by any licensee, of existing facilities, and will not apply to applications for 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, or to FM or AM broadcast minor modification applications for intra-market community of license changes, if no new or increased concentration of ownership would be created among commonly owned, operated or controlled media properties. Paragraphs (a) through (d) of this section will apply to all applications for new stations, to all other applications for assignment or transfer, to all applications for major changes to existing stations, and to all other applications for minor changes to existing stations that seek a change in an FM or AM radio station's community of license or create new or increased concentration of ownership among commonly owned, operated or controlled media properties. Commonly owned, operated or controlled media properties that do not comply with paragraphs (a) through (d) of this section may not be assigned or transferred to a single person, group or entity, except as provided in this Note, the Report and Order in Docket No. 02–277, released July 2, 2003 (FCC 02–127), or the Second Report and Order in MB Docket No. 14–50, FCC 16–107 (released August 25, 2016).

NOTE 5 TO §73.3555: Paragraphs (b) through (e) 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 digital noise limited service contour of which overlaps that of a commonly owned, operated, or controlled ''nonsatellite'' parent television broadcast station, or the principal community 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 ''nonsatellite'' 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 of this section. 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 TO §73.3555: For purposes of this section a daily newspaper is one which is published four or more days per week, which is in the dominant language in the market, and which is circulated generally in the community of publication. A college newspaper is not considered as being circulated generally.

NOTE 7 TO §73.3555: The Commission will entertain applications to waive the restrictions in paragraph (b) and (c) of this section (the local television ownership rule and the radio/television cross-ownership rule) 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 unbuilt station. The permittee of the unbuilt station must demonstrate that it has made reasonable efforts to construct but has been unable to do so.

NOTE 8 TO §73.3555: 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 of 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 TO §73.3555: 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 TO §73.3555: Authority for joint ownership granted pursuant to Note 9 will expire at 3 a.m. local time on the fifth anniversary for the date of issuance of a construction permit for an AM radio station in the 1605–1705 kHz band.

NOTE 11 TO §73.3555: An entity will not be permitted to directly or indirectly own, operate, or control two television stations in the same DMA through the execution of any agreement (or series of agreements) involving stations in the same DMA, or any individual or entity with a cognizable interest in such stations, in which a station (the ''new affiliate'') acquires the network affiliation of another station (the ''previous affiliate''), if the change in network affiliations would result in the licensee of the new affiliate, or any individual or entity with a cognizable interest in the new affiliate, directly or indirectly owning, operating, or controlling two of the top-four rated television stations in the DMA at the time of the agreement. Parties should also refer to the Second Report and Order in MB Docket No. 14–50, FCC 16–107 (released August 25, 2016).

NOTE 12 TO §73.3555: Parties seeking waiver of paragraph (d)(1) of this section, or an exception pursuant to paragraph (d)(2) of this section involving failed or failing properties, should refer to the Second Report and Order in MB Docket No. 14–50, FCC 16–107 (released August 25, 2016).

[73 FR 9487, Feb. 21, 2008, as amended at 73 FR 28369, May 16, 2008; 75 FR 27199, May 14, 2010; 79 FR 29006, May 20, 2014; 81 FR 73041, Oct. 24, 2016; 81 FR 76262, Nov. 1, 2016; 82 FR 21127, May 5, 2017]

§ 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 September 16, 1992, shall bring that arrangement into compliance within one year thereafter.

[57 FR 18093, Apr. 29, 1992, as amended at 57 FR 42706, Sept. 16, 1992]

EFFECTIVE DATE NOTE: At 57 FR 18093, Apr. 29, 1992, § 73.3556 was added, effective Aug. 1, 1992. At 57 FR 35763, Aug. 11, 1992, the effective date was deferred pending action by the agency. At 57 FR 37888, Aug. 21, 1992, the effective date was further deferred. At 57 FR 42706, Sept. 16, 1992, paragraph (a) was revised and paragraph (c) was added, effective Sept. 16, 1992.

§ 73.3561 Staff consideration of applications requiring Commission action.

Upon acceptance of an application, the complete file is reviewed by the staff and, except where the application is acted upon by the staff pursuant to delegation of authority, a report containing the recommendations of the staff and any other documents required is prepared and placed on the Commission's agenda.

[44 FR 38499, July 2, 1979]

§ 73.3562 Staff consideration of applications not requiring action by the Commission.

Those applications which do not require action by the Commission but which, pursuant to the delegations of authority set forth in subpart B of part 0 of this chapter, may be acted upon by the Chief, Media Bureau, are forwarded to the Media Bureau for necessary action. If the application is granted, the formal authorization is issued. In any case where it is recommended that the application be set for hearing, where a novel question of policy is presented, or where the Chief, Media Bureau desires instructions from the Commission, the matter is placed on the Commission agenda.

[67 FR 13233, Mar. 21, 2002]

§ 73.3564 Acceptance of applications.

(a)(1) Applications tendered for filing are dated upon receipt and then forwarded to the Media Bureau, where an administrative examination is made to ascertain whether the applications are complete. Except for applications for minor modifications of facilities in the non-reserved FM band, as defined in § 73.3573(a)(2), long form applications subject to the provisions of § 73.5005 found to be complete or substantially complete are accepted for filing and are given file numbers. In the case of minor defects as to completeness, a deficiency letter will be issued and the applicant will be required to supply the missing or corrective information. Applications that are not substantially complete will not be considered and will be returned to the applicant.

(2) In the case of minor modifications of facilities in the non-reserved FM band, applications will be placed on public notice if they meet the following two-tiered minimum filing requirements as initially filed in first-come/first-serve proceedings:

(i) The application must include:

(A) Applicant's name and address,

(B) Applicant's signature,

(C) Principal community,

(D) Channel or frequency,

(E) Class of station, and

(F) Transmitter site coordinates; and

(ii) The application must not omit more than three of the following second-tier items:

(A) A list of the other media interests of the applicant and its principals,

(B) Certification of compliance with the alien ownership provisions contained in 47 U.S.C. 310(b),

(C) Tower/antenna heights,

(D) Effective radiated power,

(E) Whether the antenna is directional or omnidirectional, and

(F) An exhibit demonstrating compliance with the contour protection requirements of 47 CFR 73.215, if applicable.

(3) Applications found not to meet minimum filing requirements will be returned to the applicant. Applications found to meet minimum filing requirements, but that contain deficiencies in tender and/or acceptance information, shall be given an opportunity for corrective amendment pursuant to 73.3522 of this part. Applications found to be substantially complete and in accordance with the Commission's core legal and technical requirements will be accepted for filing. Applications with uncorrected tender and/or acceptance defects remaining after the opportunity for corrective amendment will be dismissed with no further opportunity for amendment.

(b) Acceptance of an application for filing merely means that it has been the subject of a preliminary review by the FCC's administrative staff as to completeness. Such acceptance will not preclude the subsequent dismissal of the application if it is found to be patently not in accordance with the FCC's rules.

(c) At regular intervals, the FCC will issue a Public Notice listing all long form applications which have been accepted for filing. Pursuant to §§ 73.3571(h), 73.3572, and 73.3573(f), such notice shall establish a cut-off date for the filing of petitions to deny. With respect to reserved band FM applications, the Public Notice shall also establish a cut-off date for the filing of mutually exclusive applications pursuant to § 73.3573(e). However, no application will be accepted for filing unless certification of compliance with the local notice requirements of § 73.3580(h) has been made in the tendered application.

(d) The FCC will specify by Public Notice, pursuant to § 73.5002, a period for filing applications for new stations or for major modifications in the facilities of an existing station. Except for reserved band FM stations and TV stations on reserved noncommercial educational channels, applications for new and major modifications in facilities will be accepted only during these window filing periods specified by the Commission.

(e) Applications for minor modification of facilities may be tendered at any time, unless restricted by the FCC. These applications will be processed on a ''first come/first served'' basis and will be treated as simultaneously tendered if filed on the same day. Any applications received after the filing of a lead application will be grouped according to filing date, and placed in a queue behind the lead applicant. The FCC will periodically release a Public Notice listing those minor modification of facilities applications accepted for filing.

(f) If a non-reserved band FM channel allotment becomes vacant, after the grant of a construction permit becomes final, because of a lapsed construction permit or for any other reason, the FCC will, by Public Notice, announce a subsequent filing window for the acceptance of new applications for such channels.

(g) Applications for operation in the 1605–1705 kHz band will be accepted only if filed pursuant to the terms of § 73.30(b).

[63 FR 48624, Sept. 11, 1998, as amended at 64 FR 56978, Oct. 22, 1999; 67 FR 13233, Mar. 21, 2002]

§ 73.3566 Defective applications.

(a) Applications which are determined to be patently not in accordance with the FCC rules, regulations, or other requirements, unless accompanied by an appropriate request for waiver, will be considered defective and will not be accepted for filing or if inadvertently accepted for filing will be dismissed. Requests for waiver shall show the nature of the waiver or exception desired and shall set forth the reasons in support thereof.

(b) If an applicant is requested by the FCC to file any additional documents or information not included in the prescribed application form, a failure to

comply with such request will be deemed to render the application defective, and such application will be dismissed.

[44 FR 38499, July 2, 1979]

§ 73.3568 Dismissal of applications.

(a) (1) Failure to prosecute an application, or failure to respond to official correspondence or request for additional information, will be cause for dismissal.

(2) Applicants in all broadcast services subject to competitive bidding will be subject to the provisions of §§ 73.5002 and 1.2105(b) regarding the dismissal of their short-form applications.

(3) Applicants in all broadcast services subject to competitive bidding will be subject to the provisions of §§ 73.5004, 73.5005 and 1.2104(g) regarding the dismissal of their long-form applications and the imposition of applicable withdrawal, default and disqualification payments.

(b)(1) Subject to the provisions of § 73.3525, dismissal of applications for channels reserved for noncommercial educational use will be without prejudice where an application has not yet been designated for hearing, but may be made with prejudice after designation for hearing.

(2) Subject to the provisions of § 73.3525, requests to dismiss an application for a channel reserved for noncommercial educational use, without prejudice, after it has been designated for hearing, will be considered only upon written petition properly served upon all parties of record. Such requests shall be granted only upon a showing that the request is based on circumstances wholly beyond the applicant's control which preclude further prosecution of his application.

(c) Subject to the provisions of §§ 73.3523 and 73.3525, any application for minor modification of facilities may, upon request of the applicant, be dismissed without prejudice as a matter of right.

(d) An applicant's request for the return of an application that has been accepted for filing will be regarded as a request for dismissal.

[63 FR 48624, Sept. 11, 1998]

§ 73.3571 Processing of AM broadcast station applications.

(a) Applications for AM broadcast facilities are divided into three groups.

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations. A major change for an AM station authorized under this part is any change in frequency, except frequency changes to non-expanded band first, second or third adjacent channels. A major change in ownership is a situation where the original party or parties to the application do not retain more than 50% ownership interest in the application as originally filed. A major change in community of license is one in which the applicant's daytime facilities at the proposed community are not mutually exclusive, as defined in § 73.37, with the applicant's current daytime facilities, or any change in community of license of an AM station in the 1605–1705 kHz band. All other changes will be considered minor.

(2) The second group consists of applications for licenses and all other changes in the facilities of authorized stations.

(3) The third group consists of applications for operation in the 1605–1705 kHz band which are filed subsequent to FCC notification that allotments have been awarded to petitioners under the procedure specified in § 73.30.

(b)(1) The FCC may, after acceptance of an application for modification of facilities, advise the applicant that such application is considered to be one for a major change and therefore is subject to the provisions of §§ 73.3522, 73.3580 and 1.1111 of this chapter pertaining to major changes. Such major modification applications will be dismissed as set forth in paragraph (h)(1)(i) of this section.

(2) An amendment to an application which would effect a major change, as defined in paragraph (a)(1) of this section, will not be accepted except as provided for in paragraph (h)(1)(i) of this section.

(c) An application for changes in the facilities of an existing station will continue to carry the same file number even though (pursuant to FCC approval) an assignment of license or transfer of control of said licensee or

permittee has taken place if, upon consummation, the application is amended to reflect the new ownership.

(d) If, upon examination, the FCC finds that the public interest, convenience and necessity will be served by the granting of an application, the same will be granted. If the FCC is unable to make such a finding and it appears that a hearing may be required, the procedure set forth in §73.3593 will be followed.

(e) Applications proposing to increase the power of an AM station are subject to the following requirements:

(1) In order to be acceptable for filing, any application which does not involve a change in site must propose at least a 20% increase in the station's nominal power.

(2) Applications involving a change in site are not subject to the requirements in paragraph (e)(1) of this section.

(3) Applications for nighttime power increases for Class D stations are not subject to the requirements of this section and will be processed as minor changes.

(4) The following special procedures will be followed in authorizing Class II-D daytime-only stations on 940 and 1550 kHz, and Class III daytime-only stations on the 41 regional channels listed in §73.26(a), to operate unlimited-time.

(i) Each eligible daytime-only station in the foregoing categories will receive an Order to Show Cause why its license should not be modified to specify operation during nighttime hours with the facilities it is licensed to start using at local sunrise, using the power stated in the Order to Show Cause, that the Commission finds is the highest nighttime level—not exceeding 0.5 kW—at which the station could operate without causing prohibited interference to other domestic or foreign stations, or to co-channel or adjacent channel stations for which pending applications were filed before December 1, 1987.

(ii) Stations accepting such modification shall be reclassified. Those authorized in such Show Cause Orders to operate during nighttime hours with a power of 0.25 kW or more, or with a power that, although less than 0.25 kW, is sufficient to enable them to attain RMS field strengths of 141 mV/m or more at 1 kilometer, shall be redesignated as Class II-B stations if they are assigned to 940 or 1550 kHz, and as unlimited-time Class III stations if they are assigned to regional channels.

(iii) Stations accepting such modification that are authorized to operate during nighttime hours at powers less than 0.25 kW, and that cannot with such powers attain RMS field strengths of 141 mV/m or more at 1 kilometer, shall be redesignated as Class II-S stations if they are assigned to 940 or 1550 kHz, and as Class III-S stations if they are assigned to regional channels.

(iv) Applications for new stations may be filed at any time on 940 and 1550 kHz and on the regional channels. Also, stations assigned to 940 or 1550 kHz, or to the regional channels, may at any time, regardless of their classifications, apply for power increases up to the maximum generally permitted. Such applications for new or changed facilities will be granted without taking into account interference caused to Class II-S or Class III-S stations, but will be required to show interference protection to other classes of stations, including stations that were previously classified as Class II-S or Class III-S, but were later reclassified as Class II-B or Class III unlimited-time stations as a result of subsequent facilities modifications that permitted power increases qualifying them to discontinue their ''S'' subclassification.

(f) Applications for minor modifications for AM broadcast stations, as defined in paragraph (a)(2) of this section, may be filed at any time, unless restricted by the FCC, and will be processed on a ''first come/first served'' basis, with the first acceptable application cutting off the filing rights of subsequent, conflicting applicants. The FCC will periodically release a Public Notice listing those applications accepted for filing. Applications received on the same day will be treated as simultaneously filed and, if they are found to be mutually exclusive, must be resolved through settlement or technical amendment. Conflicting applications received after the filing of a first acceptable application will be grouped, according to filing date, behind the lead application in a queue. The priority rights of the lead applicant,

against all other applicants, are determined by the date of filing, but the filing date for subsequent, conflicting applicants only reserves a place in the queue. The rights of an applicant in a queue ripen only upon a final determination that the lead applicant is unacceptable and if the queue member is reached and found acceptable. The queue will remain behind the lead applicant until a construction permit is finally granted, at which time the queue dissolves.

(g) Applications for change of license to change hours of operation of a Class C AM broadcast station, to decrease hours of operation of any other class of station, or to change station location involving no change in transmitter site will be considered without reference to the processing line.

(h) *Processing new and major AM broadcast station applications.* (1)(i) The FCC will specify by Public Notice, pursuant to §73.5002, a period for filing AM applications for a new station or for major modifications in the facilities of an authorized station. AM applications for new facilities or for major modifications, whether for commercial broadcast stations or noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6), will be accepted only during these specified periods. Applications submitted prior to the appropriate filing period or ''window'' opening date identified in the Public Notice will be returned as premature. Applications submitted after the specified deadline will be dismissed with prejudice as untimely.

(ii)(A) Such AM applicants will be subject to the provisions of §§1.2105 of this chapter and 73.5002 regarding the submission of the short-form application, FCC Form 175, and all appropriate certifications, information and exhibits contained therein. Applications must include the following engineering data:

(*1*) Community of license;

(*2*) Frequency;

(*3*) Class;

(*4*) Hours of operations (day, night, critical hours);

(*5*) Power (day, night, critical hours);

(*6*) Antenna location (day, night, critical hours); and

(*7*) All other antenna data.

(B) Applications lacking data (including any form of placeholder, such as inapposite use of ''0'' or ''not applicable'' or an abbreviation thereof) in any of the categories listed in paragraph (h)(1)(ii)(A) of this section will be immediately dismissed as incomplete without an opportunity for amendment. The staff will review the remaining applications to determine whether they meet the following basic eligibility criteria:

(*1*) Community of license coverage (day and night) as set forth in §73.24(i), and

(*2*) Protection of co- and adjacent-channel station licenses, construction permits and prior-filed applications (day and night) as set forth in §§73.37 and 73.182.

(C) If the staff review shows that an application does not meet one or more of the basic eligibility criteria listed in paragraph (h)(1)(ii)(B) of this section, it will be deemed ''technically ineligible for filing'' and will be included on a Public Notice listing defective applications and setting a deadline for the submission of curative amendments. An application listed on that Public Notice may be amended only to the extent directly related to an identified deficiency in the application. The amendment may modify the proposed power, class (within the limits set forth in §73.21 of the rules), antenna location or antenna data, but not the proposed community of license or frequency. Except as set forth in the preceding two sentences, amendments to short-form (FCC Form 175) applications will not be accepted at any time. Applications that remain technically ineligible after the close of this amendment period will be dismissed, and the staff will determine which remaining applications are mutually exclusive. The engineering proposals in eligible applications remaining after the close of the amendment period will be protected from subsequently filed applications. Determinations as to the acceptability or grantability of an applicant's proposal will not be made prior to an auction.

(iii) AM applicants will be subject to the provisions of §§1.2105 and 73.5002 regarding the modification and dismissal of their short-form applications.

(2) Subsequently, the FCC will release Public Notices:

(i) Identifying the short-form applications received during the window filing period which are found to be mutually exclusive, including any applications for noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6), as well as the procedures the FCC will use to resolve the mutually exclusive applications;

(ii) Establishing a date, time and place for an auction;

(iii) Providing information regarding the methodology of competitive bidding to be used in the upcoming auction, bid submission and payment procedures, upfront payment procedures, upfront payment deadlines, minimum opening bid requirements and applicable reserve prices in accordance with the provisions of §73.5002;

(iv) Identifying applicants who have submitted timely upfront payments and, thus, are qualified to bid in the auction.

(3) After the close of the filing window, the FCC will also release a Public Notice identifying any short-form applications received which are found to be non-mutually exclusive, including any applications for noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6). All non-mutually exclusive applicants will be required to submit an appropriate long form application within 30 days of the Public Notice and, for applicants for commercial broadcast stations, pursuant to the provisions of §73.5005(d). Non-mutually exclusive applications for commercial broadcast stations will be processed and the FCC will periodically release a Public Notice listing such non-mutually exclusive applications determined to be acceptable for filing and announcing a date by which petitions to deny must be filed in accordance with the provisions of §§73.5006 and 73.3584. Non-mutually exclusive applications for noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6), will be processed and the FCC will periodically release a Public Notice listing such non-mutually exclusive applications determined to be acceptable for filing and announcing a date by which petitions to deny must be filed in accordance with the provisions of §§73.7004 and 73.3584. If the applicant is duly qualified, and upon examination, the FCC finds that the public interest, convenience and necessity will be served by the granting of the non-mutually exclusive long form application, the same will be granted.

(4)(i) The auction will be held pursuant to the procedures set forth in §§1.2101 *et seq*. and 73.5000 *et seq*. Subsequent to the auction, the FCC will release a Public Notice announcing the close of the auction and identifying the winning bidders. Winning bidders will be subject to the provisions of §1.2107 of this chapter regarding down payments and will be required to submit the appropriate down payment within 10 business days of the Public Notice. Pursuant to §1.2107 of this chapter and §73.5005, a winning bidder that meets its down payment obligations in a timely manner must, within 30 days of the release of the Public Notice announcing the close of the auction, submit the appropriate long-form application for each construction permit for which it was the winning bidder. Long-form applications filed by winning bidders shall include the exhibits identified in §73.5005(a).

(ii) Winning bidders are required to pay the balance of their winning bids in a lump sum prior to the deadline established by the Commission pursuant to §1.2109(a). Long-form construction permit applications will be processed and the FCC will periodically release a Public Notice listing such applications that have been accepted for filing and announcing a date by which petitions to deny must be filed in accordance with the provisions of §§73.5006 and 73.3584. Construction permits will be granted by the Commission only after full and timely payment of winning bids and any applicable late fees, and if the applicant is duly qualified, and upon examination, the FCC finds that the public interest, convenience and necessity will be served.

(iii) All long-form applications will be cutoff as of the date of filing with the FCC and will be protected from subsequently filed long-form applications. Applications will be required to protect all previously filed commercial

and noncommercial applications. Subject to the restrictions set forth in paragraph (k) of this section, winning bidders filing long-form applications may change the technical proposals specified in their previously submitted short-form applications, but such change may not constitute a major change. If the submitted long-form application would constitute a major change from the proposal submitted in the short-form application, the long-form application will be returned pursuant to paragraph (h)(1)(i) of this section.

(i) In order to grant a major or minor change application made contingent upon the grant of another licensee's request for a facility modification, the Commission will not consider mutually exclusive applications by other parties that would not protect the currently authorized facilities of the contingent applicants. Such major change applications remain, however, subject to the provisions of §§ 73.3580 and 1.1111. The Commission shall grant contingent requests for construction permits for station modifications only upon a finding that such action will promote the public interest, convenience and necessity.

(j) Applications proposing to change the community of license of an AM station, except for an AM station in the 1605–1705 kHz band, are considered to be minor modifications under paragraphs (a)(2) and (f) of this section, and are subject to the following requirements:

(1) The applicant must attach an exhibit to its application containing information demonstrating that the proposed community of license change constitutes a preferential arrangement of assignments under Section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. 307(b));

(2) The daytime facilities specified by the applicant at the proposed community of license must be mutually exclusive, as defined in § 73.37, with the applicant's current daytime facilities; and

(3) Notwithstanding the provisions of § 73.3580(a), the applicant must comply with the local public notice provisions of §§ 73.3580(c)(3), 73.3580(d)(3), and 73.3580(f). The exception contained in § 73.3580(e) shall not apply to an application proposing to change the community of license of an AM station.

(k)(1) An AM applicant receiving a dispositive Section 307(b) preference is required to construct and operate technical facilities substantially as proposed in its FCC Form 175. An AM applicant, licensee, or permittee receiving a dispositive Section 307(b) preference based on its proposed service to underserved populations (under Priority (1), Priority (2), and Priority (4)) or service totals (under Priority (4)) may modify its facilities so long as it continues to provide the same priority service to substantially the same number of persons who would have received service under the initial proposal, even if the population is not the same population that would have received such service under the initial proposal. For purposes of this provision, ''substantially'' means that any proposed modification must not result in a decrease of more than 20 percent of any population figure that was a material factor in obtaining the dispositive Section 307(b) preference.

(2) An AM applicant, licensee, or permittee that has received a dispositive preference under Priority (3) will be prohibited from changing its community of license.

(3) The restrictions set forth in paragraphs (k)(1) and (k)(2) of this section will be applied for a period of four years of on-air operations. This holding period does not apply to construction permits that are awarded on a non-comparative basis, such as those awarded to non-mutually exclusive applicants or through settlement.

NOTE TO § 73.3571: For purposes of paragraph (h)(1)(ii) of this section, § 73.182(k) interference standards apply when determining nighttime mutual exclusivity between applications to provide AM service that are filed in the same window. Two applications would be deemed to be mutually exclusive if either application would be subject to dismissal because it would enter into, *i.e.*, raise, the twenty-five percent exclusion RSS nighttime limit of the other.

[63 FR 48625, Sept. 11, 1998, as amended at 64 FR 19501, Apr. 21, 1999; 67 FR 45374, July 9, 2002; 68 FR 26227, May 15, 2003; 71 FR 6228, Feb. 7, 2006; 71 FR 76219, Dec. 20, 2006; 75 FR 9806, Mar. 4, 2010; 76 FR 18952, Apr. 6, 2011]

§ 73.3572 Processing of TV broadcast, Class A TV broadcast, low power TV, TV translators, and TV booster applications.

(a) Applications for TV stations are divided into two groups:

(1) In the first group are applications for new stations or major changes in the facilities of authorized stations. A major change for TV broadcast stations authorized under this part is any change in frequency or community of license which is in accord with a present allotment contained in the Table of Allotments (§ 73.606). Other requests for change in frequency or community of license for TV broadcast stations must first be submitted in the form of a petition for rulemaking to amend the Table of Allotments.

(2) In the case of Class A TV stations authorized under subpart J of this part and low power TV, TV translator, and TV booster stations authorized under part 74 of this chapter, a major change is any change in:

(i) Frequency (output channel), except a change in offset carrier frequency; or

(ii) Transmitting antenna location where the protected contour resulting from the change is not predicted to overlap any portion of the protected contour based on the station's authorized facilities.

(3) Other changes will be considered minor including changes made to implement a channel sharing arrangement provided they comply with the other provisions of this section and provided, until October 1, 2000, proposed changes to the facilities of Class A TV, low power TV, TV translator and TV booster stations, other than a change in frequency, will be considered minor only if the change(s) will not increase the signal range of the Class A TV, low power TV or TV booster in any horizontal direction.

(4) The following provisions apply to displaced Class A TV, low power TV, TV translator and TV booster stations:

(i) In the case of an authorized low power TV, TV translator or TV booster which is predicted to cause or receive interference to or from an authorized TV broadcast station pursuant to § 74.705 of this chapter or interference with broadcast or other services under § 74.703 or § 74.709 of this chapter, an application for a change in output channel, together with technical modifications which are necessary to avoid interference (including a change in antenna location of less than 16.1km), will not be considered as an application for a major change in those facilities.

(ii) Provided further, that a low power TV, TV translator or TV booster station authorized on a channel from channel 52 to 69, or which is causing or receiving interference or is predicted to cause or receive interference to or from an authorized DTV station pursuant to § 74.706 of this chapter, or which is located within the distances specified in paragraph (4)(iv) of this section to the coordinates of co-channel DTV authorizations (or allotment table coordinates if there are no authorized facilities at different coordinates), may at any time file a displacement relief application for a change in output channel, together with any technical modifications which are necessary to avoid interference or continue serving the station's protected service area. Such an application will not be considered as an application for a major change in those facilities. Where such an application is mutually exclusive with applications for new low power TV, TV translator or TV booster stations, or with other nondisplacement relief applications for facilities modifications of Class A TV, low power TV, TV translator or TV booster stations, priority will be afforded to the displacement application(s) to the exclusion of other applications, provided the permittee or licensee had tendered its initial application for a new LPTV or TV translator station to operate on channels 52–69 prior to the August 2000 filing window.

(iii) A Class A TV station which is causing or receiving interference or is predicted to cause or receive interference to or from an authorized TV broadcast station pursuant to § 73.6011 or § 73.613; a DTV station or allotment pursuant to § 73.6013 or § 73.623, or which is located within the distances specified below in paragraph (iv) of this section to the coordinates of co-channel DTV authorizations (or allotment table coordinates if there are no authorized facilities at different coordinates); or

other service that protects and/or is protected by Class A TV stations, may at any time file a displacement relief application for a change in channel, together with technical modifications that are necessary to avoid interference or continue serving the station's protected service area, provided the station's protected contour resulting from a relocation of the transmitting antenna is predicted to overlap some portion of the protected contour based on its authorized facilities. A Class A TV station displacement relief applications will be considered major change applications, and will be placed on public notice for a period of not less than 30 days to permit the filing of petitions to deny. However, these applications will not be subject to the filing of competing applications. Where a Class A displacement relief application becomes mutually exclusive with applications for new low power TV, TV translator or TV booster stations, or with other non-displacement relief applications for facilities modifications of Class A TV, low power TV, TV translator or TV booster stations, priority will be afforded to the Class A TV displacement relief application(s) to the exclusion of other applications. Mutually exclusive displacement relief applications of Class A TV, low power TV, TV translators or TV booster stations filed on the same day will be subject to competitive bidding procedures if the mutual exclusivity is not resolved by an engineering solution.

(iv)(A) The geographic separations to co-channel DTV facilities or allotment reference coordinates, as applicable, within which to qualify for displacement relief are the following:

(*1*) Stations on UHF channels: 265 km (162 miles)

(*2*) Stations on VHF channels 2–6: 280 km (171 miles)

(*3*) Stations on VHF channels 7–13: 260 km (159 miles)

(B) Engineering showings of predicted interference may also be submitted to justify the need for displacement relief.

(v) Provided further, that the FCC may, within 15 days after acceptance of any other application for modification of facilities, advise the applicant that such application is considered to be one for a major change and therefore subject to the provisions of §§ 73.3522, 73.3580, and 1.1111 of this chapter pertaining to major changes. Such major modification applications filed for Class A TV, low power TV, TV translator, TV booster stations, and for a non-reserved television allotment, are subject to competitive bidding procedures and will be dismissed if filed outside a specified filing period. *See* 47 CFR 73.5002(a).

(b) A new file number will be assigned to an application for a new station or for major changes in the facilities of an authorized station, when it is amended so as to effect a major change, as defined in paragraphs (a)(1) or (a)(2) of this section, or result in a situation where the original party or parties to the application do not retain more than 50% ownership interest in the application as originally filed and § 73.3580 will apply to such amended application. An application for change in the facilities of any existing station will continue to carry the same file number even though (pursuant to FCC approval) an assignment of license or transfer of control of such licensee or permittee has taken place if, upon consummation, the application is amended to reflect the new ownership.

(c) Amendments to Class A TV, low power TV, TV translator, TV booster stations, or non-reserved television applications, which would require a new file number pursuant to paragraph (b) of this section, are subject to competitive bidding procedures and will be dismissed if filed outside a specified filing period. See 47 CFR 73.5002(a). When an amendment to an application for a reserved television allotment would require a new file number pursuant to paragraph (b) of this section, the applicant will have the opportunity to withdraw the amendment at any time prior to designation for a hearing if applicable; and may be afforded, subject to the discretion of the Administrative Law Judge, an opportunity to withdraw the amendment after designation for a hearing.

(d)(1) The FCC will specify by Public Notice, a period for filing applications for new television stations on reserved noncommercial educational channels

or for major modifications in the facilities of an authorized station on reserved channels. TV reserved channel applications for new facilities or for major modifications will be accepted only during the appropriate filing period or ''window.'' Applications submitted prior to the window opening date identified in the Public Notice will be returned as premature. Applications submitted after the specified deadline will be dismissed with prejudice as untimely. Mutually exclusive applications for reserved channel television stations will be resolved using the point system in subpart K of this part.

(2) Concurrently with the filing of a new or major modification application for a reserved noncommercial educational channel, the applicant shall submit to the FCC's public reference room and to a local public inspection file consistent with §73.3527(e)(2), supporting documentation of points claimed, as described in the application form.

(e) The FCC will specify by Public Notice a period for filing applications for a new non-reserved television, low power TV and TV translator stations or for major modifications in the facilities of such authorized stations, whether for commercial broadcast stations or noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6), and major modifications in the facilities of Class A TV stations.

(f) Applications for minor modification of Class A TV, low power TV, TV translator and TV booster stations may be filed at any time, unless restricted by the FCC, and will be processed on a ''first-come/first-served'' basis, with the first acceptable application cutting off the filing rights of subsequent, competing applicants. Provided, however, that applications for minor modifications of Class A TV and those of TV broadcast stations may become mutually exclusive until grant of a pending Class A TV or TV broadcast minor modification application.

(g) TV booster station applications may be filed at any time. Subsequent to filing, the FCC will release a Public Notice accepting for filing and proposing for grant those applications which are not mutually exclusive with any other TV translator, low power TV, TV booster, or Class A TV application, and providing for the filing of Petitions To Deny pursuant to §73.3584.

(h) Class A TV station licensees shall file a license application for either the flash cut channel or the digital companion channel they choose to retain for post-transition digital operations. Class A TV stations will retain primary, protected regulatory status on their desired post-transition digital channel. Class A TV applicants must certify that their proposed post-transition digital facilities meet all Class A TV interference protection requirements.

[63 FR 48626, Sept. 11, 1998, as amended at 65 FR 30007, May 10, 2000; 65 FR 36379, June 8, 2000; 67 FR 5513, Feb. 6, 2002; 67 FR 45374, July 9, 2002; 68 FR 26227, May 15, 2003; 76 FR 44827, July 27, 2011; 82 FR 18249, Apr. 18, 2017]

§ 73.3573 Processing FM broadcast station applications.

(a) Applications for FM broadcast stations are divided into two groups:

(1) In the first group are applications for new stations or for major changes of authorized stations. A major change in ownership is any change where the original party or parties to the application do not retain more than 50 percent ownership interest in the application as originally filed. In the case of a Class D or an NCE FM reserved band channel station, a major facility change is any change in antenna location which would not continue to provide a 1 mV/m service to some portion of its previously authorized 1 mV/m service area. In the case of a Class D station, a major facility change is any change in community of license or any change in frequency other than to a first-, second-, or third-adjacent channel. A major facility change for a commercial or a noncommercial educational full service FM station, a winning auction bidder, or a tentative selectee authorized or determined under this part is any change in frequency or community of license which is not in accord with its current assignment, except for the following:

(i) A change in community of license which complies with the requirements of paragraph (g) of this section;

(ii) A change to a higher or lower class co-channel, first-, second-, or third-adjacent channel, or intermediate frequency;

(iii) A change to a same-class first-, second-, or third-adjacent channel, or intermediate frequency;

(iv) A channel substitution, subject to the provisions of Section 316 of the Communications Act for involuntary channel substitutions.

(2) The second group consists of applications for licenses and all other changes in the facilities of authorized stations.

(b)(1) The FCC may, after the acceptance of an application for modification of facilities, advise the applicant that such application is considered to be one for a major change and therefore subject to the provisions of §§ 73.3522, 73.3580 and 1.1111 of this chapter pertaining to major changes. Such major modification applications in the non-reserved band will be dismissed as set forth in paragraph (f)(2)(i) of this section.

(2) An amendment to a non-reserved band application which would effect a major change, as defined in paragraph (a)(1) of this section, will not be accepted, except as provided for in paragraph (f)(2)(i) of this section.

(3) A new file number will be assigned to a reserved band application for a new station or for major changes in the facilities of an authorized station, when it is amended so as to effect a major change, as defined in paragraph (a)(1) of this section. Where an amendment to a reserved band application would require a new file number, the applicant will have the opportunity to withdraw the amendment at any time prior to designation for hearing, if applicable; and may be afforded, subject to the discretion of the Administrative Law Judge, an opportunity to withdraw the amendment after designation for hearing.

(c) An application for changes in the facilities of any existing station will continue to carry the same file number even though (pursuant to FCC approval) an assignment of license or transfer of control of such licensee or permittee has taken place if, upon consummation, the application is amended to reflect the new ownership.

(d) If, upon examination, the FCC finds that the public interest, convenience and necessity will be served by the granting of an application for FM broadcast facilities, the same will be granted. If the FCC is unable to make such a finding and it appears that a hearing may be required, the procedure given in § 73.3593 will be followed. In the case of mutually exclusive applications for reserved channels, the procedures in subpart K of this part will be followed. In the case of mutually exclusive applications for unreserved channels, the procedures in subpart I of this part will be followed.

(e) *Processing reserved channel FM broadcast station applications.* (1) Applications for minor modifications for reserved channel FM broadcast stations, as defined in paragraph (a)(2) of this section, may be filed at any time, unless restricted by the FCC, and will be processed on a ''first come/first served'' basis, with the first acceptable application cutting off the filing rights of subsequent, competing applicants. The FCC will periodically release a Public Notice listing those applications accepted for filing. Conflicting applications received on the same day will be treated as simultaneously filed and mutually exclusive. Conflicting applications received after the filing of the first acceptable application will be grouped, according to filing date, behind the lead application in the queue. The priority rights of the lead applicant, against all other applicants, are determined by the date of filing, but the filing date for subsequent conflicting applicants only reserves a place in the queue. The right of an applicant in a queue ripens only upon a final determination that the lead applicant is unacceptable and that the queue member is reached and found acceptable. The queue will remain behind the lead applicant until the construction permit is finally granted, at which time the queue dissolves.

(2) The FCC will specify by Public Notice a period for filing reserved channel FM applications for a new station or for major modifications in the facilities of an authorized station. FM reserved channel applications for new facilities or for major modifications

will be accepted only during the appropriate filing period or ''window.'' Applications submitted prior to the window opening date identified in the Public Notice will be returned as premature. Applications submitted after the specified deadline will be dismissed with prejudice as untimely.

(3) Concurrently with the filing of a new or major modification application for a reserved noncommercial educational channel, the applicant shall submit to the FCC's public reference room and to a local public inspection file consistent with §73.3527(e)(2), supporting documentation of points claimed, as described in the application form.

(4) Timely filed applications for new facilities or for major modifications for reserved FM channels will be processed pursuant to the procedures set forth in subpart K of this part (§73.7000 *et seq.*) Subsequently, the FCC will release Public Notices identifying: mutually exclusive groups of applications; applications selected pursuant to the fair distribution procedures set forth in §73.7002; applications received during the window filing period which are found to be non-mutually exclusive; tentative selectees determined pursuant to the point system procedures set forth in §73.7003; and acceptable applications. The Public Notices will also announce: additional procedures to be followed for certain groups of applications; deadlines for filing additional information; and dates by which petitions to deny must be filed in accordance with the provisions of §73.3584. If the applicant is duly qualified, and upon examination, the FCC finds that the public interest, convenience and necessity will be served by the granting of the application, it will be granted. If an application is determined unacceptable for filing, the application will be returned, and subject to the amendment requirements of §73.3522.

(f) *Processing non-reserved FM broadcast station applications.* (1) Applications for minor modifications for non-reserved FM broadcast stations, as defined in paragraph (a)(2) of this section, may be filed at any time, unless restricted by the FCC, and, generally, will be processed in the order in which they are tendered. The FCC will periodically release a Public Notice listing those applications accepted for filing. Processing of these applications will be on a ''first come/first serve'' basis with the first acceptable application cutting off the filing rights of subsequent applicants. All applications received on the same day will be treated as simultaneously tendered and, if they are found to be mutually exclusive, must be resolved through settlement or technical amendment. Applications received after the tender of a lead application will be grouped, according to filing date, behind the lead application in a queue. The priority rights of the lead applicant, as against all other applicants, are determined by the date of filing, but the filing date for subsequent applicants for that channel and community only reserves a place in the queue. The rights of an applicant in a queue ripen only upon a final determination that the lead applicant is unacceptable and if the queue member is reached and found acceptable. The queue will remain behind the lead applicant until a construction permit is finally granted, at which time the queue dissolves.

(2)(i) The FCC will specify by Public Notice, pursuant to §73.5002(a), a period for filing non-reserved band FM applications for a new station or for major modifications in the facilities of an authorized station. FM applications for new facilities or for major modifications, whether for commercial broadcast stations or noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6), will be accepted only during the appropriate filing period or ''window.'' Applications submitted prior to the window opening date identified in the Public Notice will be returned as premature. Applications submitted after the specified deadline will be dismissed with prejudice as untimely.

(ii) Such FM applicants will be subject to the provisions of §§1.2105 and 73.5002 regarding the submission of the short-form application, FCC Form 175, and all appropriate certifications, information and exhibits contained therein. FM applicants may submit a set of preferred site coordinates as a supplement to the short-form application. Any specific site indicated by FM

applicants will not be studied for technical acceptability, but will be protected from subsequently filed applications as a full-class facility as of the close of the window filing period. Determinations as to the acceptability or grantability of an applicant's proposal will not be made prior to an auction.

(iii) FM applicants will be subject to the provisions of §§ 1.2105 and 73.5002(c) regarding the modification and dismissal of their short-form applications.

(3) Subsequently, the FCC will release Public Notices:

(i) Identifying the short-form applications received during the window filing period which are found to be mutually exclusive, including any applications for noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6), as well as the procedures the FCC will use to resolve the mutually exclusive applications;

(ii) Establishing a date, time and place for an auction;

(iii) Providing information regarding the methodology of competitive bidding to be used in the upcoming auction, bid submission and payment procedures, upfront payment procedures, upfront payment deadlines, minimum opening bid requirements and applicable reserve prices in accordance with the provisions of § 73.5002;

(iv) Identifying applicants who have submitted timely upfront payments and, thus, are qualified to bid in the auction.

(4) If, after the close of the appropriate window filing period, a non-reserved FM allotment remains vacant, the window remains closed until the FCC, by Public Notice, specifies a subsequent period for filing non-reserved band FM applications for a new station or for major modifications in the facilities of an authorized station pursuant to paragraph (f)(2)(i) of this section. After the close of the filing window, the FCC will also release a Public Notice identifying the short-form applications which are found to be non-mutually exclusive, including any applications for noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6). These non-mutually exclusive applicants will be required to submit the appropriate long-form application within 30 days of the Public Notice and, for applicants for commercial broadcast stations, pursuant to the provisions of § 73.5005(d). Non-mutually exclusive applications for commercial broadcast stations will be processed and the FCC will periodically release a Public Notice listing such non-mutually exclusive applications determined to be acceptable for filing and announcing a date by which petitions to deny must be filed in accordance with the provisions of §§ 73.5006 and 73.3584. Non-mutually exclusive applications for noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6), will be processed and the FCC will periodically release a Public Notice listing such non-mutually exclusive applications determined to be acceptable for filing and announcing a date by which petitions to deny must be filed in accordance with the provisions of §§ 73.7004 and 73.3584. If the applicant is duly qualified, and upon examination, the FCC finds that the public interest, convenience, and necessity will be served by the granting of the non-mutually exclusive long-form application, it will be granted.

(5)(i) Pursuant to § 1.2107 of this chapter and § 73.5005, a winning bidder that meets its down payment obligations in a timely manner must, within 30 days of the release of the public notice announcing the close of the auction, submit the appropriate long-form application for each construction permit for which it was the winning bidder. Long-form applications filed by winning bidders shall include the exhibits identified in § 73.5005(a).

(ii) Winning bidders are required to pay the balance of their winning bids in a lump sum prior to the deadline established by the Commission pursuant to § 1.2109(a) of this chapter. Long-form construction permit applications will be processed and the FCC will periodically release a Public Notice listing such applications that have been accepted for filing and announcing a date by which petitions to deny must be filed in accordance with the provisions of §§ 73.5006 and 73.3584. Construction permits will be granted by the Commission only after full and timely payment of winning bids and any applicable late fees, and if the applicant is duly qualified, and upon examination, the FCC

finds that the public interest, convenience and necessity will be served.

(iii) All long-form applications will be cut-off as of the date of filing with the FCC and will be protected from subsequently filed long-form applications and rulemaking petitions. Applications will be required to protect all previously filed commercial and noncommercial applications. Winning bidders filing long-form applications may change the technical proposals specified in their previously submitted short-form applications, but such change may not constitute a major change. If the submitted long-form application would constitute a major change from the proposal submitted in the short-form application or the allotment, the long-form application will be returned pursuant to paragraph (f)(2)(i) of this section.

(6)(i) When a non-reserved channel FM allotment is added to the Table of FM Allotments using the Tribal Priority described in Note 5 to this section, the FCC will specify by Public Notice a window filing period during which only those applicants that satisfy all of the eligibility criteria listed in Note 5 to this section with regard to the specific Tribal Priority FM allotment(s) listed in the Public Notice may file a long-form application for the Tribal Priority FM allotment. Only applications from applicants meeting the ''threshold qualifications'' listed in Note 5 will be accepted during this window filing period.

(ii) If only one application for the Tribal Priority FM allotment is accepted for filing during the threshold qualifications window, the long-form application will be processed. If two or more applications for the Tribal Priority FM allotment are accepted for filing during the threshold qualifications window, the FCC will specify by Public Notice a period of time, after the close of the threshold qualifications window but before the next FM auction, during which the parties may negotiate a settlement or *bona fide* merger, as a way of resolving the conflict between their applications. Parties to a settlement must comply with §73.3525 of the Commission's rules. If a settlement or *bona fide* merger is reached, the surviving application will be processed. If no settlement or *bona fide* merger is reached among the threshold qualifications window applicants, the Tribal Priority FM allotment will be offered at auction as described in paragraphs (f)(2) through (f)(5) of this section, except that only those applicants whose applications were accepted for filing pursuant to paragraph (f)(6)(i) of this section may participate in the initial auction of the Tribal Priority FM allotment.

(iii) If no application is accepted for filing during the threshold qualifications window, and the party that initially proposed the Tribal Priority FM allotment requests by letter to the Audio Division, Media Bureau, that its pending long-form application not be immediately processed, the Tribal Priority FM allotment will be auctioned as described in paragraphs (f)(2) through (f)(5) of this section in the normal course for vacant FM allotments. When a Tribal Priority FM allotment is offered at auction for the first time, only those applicants meeting the threshold qualifications for that specific Tribal Priority FM allotment, as described in Note 5 to this section, may participate in the auction of that allotment.

(iv) Should no applicant meeting threshold qualifications, as described in Note 5 to this section, apply to bid on a Tribal Priority FM allotment in the first auction in which it is offered, or should no applicant meeting threshold qualifications qualify to bid in the first auction in which a Tribal Priority FM allotment is offered, then the Tribal Priority FM allotment will be offered in a subsequent auction. Any such subsequent auction of a Tribal Priority FM allotment shall proceed as described in paragraphs (f)(2) through (f)(5) of this section, and any qualified applicant may participate in the auction of the Tribal Priority FM allotment in such subsequent auction, regardless of whether it meets the threshold qualifications with regard to that specific Tribal Priority FM allotment.

(g) Applications proposing to change the community of license of an FM station or assignment are considered to be minor modifications under paragraphs (a)(2), (e)(1), and (f)(1) of this section,

and are subject to the following requirements:

(1) The applicant must attach an exhibit to its application containing information demonstrating that the proposed community of license change constitutes a preferential arrangement of allotments or assignments under Section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. 307(b));

(2) The facilities specified by the applicant at the proposed community of license must be mutually exclusive, as defined in § 73.207 or 73.509, with the applicant's current facilities or its current assignment, in the case of a winning auction bidder or tentative selectee; and

(3) Notwithstanding the provisions of § 73.3580(a), the applicant must comply with the local public notice provisions of §§ 73.3580(c)(3), 73.3580(d)(3), and 73.3580(f). The exception contained in § 73.3580(e) shall not apply to an application proposing to change the community of license of an FM station.

(4) Non-reserved band applications must demonstrate the existence of a suitable assignment or allotment site that fully complies with §§ 73.207 and 73.315 without resort to § 73.213 or § 73.215.

NOTE 1 TO § 73.3573: Applications to modify the channel and/or class to an adjacent channel, intermediate frequency (IF) channel, or co-channel may utilize the provisions of the Commission's Rules permitting short spaced stations as set forth in § 73.215 as long as the applicant shows by separate exhibit attached to the application the existence of an allotment reference site which meets the allotment standards, the minimum spacing requirements of § 73.207 and the city grade coverage requirements of § 73.315. This exhibit must include a site map or, in the alternative, a statement that the transmitter will be located on an existing tower. Examples of unsuitable allotment reference sites include those which are offshore, in a national or state park in which tower construction is prohibited, on an airport, or otherwise in an area which would necessarily present a hazard to air navigation.

NOTE 2 TO § 73.3573: Processing of applications for new low power educational FM applications: Pending the Commission's restudy of the impact of the rule changes pertaining to the allocations of 10-watt and other low power noncommercial educational FM stations, applications for such new stations, or major changes in existing ones, will not be accepted for filing. Exceptions are: (1) In Alaska, applications for new Class D stations or major changes in existing ones are acceptable for filing; and (2) applications for existing Class D stations to change frequency are acceptable for filing. In (2), upon the grant of such application, the station shall become a Class D (secondary) station. (See First Report and Order, Docket 20735, FCC 78–386, 43 FR 25821, and Second Report and Order, Docket 20735, FCC 78–384, 43 FR 39704.) Effective date of this FCC imposed ''freeze'' was June 15, 1978. Applications which specify facilities of at least 100 watts effective radiated power will be accepted for filing.

NOTE 3 TO § 73.3573: For rules on processing FM translator and booster stations, see § 74.1233 of this chapter.

NOTE 4 TO § 73.3573: A Class C station operating with antenna height above average terrain (''HAAT'') of less than 451 meters is subject to reclassification as a Class C0 station upon the filing of a triggering application for construction permit that is short-spaced to such a Class C station under § 73.207 but would be fully spaced to such a station considered as a Class C0 assignment. Triggering applications may utilize § 73.215. Triggering applications must certify that no alternative channel is available for the proposed service. Available alternative frequencies are limited to frequencies that the proposed service could use at the specified antenna location in full compliance with the distance separation requirements of § 73.207, without any other changes to the FM Table of Allotments. Copies of a triggering application and related pleadings must be served on the licensee of the affected Class C station. If the staff concludes that a triggering application is acceptable for filing, it will issue an order to show cause why the affected station should not be reclassified as a Class C0 station The order to show cause will provide the licensee 30 days to express in writing an intention to seek authority to modify the subject station's technical facilities to minimum Class C HAAT or to otherwise challenge the triggering application. If no such intention is expressed and the triggering application is not challenged, the subject station will be reclassified as a Class C0 station, and processing of the triggering application will be completed. If an intention to modify is expressed, an additional 180-day period will be provided during which the Class C station licensee must file an acceptable construction permit application to increase antenna height to at least 451 meters HAAT. Upon grant of such a construction permit application, the triggering application will be dismissed. Class C station licensees must serve on triggering applicants copies of any FAA submissions related to the application

grant process. If the construction is not completed as authorized, the subject Class C station will be reclassified automatically as a Class C0 station. The reclassification procedure also may be initiated through the filing of an original petition for rule making to amend the FM Table of Allotments as set forth in Note 2 to §1.420(g).

NOTE 5 TO §73.3573: The ''Tribal Priority'' is that established by the Commission in Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures, MB Docket 09–52. See First Report and Order and Further Notice of Proposed Rule Making, MB Docket 09–52, FCC 10–24, 75 FR 9797, 75 FR 9856, 75 FR 73976; Second Report and Order, First Order on Reconsideration, and Second Further Notice of Proposed Rule Making, MB Docket 09–52, FCC 11–28, 76 FR 14362, 76 FR 18942; Third Report and Order, MB Docket 09–52, FCC 11–190. To qualify for the Tribal Priority, and thus meet ''threshold qualifications'' for a particular allotment, an applicant must demonstrate that it meets all of the following eligibility criteria: (a) The applicant is either a federally recognized Tribe or Tribal consortium, or an entity 51 percent or more of which is owned or controlled by a Tribe or Tribes. Qualifying Tribes or Tribal entities must be those at least a portion of whose Tribal Lands lie within the principal community contour of the proposed facility. Although the 51 or greater percent Tribal control threshold need not consist of a single Tribe, the qualifying entity must be 51 percent or more owned or controlled by Tribes at least a portion of whose Tribal Lands lie within the facility's principal community contour; (b)(1) at least 50 percent of the area within the proposed principal community contour is over that Tribe's Tribal Lands, or (2) the proposed principal community contour (i) encompasses 50 percent or more of that Tribe's Tribal Lands, (ii) serves at least 2,000 people living on Tribal Lands, and (iii) the total population on Tribal Lands residing within the proposed service contour constitutes at least 50 percent of the total covered population (and, in the case of either (b)(1) or (b)(2) the proposed principal community contour does not cover more than 50 percent of the Tribal Lands of a Tribe that is not a party to the application); (c) the proposed community of license must be located on Tribal Lands; and (d) the proposed service must constitute first or second aural (reception) service, or first local Tribal-owned commercial transmission service at the proposed community of license. For purposes of this section, the definition of ''Tribal Lands'' is the same as that set forth at footnote 15 of the First Report and Order and Further Notice of Proposed Rule Making, FCC 10–24, and as further set forth at paragraphs 8–10 and 59 of the Second Report and Order, First Order on Reconsideration, and Second Further Notice of Proposed Rule Making, FCC 11–28.

[63 FR 48627, Sept. 11, 1998, as amended at 64 FR 19502, Apr. 21, 1999; 65 FR 36379, June 8, 2000; 65 FR 79780, Dec. 20, 2000; 67 FR 45374, July 9, 2002; 68 FR 26228, May 15, 2003; 71 FR 6228, Feb. 7, 2006; 71 FR 76220, Dec. 20, 2006; 77 FR 2922, Jan. 20, 2012]

§73.3574 Processing of international broadcast station applications.

(a) Applications for International station facilities are divided into two groups.

(1) In the first group are applications for new stations, or for major changes in the facilities of authorized stations. A major change is any change in or addition to authorized zones or areas of reception, any change in transmitter location other than one in the immediate vicinity of existing antennas of the station, or any change in power, or antenna directivity. However, the FCC may, within 15 days after the acceptance for filing of any other application for modification, advise the applicant that such application is considered to be one for a major change and therefore is subject to §§1.1111 and 73.3580 pertaining to major changes.

(2) The second group consists of applications for licenses and all other changes in the facilities of authorized stations.

(b) If an application is amended so as to effect a major change as defined in paragraph (a)(1) of this section, or so as to result in an assignment or transfer of control which, in the case of an authorized station, would require the filing of an application therefor on FCC Form 314 or 315 (see §73.3540), §73.3580 will apply to such amended application.

(c) Applications for International stations will be processed as nearly as possible in the order in which they are filed.

[44 FR 38504, July 2, 1979]

§73.3578 Amendments to applications for renewal, assignment or transfer of control.

(a) Any amendments to an application for renewal of any instrument of authorization shall be considered to be a minor amendment. However, the FCC

may, within 15 days after tender for filing of any amendment, advise the applicant that the amendment is considered to be a major amendment and therefore is subject to the provisions of § 73.3580.

(b) Any amendment to an application for assignment of construction permit or license, or consent to the transfer of control of a corporation holding such a construction permit or license, shall be considered to be a minor amendment, except that any amendment which seeks a change in the ownership interest of the proposed assignee or transferee which would result in a change in control, or any amendment which would require the filing of FCC Forms 314, 315, or 345 (see § 73.3540), if the changes sought were made in an original application for assignment or transfer of control, shall be considered to be a major amendment. However, the FCC may, within 15 days after the acceptance for filing of any other amendment, advise the applicant that the amendment is considered to be a major amendment and therefore is subject to the provisions of § 73.3580.

[44 FR 38504, July 2, 1979, as amended at 51 FR 18451, May 20, 1986]

§ 73.3580 Local public notice of filing of broadcast applications.

(a) All applications for instruments of authorization in the broadcast service (and major amendments thereto, as indicated in §§ 73.3571, 73.3572, 73.3573, 73.3574 and 73.3578) are subject to the local public notice provisions of this section, except applications for:

(1) A minor change in the facilities of an authorized station, as indicated in §§ 73.3571, 73.3572, 73.3573 and 73.3574.

(2) Consent to an involuntary assignment or transfer or to a voluntary assignment or transfer which does not result in a change of control and which may be applied for on FCC Form 316 pursuant to the provisions of § 73.3540(b).

(3) A license under section 319(c) of the Communications Act or, pending application for or grant of such license, any special or temporary authorization to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as would be authorized by such license.

(4) Extension of time to complete construction of authorized facilities.

(5) An authorization of facilities for remote pickup or studio links for use in the operation of a broadcast station.

(6) Authorization pursuant to section 325(c) of the Communications Act (''* * * studios of foreign stations'') where the programs to be transmitted are special events not of a continuing nature.

(7) An authorization under any of the proviso clauses of section 308(a) of the Communications Act concerning applications for and conditions in licenses.

(b) Applications (as originally filed or amended) will be acted upon by the FCC no sooner than 30 days following public notice of acceptance for filing or amendment, except as otherwise permitted in § 73.3542, ''Application for temporary authorization.''

(c) An applicant who files an application or amendment thereto which is subject to the provisions of this section, must give notice of this filing in a newspaper. Exceptions to this requirement are applications for renewal of AM, FM, TV, Class A TV and international broadcasting stations; low power TV stations; TV and FM translator stations; TV boosters stations; FM boosters stations; and applications subject to paragraph (e) of this section. The local public notice must be completed within 30 days of the tendering of the application. In the event the FCC notifies the applicant that a major change is involved, requiring the applicant to file public notice pursuant to § 73.3571, § 73.3572, § 73.3573 or § 73.3578, this filing notice shall be given in a newspaper following this notification.

(1) *Notice requirements for these applicants are as follows.* (i) In a daily newspaper of general circulation published in the community in which the station is located, or proposed to be located, at least twice a week for two consecutive weeks in a three-week period; or,

(ii) If there is no such daily newspaper, in a weekly newspaper of general circulation published in that community, once a week for 3 consecutive weeks in a 4-week period; or,

(iii) If there is no daily or weekly newspaper published in that community, in the daily newspaper from wherever published, which has the greatest general circulation in that community, twice a week for 2 consecutive weeks within a 3-week period.

(2) *Notice requirements for applicants for a permit pursuant to section 325(b) of the Communications Act (''* * * Studios of Foreign Stations'') are as follows.* In a daily newspaper of general circulation in the largest city in the principal area to be served in the U.S.A. by the foreign broadcast station, at least twice a week for 2 consecutive weeks within a three-week period.

(3) *Notice requirements for applicants for a change in station location are as follows.* In the community in which the station is located and the one in which it is proposed to be located, in a newspaper with publishing requirements as in paragraphs (c)(1)(i), (ii) or (iii) of this section.

(4) The notice required in paragraphs (c)(1), (2) and (3) of this section shall contain the information described in paragraph (f) of this section.

(d) The licensee of an operating broadcast station who files an application or amendment thereto which is subject to the provisions of this section must give notice as follows:

(1) An applicant who files for renewal of a broadcast station license, other than a low power TV station license not locally originating programming as defined by §74.701(h), an FM translator station or a TV translator station license, must give notice of this filing by broadcasting announcements on applicant's station. (Sample and schedule of announcements are below.) Newspaper publication is not required. An applicant who files for renewal of a low power TV station license not locally originating programming as defined by §74.701(h), an FM translator station or a TV translator station license will comply with (g) below.

(2) An applicant who files an amendment of an application for renewal of a broadcast station lincense will comply with paragraph (d)(1) of this section.

(3) An applicant who files for modification, assignment or transfer of a broadcast station license (except for International broadcast, low power TV, TV translator, TV booster, FM translator and FM booster stations) shall give notice of the filing in a newspaper as described in paragraph (c) of this section, and also broadcast the same notice over the station as follows:

(i) At least once daily on four days in the second week immediately following either the tendering for filing of the application or immediately following notification to the applicant by the FCC that Public Notice is required pursuant to §73.3571, §73.3572, §73.3573 or §73.3578. For commercial radio stations these announcements shall be made between 7 a.m. and 9 a.m. and/or 4 p.m. and 6 p.m. For stations which neither operate between 7 a.m. and 9 a.m. nor between 4 p.m. and 6 p.m., these announcements shall be made during the first two hours of broadcast operation. For commercial TV stations, these announcements shall be made between 6 p.m. and 11 p.m. (5 p.m. and 10 p.m. Central and Mountain time).

(4) The broadcast notice requirements for those filing renewal applications and amendments thereto are as follows:

(i) *Pre-filing announcements.* During the period and beginning on the first day of the sixth calendar month prior to the expiration of the license, and continuing to the date on which the application is filed, the following announcement shall be broadcast on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

Radio announcement: On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communication Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We must file an application for renewal with the FCC (date four calendar months prior to expiration date). When filed, a copy of this application will be available for public inspection at *www.fcc.gov*. It contains information concerning this station's performance during the last (period of time covered by the application). Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day

of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station) or may be obtained from the FCC, Washington, DC 20554.

Television announcement: On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communication Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We must file an application for renewal with the FCC (date four calendar months prior to expiration date). When filed, a copy of this application will be available for public inspection at *www.fcc.gov*. It contains information concerning this station's performance during the last (period of time covered by the application).

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station) or may be obtained from the FCC, Washington, DC 20554.

(A) An applicant who files for renewal of a low power TV station locally originating programming (as defined by §74.701(h)) shall broadcast this announcement, except that statements indicating there is a public inspection file at the station containing the renewal application and other information on the license renewal process, shall be omitted.

(B) This announcement shall be made during the following time periods:

(*1*) For commercial TV stations—at least two of the required announcements between 6 p.m. and 11 p.m. (5 p.m. and 10 p.m. Central and Mountain Time).

(*2*) For commercial radio stations—at least two of the required announcements between 7 a.m. and 9 a.m. and/or 4 p.m. and 6 p.m. For stations which neither operate between 7 a.m. and 9 a.m. nor between 4 p.m. and 6 p.m., at least two of the required announcements shall be made during the first two hours of broadcast operation.

(*3*) For noncommercial educational stations, at the same time as commercial stations, except that such stations need not broadcast the announcement during any month during which the station does not operate.

(*4*) For low power TV stations locally originating programming (as defined by §74.701(h)), at the same time as for commercial TV stations, or as close to that time as possible.

(ii) *Post-filing announcements.* During the period beginning of the date on which the renewal application is filed to the sixteenth day of the next to last full calendar month prior to the expiration of the license, all applications for renewal of broadcast station licenses shall broadcast the following announcement on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

Television announcement: On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communications Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We have filed an application for renewal with the FCC.

A copy of this application is available for public inspection at *www.fcc.gov*. It contains information concerning this station's performance during the last (period of time covered by application).

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station) or may be obtained from the FCC, Washington, DC 20554.

Radio announcement: On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communications Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We have filed an application for renewal with the FCC.

A copy of this application is available for public inspection at *www.fcc.gov*. It contains information concerning this station's performance during the last (period of time covered by application).

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the

public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station) or may be obtained from the FCC, Washington, DC 20554.

(A) An applicant who files for renewal of a low power TV station locally originating programming (as defined by §74.701(h)) shall broadcast this announcement, except that statements indicating there is a public inspection file at the station containing the renewal application and other information on the license renewal process, shall be omitted.

(B) This announcement shall be made during the following time periods:

(*1*) For commercial TV stations—at least three of the required announcements between 6 p.m. and 11 p.m. (5 p.m. and 10 p.m. Central and Mountain time), at least one announcement between 9 a.m. and 1 p.m., at least one announcement between 1 p.m. and 5 p.m., and at least one announcement between 5 p.m. and 7 p.m.

(*2*) For commercial radio stations—at least three of the required announcements between 7 a.m. and 9 a.m. and/or 4 p.m. and 6 p.m., at least one announcement between 9 a.m. and noon, at least one announcement between noon and 4 p.m., and at least one announcement between 7 p.m. and midnight. For stations which do not operate between 7 a.m. and 9 a.m. or between 4 p.m. and 6 p.m., at least three of the required announcements shall be made during the first two hours of broadcast operation.

(*3*) For noncommercial educational stations, at the same time as commercial stations, except that such stations need not broadcast the announcement during any month during which the station does not operate. In such instances noncommercial educational stations shall meet the requirements in the exact order specified in paragraph (d)(4)(ii)(A) (*1*) or (*2*) of this section (e.g., if only four renewal notices are broadcast by an educational TV licensee, 3 must be broadcast between 6 p.m. and 11 p.m. and the fourth between 9 a.m. and 1 p.m.).

(*4*) For low power TV stations locally originating programming (as defined by §74.701(h)), at the same time as for commercial TV stations, or as close to that time as possible.

(iii) TV broadcast stations (commercial and noncommercial educational), in presenting the pre- and post-filing announcements, must use visuals with the licensee's and the FCC's addresses when this information is being orally presented by the announcer.

(iv) Stations which have not received a renewal grant since the filing of their previous renewal application, shall use the following first paragraph for the pre-filing and the post-filing announcements:

(*Station's call letters*) is licensed by the Federal Communications Commission to serve the public interest as a public trustee.

(5) An applicant who files for a Class A television license must give notice of this filing by broadcasting announcements on applicant's station. (Sample and schedule of announcements are below.) Newspaper publication is not required.

(i) The broadcast notice requirement for those filing for Class A television license applications and amendment thereto is as follows:

(A) *Pre-filing announcements.* Two weeks prior to the filing of the license application, the following announcement shall be broadcast on the 5th and 10th days of the two week period. The required announcements shall be made between 6 p.m. and 11 p.m. (5 p.m. and 10 p.m. Central and Mountain Time) Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

On (date), the Federal Communications Commission granted (Station's call letters) a certification of eligibility to apply for Class A television status. To become eligible for a Class A certificate of eligibility, a low power television licensee was required to certify that during the 90-day period ending November 28, 1999, the station: (1) Broadcast a minimum of 18 hours per day; (2) broadcast an average of at least three hours per week of programming produced within the market area served by the station or by a group of commonly-owned low power television stations; and (3) had been in compliance with the Commission's regulations applicable to

the low power television service. The Commission may also issue a certificate of eligibility to a licensee unable to satisfy the foregoing criteria, if it determines that the public interest, convenience and necessity would be served thereby.

(Station's call letters) intends to file an application (FCC Form 302–CA) for a Class A television license in the near future. When filed, a copy of this application will be available at (address of location of the station's public inspection file) for public inspection during our regular business hours. Individuals who wish to advise the FCC of facts relating to the station's eligibility for Class A status should file comments and petitions with the FCC prior to Commission action on this application.

(B) *Post-filing announcements.* The following announcement shall be broadcast on the 1st and 10th days following the filing of an application for a Class A television license. The required announcements shall be made between 6 p.m. and 11 p.m. (5 p.m. and 10 p.m. Central and Mountain Time). Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

On (date of filing license application) (Station's call letters) filed an application, FCC Form 302–CA, for a Class A television license. Such stations are required to broadcast a minimum of 18 hours per day, and to average at least 3 hours of locally produced programming each week, and to comply with certain full-service television station operating requirements.

A copy of this application is available for public inspection during our regular business hours at (address of location of the station's public inspection file). Individuals who wish to advise the FCC of facts relating to the station's eligibility for Class A status should file comments and petitions with the FCC prior to Commission action on this application.

(ii) [Reserved]

(e) When the station in question is the only operating station in its broadcast service which is located in the community involved, or if it is a noncommercial educational station, publication of the notice in a newspaper, as provided in paragraph (c) of this section is not required, and publication by broadcast over that station as provided in paragraph (d) of this section shall be deemed sufficient to meet the notice requirements of this section. Noncommercial educational broadcast stations which do not broadcast during the portion of the year in which the period of broadcast of notice falls must comply with the provisions of paragraph (c) of this section.

(f) The notice required by paragraphs (c) and (d) of this section shall contain, when applicable, the following information, except as otherwise provided in paragraphs (d) (1) and (2) and (e) of this section in regard to renewal applications:

(1) The name of the applicant, if the applicant is an individual; the names of all partners, if the applicant is a partnership; or the names of all officers and directors and of those persons holding 10% or more of the capital stock or other ownership interest if the applicant is a corporation or an unincorporated association. (In the case of applications for assignment or transfer of control, information should be included for all parties to the application.)

(2) The purpose for which the application was or will be filed (such as, construction permit, modification, assignment or transfer of control).

(3) The date when the application or amendment was tendered for filing with the FCC.

(4) The call letters, if any, of the station, and the frequency or channel on which the station is operating or proposes to operate.

(5) In the case of an application for construction permit for a new station, the facilities sought, including type and class of station, power, location of studios, transmitter site and antenna height.

(6) In the case of an application for modification of a construction permit or license, the exact nature of the modification sought.

(7) In the case of an amendment to an application, the exact nature of the amendment.

(8) In the case of applications for a permit pursuant to Section 325(b) of the Communications Act (''* * * studios of foreign stations''), the call letters and location of the foreign radio broadcast station, the frequency or channel on which it operates, and a description of the programs to be transmitted over the station.

(9) A statement that a copy of the application, amendment(s), and related

material are on file for public inspection at a stated address in the community in which the station is located or is proposed to be located. See §§ 73.3526 and 73.3527.

(g) An applicant who files for authorization or major modifications, or a major amendment thereto, for a low power TV, TV translator, TV booster, FM translator, or FM booster station, must give notice of this filing in a daily, weekly or biweekly newspaper of general circulation in the community or area to be served. Likewise, an applicant for assignment, transfer or renewal, or a major amendment thereto, for a low power TV, TV translator or FM translator station, must give this same type of newspaper notice. The filing notice will be given immediately following the tendering for filing of the application or amendment, or immediately following notification to the applicant by the FCC that public notice is required pursuant to § 73.3572, § 73.3573, or § 73.3578.

(1) Notice requirements for these applicants are as follows:

(i) In a newspaper at least one time; or

(ii) If there is no newspaper published or having circulation in the community or area to be served, the applicant shall determine an appropriate means of providing the required notice to the general public, such as posting in the local post office or other public place. The notice shall state:

(A) The name of the applicant, the community or area to be served, and the transmitter site.

(B) The purpose for which the application was filed.

(C) The date when the application or amendment was filed with the FCC.

(D) The output channel or channels on which the station is operating or proposes to operate and the power used or proposed to be used.

(E) In the case of an application for changes in authorized facilities, the nature of the changes sought.

(F) In the case of a major amendment to an application, the nature of the amendment.

(G) A statement, if applicable, that the station engages in or intends to engage in rebroadcasting, and the call letters, location and channel of operation of each station whose signals it is rebroadcasting or intends to rebroadcast.

(H) A statement that invites comment from individuals who wish to advise the FCC of facts relating to the renewal application and whether the station has operated in the public interest.

(h) The applicant may certify in the appropriate application that it has or will comply with the public notice requirements contained in paragraphs (c), (d) or (g) of this section. However, an applicant for renewal of a license that is required to maintain a public inspection file, shall, within 7 days of the last day of broadcast of the required publication announcements, place in its public inspection file a statement certifying compliance with § 73.3580 along with the dates and times that the pre-filing and post-filing notices were broadcast and the text thereof. This certification need not be filed with the Commission but shall be retained in the public inspection file for as long as the application to which it refers.

(i) Paragraphs (a) through (h) of this section apply to major amendments to license renewal applications. See § 73.3578(a).

[44 FR 38504, July 2, 1979]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 73.3580, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§ 73.3584 Procedure for filing petitions to deny.

(a) For mutually exclusive applications subject to selection by competitive bidding (non-reserved channels) or fair distribution/point system (reserved channels), petitions to deny may be filed only against the winning bidders or tentative selectee(s), and such petitions will be governed by §§ 73.5006 and 73.7004, respectively. For all other applications the following rules will govern. 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 ''cut-off'' 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, or for major changes in the existing facilities of such stations, the applicant may file an opposition to any Petition to Deny, and the Petitioner a reply to such opposition in which allegations of fact or denials thereof shall be supported by affidavit of a person or persons with personal knowledge thereof. The times for filing such oppositions and replies shall be those provided in §1.45 except that as to a Petition to Deny an application for renewal of license, an opposition thereto may be filed within 30 days after the Petition to Deny is filed, and the party that filed the Petition to Deny may reply to the opposition within 20 days after opposition is due or within 20 days after the opposition is filed, whichever is longer. The failure to file an opposition or a 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 applcation (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 Section 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.

(d) A party in interest may file a Petition to Deny any application that proposes reclassification of a Class C authorization to Class C0 not later than 30 days after issuance of an order

to show cause by the Commission notifying the affected licensee of the proposed reclassification.

(e) 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.

[48 FR 27206, June 13, 1983, as amended at 52 FR 31401, Aug. 20, 1987; 53 FR 2499, Jan. 28, 1988; 55 FR 28914, July 16, 1990; 61 FR 18291, Apr. 25, 1996; 65 FR 36379, June 8, 2000; 65 FR 79780, Dec. 20, 2000]

§ 73.3587 Procedure for filing informal objections.

Before FCC action on any application for an instrument of authorization, any person may file informal objections to the grant. Such objections may be submitted in letter form (without extra copies) and shall be signed. The limitation on pleadings and time for filing pleadings provided for in §1.45 of the rules shall not be applicable to any objections duly filed under this section.

[44 FR 38507, July 2, 1979]

§ 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 had 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 nonfinancial 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 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.

[54 FR 22598, May 25, 1989. Redesignated and amended at 55 FR 28914, July 16, 1990]

§ 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 the 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 nonfinancial 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 nonfinancial 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.

[55 FR 28914, July 16, 1990]

§ 73.3591 Grants without hearing.

(a) Except for renewal applications filed after May 1, 1995 which will be subject to paragraph (d) of this section, in the case of any application for an instrument of authorization, other than a license pursuant to a construction permit, the FCC will make the grant if it finds (on the basis of the application, the pleadings filed or other matters which it may officially notice) that the application presents no substantial and material question of fact and meets the following requirements:

(1) There is not pending a mutually exclusive application filed in accordance with paragraph (b) of this section;

(2) The applicant is legally, technically, financially, and otherwise qualified;

(3) The applicant is not in violation of provisions of law, the FCC rules, or established policies of the FCC; and

(4) A grant of the application would otherwise serve the public interest, convenience and necessity.

(b) In making its determinations pursuant to the provisions of paragraph (a) of this section, the FCC will not consider any other application, or any application if amended so as to require a new file number, as being mutually exclusive or in conflict with the application under consideration unless such other application was substantially complete, and tendered for filing by:

(1) The close of business on the day preceding the day designated by Public Notice as the day the listed application is to be available and ready for processing;

(2) The date prescribed in §73.3516(e) in the case of applications which are mutually exclusive with applications for renewal of license of broadcast stations; or

(3) The close of business on the day designated by the FCC pursuant to §73.3564(d) as the date(s) for filing low power TV or TV translator applications.

(c) If a petition to deny the application has been filed in accordance with §73.3584 and the FCC makes the grant in accordance with paragraph (a) of this section, the FCC will deny the petition and issue a concise statement setting forth the reasons for denial and disposing of all substantial issues raised by the petition.

(d) Renewal applications filed after May 1, 1995 will be governed by the criteria established in 47 U.S.C. §309(k).

[44 FR 38507, July 2, 1979, as amended at 50 FR 47844, Dec. 7, 1984; 59 FR 31557, June 20, 1994; 61 FR 18291, Apr. 25, 1996]

§73.3592 Conditional grant.

(a) Where a grant of an application would preclude the grant of any application or applications mutually exclusive with it, the FCC may, if the public interest will be served thereby, make a conditional grant of one of the applications and designate all of the mutually exclusive applications for hearing. Such conditional grant will be made upon the express condition that such grant is subject to being withdrawn if, at the hearing, it is shown that public interest will be better served by a grant of one of the other applications. Such conditional grants will be issued only where it appears:

(1) That some or all of the applications were not filed in good faith but were filed for the purpose of delaying or hindering the grant of another application; or

(2) That public interest requires the prompt establishment of broadcast service in a particular community or area; or

(3) That a grant of one or more applications would be in the public interest, and that a delay in making a grant to any applicant until after the conclusion of a hearing on all applications might jeopardize the rights of the United States under the provisions of international agreement to the use of the frequency in question; or

(4) That a grant of one application would be in the public interest, and that it appears from an examination of the remaining applications that they cannot be granted because they are in violation of provisions of the Communications Act, other statutes, or the provisions of the FCC rules.

(b) When two or more applications for the same AM, FM or TV assignment have been designated for hearing, the FCC may, if the public interest will be served thereby, make a conditional grant to a group composed of any two or more of the competing applicants, such grant to terminate when the successful applicant commences operation under the terms of a regular authorization. No conditional grant will be made unless all of the competing applicants have been afforded a reasonable opportunity to participate in the group seeking the conditional grant. In its application, the group shall include a special showing as to the need for the service pending operation by the successful applicant under the terms of a regular authorization; the effect, if any, of a grant on the position of any applicant which is not a member of the group; and any other factors which are deemed pertinent to the public interest judgment.

[44 FR 38507, July 2, 1979]

§ 73.3593 Designation for hearing.

If the FCC is unable, in the case of any application for an instrument of authorization, to make the findings specified in § 73.3591(a), it will formally designate the application for hearing on the grounds or reasons then obtaining and will forthwith notify the applicant and all known parties in interest of such action and the grounds and reasons therefor, specifying with particularity the matters and things in issue but not including issues or requirements phrased generally. If, however, the issue to be resolved is limited to the mutual exclusivity of applications for initial authorizations or for major changes to existing stations, that mutual exclusivity shall be resolved pursuant to competitive bidding procedures identified in subpart I (unreserved channels) or point system procedures identified in subpart K (reserved channels).

[65 FR 36379, June 8, 2000]

§ 73.3594 Local public notice of designation for hearing.

(a) Except as otherwise provided in paragraph (c) of this section when an application subject to the provisions of § 73.3580 (except for applications for International broadcast, low power TV, TV translator, FM translator, and FM booster stations) is designated for hearing, the applicant shall give notice of such designation as follows: Notice shall be given at least twice a week, for 2 consecutive weeks within the 3-week period immediately following release of the FCC's order, specifying the time and place of the commencement of the hearing, in a daily newspaper of general circulation published in the community in which the station is located or proposed to be located.

(1) However, if there is no such daily newspaper published in the community, the notice shall be given as follows:

(i) If one or more weekly newspapers of general circulation are published in the community in which the station is located or proposed to be located, notice shall be given in such a weekly newspaper once a week for 3 consecutive weeks within the 4-week period immediately following the release of the FCC's order, specifying the time and place of the commencement of the hearing;

(ii) If no weekly newspaper of general circulation is published in the community in which the station is located or proposed to be located, notice shall be given at least twice a week for 2 consecutive weeks within the 3-week period immediately following the release of the FCC's orders, specifying the time and place of the commencement of the hearing in the daily newspaper having the greatest general circulation in the community in which the station is located or proposed to be located.

(2) In the case of an application for a permit pursuant to Section 325(c) of the Communications Act, the notice shall be given at least twice a week for 2 consecutive weeks within the 3-week period immediately following release of the FCC's order, specifying the time and place of the commencement of the hearing in a daily newspaper of general circulation in the largest city in the principal area to be served in the United States by the foreign radio broadcast station.

(3) In the case of an application for change in the location of a station, the notice shall be given both in the community in which the station is located and in the community in which the station is proposed to be located.

(b) When an application which is subject to the provisions of § 73.3580 and which seeks modification, assignment, transfer, or renewal of an operating broadcast station is designated for hearing (except for applications for an International broadcast, low power TV, TV translator, FM translator, or FM booster stations), the applicant shall, in addition to giving notice of such designation as provided in paragraph (a) of this section, cause the same notice to be broadcast over that station at least once daily for 4 days in the second week immediately following the release of the FCC's order, specifying the time and place of the commencement of the hearing. In the case of both commercial and noncommercial TV broadcast stations such notice shall be broadcast orally with the camera focused on the announcer. The notice required by this paragraph shall be broadcast during the following periods:

(1) For commercial TV stations, between 7:00 p.m. and 10:00 p.m.

(2) For commercial AM and FM stations, between 7:00 a.m. and 10:00 a.m., but if such stations do not operate during those hours, then between 6:00 p.m. and 9:00 p.m.

(3) For noncommercial educational TV stations, between 7:00 p.m. and 10:00 p.m., but if the period of broadcast of notice falls within a portion of the year during which such stations do not broadcast, then such stations need not comply with the provisions of this paragraph.

(4) For noncommercial educational AM and FM stations, between 3:00 p.m. and 10:00 p.m., but if the period of broadcast of notice falls within a portion of the year during which such stations do not broadcast, then such stations need not comply with the provisions of this paragraph.

(c) If the station in question is the only operating station in its broadcast service which is located in the community involved, or if it is a noncommerical educational station, publication of the notice in a newspaper, as provided in paragraph (a) of this section, is not required, and publication by broadcast over that station as provided in paragraph (b) of this section shall be deemed sufficient to meet the requirements of paragraphs (a) and (b) of this section. However, noncommercial educational stations which do not broadcast during the portion of the year in which the period of broadcast of notice falls must comply with the provisions of paragraph (a) of this section.

(d) The notice required by paragraphs (a) and (b) of this section shall state:

(1) The name of the applicant or applicants designated for hearing.

(2) The call letters, if any, of the stations or stations involved, and the frequencies or channels on which the station or stations are operating or proposed to operate.

(3) The time and place of the hearing.

(4) The issues in the hearing as listed in the FCC's order or summary of designation for hearing.

(5) A statement that a copy of the application, amendment(s), and related material are on file for public inspection at a stated address in the community in which the station is located or is proposed to be located. See §§ 73.3526 and 73.3527.

(e) When an application for renewal of license is designated for hearing, the notice shall contain the following additional statements:

(1) Immediately preceding the listing of the issues in the hearing:

The application of this station for a renewal of its license to operate this station in the public interest was tendered for filing with the Federal Communications Commission on (*date*). After considering this application, the FCC has determined that it is necessary to hold a hearing to decide the following questions:

(2) Immediately following the listing of the issues in the hearing:

The hearing will be held at (*place of hearing*) commencing at (*time*), on (*date*). Members of the public who desire to give evidence concerning the foregoing issues should write to the Federal Communications Commission, Washington, DC 20554, not later than (*date*). Letters should set forth in detail the specific facts concerning which the writer wishes to give evidence. If the FCC believes that the evidence is legally competent, material, and relevant to the issues, it will contact the person in question.

(Here the applicant shall insert, as the date on or before which members of the public who desire to give evidence should write to the FCC, the date 30 days after the date of release of the FCC's order specifying the time and place of the commencement of the hearing.)

(f) When an application for a low power TV, TV translator, FM translator, or FM booster station which is subject to the provisions of § 73.3580 is designated for hearing, the applicant shall give notice of such designation as follows: Notice shall be given at least once during the 2-week period immediately following release of the FCC's order, specifying the time and place of the commencement of the hearing in a daily, weekly or biweekly publication having general circulation in the community or area to be served. However, if there is no publication of general circulation in the community or area to be served, the applicant shall determine an appropriate means of providing the required notice to the general public, such as posting in the local post office or other public place. The notice shall state:

(1) The name of the applicant or applicants designated for hearing.

(2) The call letters, if any, of the station or stations involved, the output channel or channels of such stations, and, for any rebroadcasting, the call letters, channel and location of the station or stations being or proposed to be rebroadcast.

(3) The time and place of the hearing.

(4) The issues in the hearing as listed in the FCC's order or summary of designation for hearing.

(5) If the application is for renewal of license, the notice shall contain, in addition to the information required by paragraphs (f) (1) through (4) of this section, the statements required by paragraph (e) of this section.

(g) Within 7 days of the last day of publication or broadcast of the notice required by paragraphs (a) and (b) of this section, the applicant shall file a statement in triplicate with the FCC setting forth the dates on which the notice was published, the newspaper in which the notice was published, the text of the notice, and/or, where applicable, the date and time the notice was broadcast and the text thereof. When public notice is given by other means, as provided in pararaph (f) of this section, the applicant shall file, within 7 days of the giving of such notice, the text of the notice, the means by which it was accomplished, and the date thereof.

(h) The failure to comply with the provisions of this section is cause for dismissal of an application with prejudice. However, upon a finding that applicant has complied (or proposes to comply) with the provisions of Section 311(a)(2) of the Communications Act, and that the public interest, convenience and necessity will be served thereby, the presiding officer may authorize an applicant, upon a showing of special circumstances, to publish notice in a manner other than that prescribed by this section; may accept publication of notice which does not conform strictly in all respects with the provisions of this section; or may extend the time for publishing notice.

[44 FR 38508, July 2, 1979, as amended at 47 FR 21495, May 18, 1982; 48 FR 9012, Mar. 3, 1983; 49 FR 38132, Sept. 27, 1984; 51 FR 19347, May 29, 1986; 52 FR 21686, June 9, 1987; 58 FR 51251, Oct. 1, 1993]

§ 73.3597 Procedures on transfer and assignment applications.

(a) If, upon the examination of an application for FCC consent to an assignment of a broadcast construction permit or license or for a transfer of control of a corporate permittee or licensee, it appears that the station involved has been operated on-air by the current licensee or permittee for less than one year, the application will be designated for hearing on appropriate issues unless the FCC is able to find that:

(1) The permit or license was not authorized either through the Minority Ownership Policy or after a comparative hearing or, in the case of low power TV and TV translator stations, the permit or license was not authorized after a lottery in which the permittee or licensee benefited from minority or diversity preferences;

(2) The application involves an FM translator station or FM booster station only;

(3) The application involves a *pro forma* assignment or transfer of control; or

(4) The assignor or transferor has made an affirmative factual showing, supported by affidavits of a person or persons with personal knowledge thereof, which establishes that, due to unavailability of capital, to death or disability of station principals, or to other changed circumstances affecting the licensee or permittee occurring subsequent to the acquisition of the license or permit, FCC consent to the proposed assignment or transfer of control will serve the public interest, convenience and necessity.

(5) the assignee or transferee has made an affirmative factual showing, supported by affidavits of a person or persons with personal knowledge thereof, which established that the proposed transaction would involve an assignment or transfer to a minority-owned

or minority controlled entity in furtherance of our Minority Ownership Policy.

(b)(1) The commencement date of the one-year period set forth in paragraph (a) of this section shall be the date on which the station initiated program tests in accordance with § 73.1620 or § 74.14.

(2) In determining whether the station has been operating on-air for one year, the FCC will calculate the period between the date of initiation of program tests (as specified in paragraph (b)(1) of this section) and the date the application for transfer or assignment is tendered for filing with the FCC.

(c)(1) As used in paragraphs (c) and (d) of this section:

(i) *Unbuilt station* refers to an AM, FM, or TV broadcast station or a low power TV or TV translator station for which a construction permit is outstanding, and, regardless of the stage of physical completion, as to which program tests have not commenced or, if required, been authorized.

(ii) *Seller* includes the assignor(s) of a construction permit for an unbuilt station, the transferor(s) of control of the holder of such construction permit, and any principal or such assignor(s) or transferor(s) who retains an interest in the permittee or acquires or reacquires such interest within 1 year after commencing program tests.

(iii) The provisions of paragraphs (c) and (d) of this section apply only to mutually exclusive noncommercial educational applications filed on or after the release of the Report and Order in MM Docket 98–43, where the construction permit is issued pursuant to settlement agreement.

(2) The FCC will not consent to the assignment or transfer of control of the construction permit of an unbuilt station if the agreements or understandings between the parties provide for, or permit, payment to the seller of a sum in excess of the aggregate amount clearly shown to have been legitimately and prudently expended and to be expended by the seller, solely for preparing, filing, and advocating the grant of the construction permit for the station, and for other steps reasonably necessary toward placing the station in operation.

(3)(i) Applications for consent to the assignment of a construction permit or transfer of control shall, in the case of unbuilt stations, be accompanied by declarations both by the assignor (or transferor) and by the assignee (or transferee) that, except as clearly disclosed in detail in the applications, there are no agreements or understandings for reimbursement of the seller's expenses or other payments to the seller, for the seller's retention of any interest in the station, for options or any other means by which the seller may acquire such an interest, or for any other actual or potential benefit to the seller in the form of loans, the subsequent repurchase of the seller's retained interest, or otherwise.

(ii) When the seller is to receive reimbursement of his expenses, the applications of the parties shall include an itemized accounting of such expenses, together with such factual information as the parties rely upon for the requisite showing that those expenses represent legitimate and prudent outlays made solely for the purposes allowable under paragraph (c)(2) of this section.

(d)(1) Whenever an agreement for the assignment of the construction permit of an unbuilt station or for the transfer of control of the permittee of an unbuilt station, or any arrangement or understanding incidental thereto, provides for the retention by the seller of any interest in the station, or for any other actual or potential benefit to the seller in the form of loans or otherwise, the question is raised as to whether the transaction involves actual or potential gain to the seller over and above the legitimate and prudent out-of-pocket expenses allowable under paragraph (c)(2) of this section. In such cases the FCC will designate the assignment or transfer applications for evidentiary hearing. However, a hearing is not mandatory in cases coming within paragraph (d)(2) of this section.

(2) It is not intended to forbid the seller to retain an equity interest in an unbuilt station which he is transferring or assigning if the seller obligates himself, for the period ending 1 year after commencing program tests, to provide that part of the total capital made available to the station, up to

the end of that period, which is proportionate to the seller's equity share in the permittee, taking into account equity capital, loan capital, and guarantees of interest and amortization payments for loan capital provided by the seller before the transfer or assignment. This condition will be satisfied:

(i) In the case of equity capital: By paid-in cash capital contributions proportionate to the seller's equity share;

(ii) In cases where any person who has an equity interest in the permittee provides loan capital: By the seller's provision of that part of the total loan capital provided by equity holders which is proportionate to the seller's equity share; and

(iii) In cases where any person cosigns or otherwise guarantees payments under notes given for loan capital provided by nonequity holders: By similar guarantees by the seller covering that part of such payments as is proportionate to the seller's equity share. However, this condition shall not be deemed to be met if the guarantees given by persons other than the seller cover, individually or collectively, a larger portion of such payments than the ratio of the combined equities of persons other than the seller to the total equity.

(3) In cases which are subject to the requirements of paragraphs (d)(2) (i), (ii) and (iii) of this section:

(i) The assignee's (or transferee's) application shall include a showing of the anticipated capital needs of the station through the first year of its operation and the seller's financial capacity to comply with the above requirements, in the light of such anticipated capital needs.

(ii) The FCC will determine from its review of the applications whether a hearing is necessary to ensure compliance with the above requirements.

(iii) Compliance with the above requirements will be subject to review by the FCC at any time, either when considering subsequently filed applications or whenever the FCC may otherwise find it desirable.

(iv) Within 30 days after any time when a seller is required to provide equity or loan capital or execute guarantees, the permittee shall furnish the FCC a written report containing sufficient details as to the sources and amounts of equity capital paid in, loan capital made available, or guarantees obtained as to enable the FCC to ascertain compliance with the above requirements.

(v) No steps shall be taken by the permittee to effectuate arrangements for the provision of equity or loan capital from sources not previously identified and disclosed to the FCC, until 30 days after the permittee has filed with the FCC a report of such arrangements and of provisions made for the seller's compliance with the above requirement.

(vi) The provisions of paragraphs (d)(3) (iv) and (v) of this section shall cease to apply 1 year after commencing program tests.

(4) Applications subject to this paragraph (d) of this section will, in any event, be designated for evidentiary hearing in any case where the agreements, arrangements or understandings with the seller provide for the seller's option to acquire equity in the station or to increase equity interests he retains at the time of the assignment or transfer of control. An evidentiary hearing will similarly be held in any case in which the assignee(s), transferee(s) or any of their principals, or any person in privity therewith, has an option to purchase all or part of the seller's retained or subsequently acquired equity interests in the station.

[44 FR 38509, July 2, 1979, as amended at 47 FR 24580, June 7, 1982; 47 FR 55930, Dec. 14, 1982; 48 FR 9012, Mar. 3, 1983; 48 FR 27207, June 13, 1983; 50 FR 6946, Feb. 19, 1985; 53 FR 36787, Sept. 22, 1988; 63 FR 70050, Dec. 18, 1998]

§ 73.3598 Period of construction.

(a) Except as provided in the last two sentences of this paragraph, each original construction permit for the construction of a new TV, AM, FM or International Broadcast; low power TV; TV translator; TV booster; FM translator; or FM booster station, or to make changes in such existing stations, shall specify a period of three years from the date of issuance of the original construction permit within which construction shall be completed and application for license filed. Except as provided in the last two sentences of this paragraph, each original

construction permit for the construction of a new LPFM station shall specify a period of eighteen months from the date of issuance of the construction permit within which construction shall be completed and application for license filed. A LPFM permittee unable to complete construction within the time frame specified in the original construction permit may apply for an eighteen month extension upon a showing of good cause. The LPFM permittee must file for an extension on or before the expiration of the construction deadline specified in the original construction permit. An eligible entity that acquires an issued and outstanding construction permit for a station in any of the services listed in this paragraph shall have the time remaining on the construction permit or eighteen months from the consummation of the assignment or transfer of control, whichever is longer, within which to complete construction and file an application for license. For purposes of the preceding sentence, an ''eligible entity'' shall include any entity that qualifies as a small business under the Small Business Administration's size standards for its industry grouping, as set forth in 13 CFR 121 through 201, at the time the transaction is approved by the FCC, and holds

(1) 30 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will hold the construction permit; or

(2) 15 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will hold the construction permit, provided that no other person or entity owns or controls more than 25 percent of the outstanding stock or partnership interests; or

(3) More than 50 percent of the voting power of the corporation that will hold the construction permit if such corporation is a publicly traded company.

(b) The period of construction for an original construction permit shall toll when construction is prevented by the following causes not under the control of the permittee:

(1) Construction is prevented due to an act of God, defined in terms of natural disasters (e.g., floods, tornados, hurricanes, or earthquakes);

(2) The grant of the permit is the subject of administrative or judicial review (*i.e.*, petitions for reconsideration and applications for review of the grant of a construction permit pending before the Commission and any judicial appeal of any Commission action thereon), or construction is delayed by any cause of action pending before any court of competent jurisdiction relating to any necessary local, state or federal requirement for the construction or operation of the station, including any zoning or environmental requirement; or

(3) A request for international coordination, with respect to an original construction permit for a new DTV station, has been sent to Canada or Mexico on behalf of the station and no response from the country affected has been received, or the licensee or permittee is challenging the response from Canada or Mexico on the grounds that the facility as approved would not permit the station to serve the population that is both approved by the Commission and served by the station's TV (analog) facility to be vacated by June 12, 2009.

(c) A permittee must notify the Commission as promptly as possible and, in any event, within 30 days, of any pertinent event covered by paragraph (b) of this section, and provide supporting documentation. All notifications must be filed in triplicate with the Secretary and must be placed in the station's local public file.

(d) A permittee must notify the Commission promptly when a relevant administrative or judicial review is resolved. Tolling resulting from an act of God will automatically cease six months from the date of the notification described in paragraph (c) of this section, unless the permittee submits additional notifications at six month intervals detailing how the act of God continues to cause delays in construction, any construction progress, and the steps it has taken and proposes to take to resolve any remaining impediments.

(e) 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.

[63 FR 70050, Dec. 18, 1998, as amended at 65 FR 7648, Feb. 15, 2000; 68 FR 12761, Mar. 17, 2003; 69 FR 53352, Sept. 1, 2004; 73 FR 5684, Jan. 30, 2008; 73 FR 28369, May 16, 2008; 74 FR 8879, Feb. 27, 2009]

§ 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.

[44 FR 38511, July 2, 1979]

§ 73.3603 Special waiver procedure relative to applications.

(a) In the case of any broadcast applications designated for hearing, the parties may request the FCC to grant or deny an application upon the basis of the information contained in the applications and other papers specified in paragraph (b) of this section without the presentation of oral testimony. Any party desiring to follow this procedure should execute and file with the FCC a waiver in accordance with paragraph (e) of this section, and serve copies on all other parties, or a joint waiver may be filed by all the parties. Upon the receipt of waivers from all parties to a proceeding, the FCC will decide whether the case is an appropriate one for determination without the presentation of oral testimony. If it is determined by the FCC that, notwithstanding the waivers, the presentation of oral testimony is necessary, the parties will be so notified and the case will be retained on the hearing docket. If the FCC concludes that the case can appropriately be decided without the presentation of oral testimony, the record will be considered as closed as of the date the waivers of all the parties were first on file with the FCC.

(b) In all cases considered in accordance with this procedure, the FCC will decide the case on the basis of the information contained in the applications and in any other papers pertaining to the applicants or applications which are open to public inspection and which were on file with the FCC when the record was closed. The FCC may call upon any party to furnish any additional information which the FCC deems necessary to a proper decision. Such information shall be served upon all parties. The waiver previously executed by the parties shall be considered in effect unless within 10 days of the service of such information the waiver is withdrawn.

(c) Any decision by the FCC rendered pursuant to this section will be in the nature of a final decision, unless otherwise ordered by the FCC.

(d) By agreeing to the waiver procedure prescribed in this section, no party shall be deemed to waive the right to petition for reconsideration or rehearing, or to appeal to the courts from any adverse final decision of the FCC.

(e) The waiver provided for by this section shall be in the following form:

WAIVER

Name of applicant.....
Call letters.....
Docket No.....

The undersigned hereby requests the FCC to consider its application and grant or deny it in accordance with the procedure prescribed in § 73.3603 of the FCC's rules and regulations. It is understood that all the terms and provisions of _____ are incorporated in this waiver.

[44 FR 38511, July 2, 1979]

§ 73.3605 Retention of applications in hearing status after designation for hearing.

(a) After an application for a broadcast facility is designated for hearing, it will be retained in hearing status upon the dismissal or amendment and removal from hearing of any other application or applications with which it has been consolidated for hearing.

(b) Where any applicants for a broadcast facility file a request pursuant to § 73.3525(a) for approval of an agreement

to remove a conflict between their applications, the applications will be retained in hearing status pending such proceedings on the joint request as may be ordered and such action thereon as may be taken.

(1) If further hearing is not required on issues other than those arising out of the agreement, the proceeding shall be terminated and appropriate disposition shall be made of the applications.

(2) Where further hearing is required on issues unrelated to the agreement, the presiding officer shall continue to conduct the hearing on such other issues pending final action on the agreement, but the record in the proceeding shall not be closed until such final action on the agreement has been taken.

(3) In any case where a conflict between applications will be removed by an agreement for an engineering amendment to an application, the amended application shall be removed from hearing status upon final approval of the agreement and acceptance of the amendment.

(c) An application for a broadcast facility which has been designated for hearing and which is amended so as to eliminate the need for hearing or further hearing on the issues specified, other than as provided for in paragraph (b) of this section, will be removed from hearing status.

[44 FR 38511, July 2, 1979]

§ 73.3612 Annual employment report.

Each licensee or permittee of a commercially or noncommercially operated AM, FM, TV, Class A 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–B.

NOTE TO § 73.3612: Data concerning the gender, race and ethnicity of a broadcast station's workforce collected in the annual employment report will be used only for purposes of analyzing industry trends and making reports to Congress. Such data will not be used for the purpose of assessing any aspect of an individual broadcast licensee's compliance with the equal employment opportunity requirements of § 73.2080.

[69 FR 34954, June 23, 2004]

§ 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;

(E) Name of record owner of stock;

(F) Name of the party or parties who have the power to 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 indirect, 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)(1) *Time brokerage agreements (also known as local marketing agreements):* Time brokerage agreements involving radio stations where the licensee (including all parties under common ownership) is the brokering entity, the brokering and brokered stations are both in the same market as defined in the local radio multiple ownership rule contained in §73.3555(a), and more than 15 percent of the time of the brokered station, on a weekly basis is brokered by that licensee; time brokerage agreements involving television stations where the licensee (including all parties under common control) is the brokering entity, the brokering and brokered stations are both licensed to the same market as defined in the local television multiple ownership rule contained in §73.3555(b), and more than 15 percent of the time of the brokered station, on a weekly basis, is brokered by that licensee; time brokerage agreements involving radio or television stations that would be attributable to the licensee under §73.3555 Note 2, paragraph (i). Confidential or proprietary information may be redacted where appropriate but such information shall be made available for inspection upon request by the FCC.

(2) *Joint sales agreements:* Joint sales agreements involving radio stations where the licensee (including all parties under common control) is the brokering entity, the brokering and brokered stations are both in the same market as defined in the local radio multiple ownership rule contained in §73.3555(a), and more than 15 percent of the advertising time of the brokered station on a weekly basis is brokered by that licensee; joint sales agreements involving television stations where the licensee (including all parties under common control) is the brokering entity, the brokering and brokered stations are both in the same market as defined in the local television multiple ownership rule contained in §73.3555(b), and more than 15 percent of the advertising 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; subchannel leasing agreements for Subsidiary Communications Authorization operation; franchise/leasing agreements for operation of telecommunications services on the television 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.

[44 FR 38512, July 2, 1979, as amended at 47 FR 21496, May 18, 1982; 50 FR 4664, Feb. 1, 1985; 50 FR 30951, July 31, 1985; 51 FR 9966, Mar. 24, 1986; 51 FR 15785, Apr. 28, 1986; 57 FR 18093, Apr. 29, 1992; 57 FR 42706, Sept. 16, 1992; 61 FR 36305, July 10, 1996; 63 FR 70050, Dec. 18, 1998; 64 FR 50646, Sept. 17, 1999; 66 FR 9972, Feb. 13, 2001; 68 FR 46358, Aug. 5, 2003; 79 FR 29006, May 20, 2014]

§73.3615 Ownership reports.

(a) The Ownership Report for Commercial Broadcast Stations (FCC Form 2100, Schedule 323) must be filed electronically every two years by each licensee of a commercial AM, FM, or TV broadcast station and any entity that holds an interest in the licensee that is attributable pursuant to §73.3555 (each a ''Respondent''). The ownership report shall be filed by December 1 in all odd-numbered years. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 2100, Schedule 323 (including all instructions for the form and schedule) that is current on October 1 of the year in which the ownership report is filed. The information provided on each ownership report shall be current as of October 1 of the year in which the ownership report is filed. A Respondent with

a current and unamended biennial ownership report (*i.e.*, an ownership report that was filed pursuant to this subsection) on file with the Commission that is still accurate and which was filed using the version of FCC Form 2100, Schedule 323 that is current on October 1 of the year in which its biennial ownership report is due may electronically validate and resubmit its previously filed biennial ownership report.

(b)(1) Each permittee of a commercial AM, FM or TV broadcast station and any entity that holds an interest in the permittee that is attributable pursuant to §73.3555 (each a ''Respondent'') shall file an ownership report on FCC Form 2100, Schedule 323 within 30 days of the date of grant by the FCC of an application by the permittee for original construction permit. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 2100, Schedule 323 (including all instructions for the form and schedule) that is current on the date on which the ownership report is filed.

(2) Except as specifically noted below, each permittee of a commercial AM, FM or TV broadcast station and any entity that holds an interest in the permittee that is attributable pursuant to §73.3555 (each a ''Respondent'') shall file an ownership report on FCC Form 2100, Schedule 323 on the date that the permittee applies for a station license. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 2100, Schedule 323 (including all instructions for the form and schedule) that is current on the date on which the ownership report is filed. If a Respondent has a current and unamended ownership report on file with the Commission that was filed pursuant to paragraphs (b)(1) or (c) of this section, was submitted using the version of FCC Form 2100, Schedule 323 that is current on the date on which the ownership report due pursuant to paragraph (b)(2) is filed, and is still accurate, the Respondent may certify that it has reviewed such ownership report and that it is accurate, in lieu of filing a new ownership report.

(c) Each permittee or licensee of a commercial AM, FM or TV broadcast station and any entity that holds an interest in the permittee or licensee that is attributable pursuant to §73.3555 (each a ''Respondent''), shall file an ownership report on FCC Form 2100, Schedule 323 within 30 days of consummating authorized assignments or transfers of permits and licenses. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 2100, Schedule 323 (including all instructions for the form and schedule) that is current on the date on which the ownership report is filed.

(d) The Ownership Report for Noncommercial Broadcast Stations (FCC Form 2100, Schedule 323–E) must be filed electronically every two years by each licensee of a noncommercial educational AM, FM or TV broadcast station and any entity that holds an interest in the licensee that is attributable pursuant to §73.3555 (each a ''Respondent''). The ownership report shall be filed by December 1 in all odd-numbered years. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 2100, Schedule 323–E (including all instructions for the form and schedule) that is current on October 1 of the year in which the ownership report is filed. The information provided on each ownership report shall be current as of October 1 of the year in which the ownership report is filed. A Respondent with a current and unamended biennial ownership report (*i.e.*, an ownership report that was filed pursuant to this subsection) on file with the Commission that is still accurate and which was filed using the version of FCC Form 2100, Schedule 323–E that is current on October 1 of the year in which its biennial ownership report is due may electronically validate and resubmit its previously filed biennial ownership report.

(e)(1) Each permittee of a noncommercial educational AM, FM or TV broadcast station and any entity that holds an interest in the permittee that is attributable pursuant to §73.3555 (each a ''Respondent'') shall file an

ownership report on FCC Form 2100, Schedule 323–E within 30 days of the date of grant by the FCC of an application by the permittee for original construction permit. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 2100, Schedule 323–E (including all instructions for the form and schedule) that is current on the date on which the ownership report is filed.

(2) Except as specifically noted below, each permittee of a noncommercial educational AM, FM or TV broadcast station and any entity that holds an interest in the permittee that is attributable pursuant to §73.3555 (each a ''Respondent'') shall file an ownership report on FCC Form 2100, Schedule 323–E on the date that the permittee applies for a station license. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 2100, Schedule 323–E (including all instructions for the form and schedule) that is current on the date on which the ownership report is filed. If a Respondent has a current and unamended ownership report on file with the Commission that was filed pursuant to paragraphs (e)(1) or (f) of this section, was submitted using the version of FCC Form 2100, Schedule 323–E that is current on the date on which the ownership report due pursuant to this subsection is filed, and is still accurate, the Respondent may certify that it has reviewed such ownership report and that it is accurate, in lieu of filing a new ownership report.

(f) Each permittee or licensee of a noncommercial educational AM, FM or TV broadcast station, and any entity that holds an interest in the permittee or licensee that is attributable pursuant to §73.3555 (each a ''Respondent''), shall file an ownership report on FCC Form 2100, Schedule 323–E within 30 days of consummating authorized assignments or transfers of permits and licenses. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 2100, Schedule 323–E (including all instructions for the form and schedule) that is current on the date on which the ownership report is filed.

(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.

[44 FR 38513, July 2, 1979, as amended at 49 FR 19498, May 8, 1984; 50 FR 27450, July 3, 1985; 50 FR 40016, Oct. 1, 1985; 53 FR 2499, Jan. 28, 1988; 53 FR 5684, Feb. 25, 1988; 63 FR 70050, Dec. 18, 1998; 66 FR 9973, Feb. 13, 2001; 66 FR 12897, Mar. 1, 2001; 74 FR 25168, May 27, 2009; 74 FR 56134, Oct. 30, 2009; 81 FR 19459, Apr. 4, 2016]

EFFECTIVE DATE NOTE: At 81 FR 19459, Apr. 4, 2016, §73.3615 was amended by revising paragraphs (a) through (f). These paragraphs contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§73.3617 Information available on the Internet.

The Media Bureau and each of its Divisions provide information on the Internet regarding rules and policies, pending and completed rulemakings, and pending applications. These sites also include copies of public notices and texts of recent decisions. The Media Bureau's address is *http://www.fcc.gov/mb/;* the Audio Division's address is *http://www.fcc.gov/mmb/audio;* the Video Division's address is *http://www.fcc.gov/mb/video;* the Policy Division's address is *http://www.fcc.gov/mb/policy;* the Engineering Division's address is *http://www.fcc.gov/mb/engineering;* and the Industry Analysis Division's address is *http://www.fcc.gov/mb/industry__analysis.*

[67 FR 13233, Mar. 21, 2002]

§73.3700 Post-incentive auction licensing and operation.

(a) *Definitions*—(1) *Broadcast television station.* For purposes of this section, broadcast television station means full power television stations and Class A television stations.

(2) *Channel reassignment public notice.* For purposes of this section, *Channel Reassignment Public Notice* means the public notice to be released upon the completion of the broadcast television spectrum incentive auction conducted

under section 6403 of the *Spectrum* Act specifying the new channel assignments and technical parameters of any broadcast television stations that are reassigned to new channels.

(3) *Channel sharee station*. For purposes of this section, *channel sharee station* means a broadcast television station for which a winning channel sharing bid, as defined in §1.2200(d) of this chapter, was submitted, or a broadcast television station for which a winning license relinquishment bid, as defined in §1.2200(g) of this chapter, was submitted where the station licensee executes and implements a post-auction channel sharing agreement.

(4) *Channel sharer station*. For purposes of this section, *channel sharer station* means a broadcast television station that shares its television channel with a channel sharee.

(5) *Channel sharing agreement (CSA)*. For purposes of this section, *channel sharing agreement* or *CSA* means an executed agreement between the licensee of a channel sharee station or stations and the licensee of a channel sharer station governing the use of the shared television channel.

(6) *High-VHF-to-Low-VHF station*. For purposes of this section, *High-VHF-to-Low-VHF station* means a broadcast television station for which a winning high-VHF-to-low-VHF bid, as defined in §1.2200(f) of this chapter, was submitted.

(7) *License relinquishment station*. For purposes of this section, *license relinquishment station* means a broadcast television station for which a winning license relinquishment bid, as defined in §1.2200(g) of this chapter, was submitted.

(8) *MVPD*. For purposes of this section, *MVPD* means a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming as set forth in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

(9) *Pre-auction channel*. For purposes of this section, *pre-auction channel* means the channel that is licensed to a broadcast television station on the date that the Channel Reassignment Public Notice is released.

(10) *Predetermined cost estimate*. For purposes of this section, *predetermined cost estimate* means the estimated cost of an eligible expense as generally determined by the Media Bureau in a catalog of expenses eligible for reimbursement.

(11) *Post-auction channel*. For purposes of this section, *post-auction channel* means the channel specified in the Channel Reassignment Public Notice or a channel authorized by the Media Bureau in a construction permit issued after the date that the Channel Reassignment Public Notice is released under the procedures set forth in paragraph (b) of this section.

(12) *Reassigned station*. For purposes of this section, a *reassigned station* means a broadcast television station that is reassigned to a new channel in the Channel Reassignment Public Notice, not including channel sharing stations, UHF-to-VHF stations, or High-VHF-to-Low-VHF stations.

(13) *Reimbursement period*. For purposes of this section, *reimbursement period* means the period ending three years after the completion of the forward auction pursuant to section 6403(b)(4)(D) of the *Spectrum Act*.

(14) *Spectrum Act*. The term *Spectrum Act* means Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96).

(15) *Transitioning station*. For purposes of this section, a *transitioning station* means a:

(i) Reassigned station,

(ii) UHF-to-VHF station,

(iii) High-VHF-to-Low-VHF station,

(iv) License relinquishment station, or

(v) A channel sharee or sharer station.

(16) *TV broadcaster relocation fund*. For purposes of this section, the *TV Broadcaster Relocation Fund* means the fund established by section 6403(d)(1) of the *Spectrum Act*.

(17) *UHF-to-VHF station*. For purposes of this section, *UHF-to-VHF station* means a television station for which a winning UHF-to-VHF bid, as defined in §1.2200(l) of this chapter, was submitted.

(b) *Post-auction licensing*—(1) *Construction permit applications.* (i) Licensees of reassigned stations, UHF-to-VHF stations, and High-VHF-to-Low-VHF stations must file a minor change application for a construction permit for the channel specified in the Channel Reassignment Public Notice using FCC Form 2100 Schedule A (for a full power station) or E (for a Class A station) within three months of the release date of the Channel Reassignment Public Notice. Licensees that are unable to meet this filing deadline may request a waiver of the deadline no later than 30 days prior to the deadline.

(ii) A licensee of a reassigned station that is reassigned from one channel to a different channel within its existing band will be permitted to propose transmission facilities in its construction permit application that will extend its coverage contour, as defined by the technical parameters specified in the Channel Reassignment Public Notice, if such facilities:

(A) Are necessary to achieve the coverage contour specified in the Channel Reassignment Public Notice or to address loss of coverage area resulting from the new channel assignment;

(B) Will not extend a full power television station's noise limited contour or a Class A television station's protected contour by more than one percent in any direction; and

(C) Will not cause new interference, other than a rounding tolerance of 0.5 percent, to any other broadcast television station.

(iii) The licensee of a UHF-to-VHF station or High-VHF-to-Low-VHF station will be permitted to propose transmission facilities in its construction permit application that will extend its coverage contour, as defined by the technical parameters specified in the Channel Reassignment Public Notice, if the proposed facility will not cause new interference, other than a rounding tolerance of 0.5 percent, to any other broadcast television station.

(iv) *Priority filing window.* (A) The licensee of a reassigned station, a UHF-to-VHF station, or a High-VHF-to-Low-VHF station that, for reasons beyond its control, is unable to construct facilities that meet the technical parameters specified in the Channel Reassignment Public Notice, or the permissible contour coverage variance from those technical parameters specified in paragraph (b)(1)(ii) or (iii) of this section, may request a waiver of the construction permit application deadline specified in paragraph (b)(1)(i) no later than 30 days prior to the deadline. If its waiver request is granted, the licensee will be afforded an opportunity to submit an application for a construction permit pursuant to paragraph (b)(2)(i) or (ii) of this section in a priority filing window to be announced by the Media Bureau by public notice.

(B) The licensee of any broadcast television station that the Commission makes all reasonable efforts to preserve pursuant to section 6403(b)(2) of the Spectrum Act that is predicted to experience a loss in population served in excess of one percent as a result of the repacking process, either because of new station-to-station interference or terrain loss resulting from a new channel assignment (or a combination of both), will be afforded an opportunity to submit an application for a construction permit pursuant to paragraph (b)(2)(i) or (ii) of this section in the priority filing window required by paragraph (b)(1)(iv)(A) of this section.

(v) Construction permit applications filed pursuant to paragraph (b)(1)(i) of this section will be afforded expedited processing if the application:

(A) Does not seek to expand the coverage area, as defined by the technical parameters specified in the Channel Reassignment Public Notice, in any direction;

(B) Seeks authorization for facilities that are no more than five percent smaller than those specified in the Channel Reassignment Public Notice with respect to predicted population served; and

(C) Is filed within the three-month deadline specified in paragraph (b)(1)(i) of this section.

(vi) *Delegation of authority.* The Commission delegates authority to the Chief, Media Bureau to establish construction periods for reassigned stations, UHF-to-VHF stations, and High-VHF-to-Low-VHF stations.

(vii) Channel sharee stations must file a minor change application for a construction permit for the channel on

which the channel sharer operates at least sixty (60) days prior to the date by which it must terminate operations on its pre-auction channel pursuant to paragraphs (b)(4)(i) and (ii) of this section. The application must include a copy of the executed channel sharing agreement.

(2) *Applications for alternate channels and expanded facilities—*

(i) *Alternate channels.* The licensee of a reassigned station, a UHF-to-VHF station, or a High-VHF-to-Low-VHF station, or a broadcast television station described in paragraph (b)(1)(iv)(B) of this section will be permitted to file a major change application for a construction permit for an alternate channel on FCC Form 2100 Schedules A (for a full power station) and E (for a Class A station) during a filing window to be announced by the Media Bureau by public notice, provided that:

(A) The licensee of a UHF-to-VHF station cannot request an alternate UHF channel;

(B) The licensee of a UHF-to-VHF station that specified the high-VHF band or the low-VHF band in its UHF-to-VHF bid cannot request a VHF channel outside of the assigned band; and

(C) The licensee of a High-VHF-to-Low-VHF station cannot request an alternate high-VHF channel.

(ii) *Expanded facilities.* The licensee of a reassigned station, a UHF-to-VHF station, or a High-VHF-to-Low-VHF station, or a broadcast television station described in paragraph (b)(1)(iv)(B) of this section will be permitted to file a minor change application for a construction permit on FCC Form 2100 Schedules A (for a full power station) and E (for a Class A station) during a filing window to be announced by the Media Bureau by public notice, in order to request a change in the technical parameters specified in the Channel Reassignment Public Notice (or, in the case of a broadcast television station described in paragraph (b)(1)(iv)(B) of this section that is not reassigned to a new channel, a change in its authorized technical parameters) with respect to height above average terrain (HAAT), effective radiated power (ERP), or transmitter location that would be considered a minor change under § 73.3572(a)(1) and (2) or § 74.787(b) of this chapter.

(iii) *Delegation of authority.* The Commission delegates authority to the Chief, Media Bureau to:

(A) Announce filing opportunities for alternate channels and expanded facilities applications and specifying appropriate processing guidelines, including the standards to qualify for priority filing, cut-off protections, and means to avoid or resolve mutual exclusivity between applications; and

(B) Establish construction periods for permits authorizing alternate channels or expanded facilities.

(3) *License applications for channel sharing stations.* The licensee of each channel sharee station and channel sharer station must file an application for a license for the shared channel using FCC Form 2100 Schedule B (for a full power station) or F (for a Class A station) within six months of the date that the channel sharee station licensee receives its incentive payment pursuant to section 6403(a)(1) of the *Spectrum Act.*

(4) *Deadlines to terminate operations on pre-auction channels.* (i) The licensee of a license relinquishment station must comply with the notification and cancellation procedures in § 73.1750 and terminate operations on its pre-auction channel within three months of the date that the licensee receives its incentive payment pursuant to section 6403(a)(1) of the *Spectrum Act.*

(ii) The licensee of a channel sharee station and a licensee of a license relinquishment station that has indicated in its Form 177 an intent to enter into a post-auction channel sharing agreement must comply with the notification and cancellation procedures in § 73.1750 and terminate operations on its pre-auction channel within six months of the date that the licensee receives its incentive payment pursuant to section 6403(a)(1) of the Spectrum Act.

(iii) All reassigned stations, UHF-to-VHF stations, and High-VHF-to-Low-VHF stations must cease operating on their pre-auction channel once such station begins operating on its post-auction channel or by the deadline specified in its construction permit for

its post-auction channel, whichever occurs earlier, and in no event later than the end of the post-auction transition period as defined in §27.4 of this chapter.

(5) *Applications for additional time to complete construction*—(i) *Delegation of authority*. Authority is delegated to the Chief, Media Bureau to grant a single extension of time of up to six months to licensees of reassigned stations, UHF-to-VHF stations, and High-VHF-to-Low-VHF stations to complete construction of their post-auction channel upon demonstration by the licensee that failure to meet the construction deadline is due to circumstances that are either unforeseeable or beyond the licensee's control. Licensees needing additional time beyond such a single extension of time to complete construction shall be subject to the tolling provisions in §73.3598.

(ii) Circumstances that may justify an extension of the construction deadline of a licensee of a reassigned station, a UHF-to-VHF station, or a High-VHF-to-Low-VHF station include but are not limited to:

(A) Weather-related delays, including a tower location in a weather-sensitive area;

(B) Delays in construction due to the unavailability of equipment or a tower crew;

(C) Tower lease disputes;

(D) Unusual technical challenges, such as the need to construct a top-mounted or side-mounted antenna or the need to coordinate channel changes with another station; and

(E) Delays faced by licensees that must obtain government approvals, such as land use or zoning approvals, or that are subject to competitive bidding requirements prior to purchasing equipment or services.

(iii) A licensee of a reassigned station, UHF-to-VHF station, or High-VHF-to-Low-VHF station may rely on ''financial hardship'' as a criterion for seeking an extension of time if it is subject to an active bankruptcy or receivership proceeding, provided that the licensee makes an adequate showing that it has filed requests to proceed with construction in the relevant court proceedings. Any other licensee that seeks an extension of time based on financial hardship must demonstrate that, although it is not subject to an active bankruptcy or receivership proceeding, rare and exceptional financial circumstances warrant granting additional time to complete construction.

(iv) Applications for additional time to complete construction must be filed electronically in CDBS using FCC Form 337 no less than 90 days before the expiration of the construction permit.

(c) *Consumer education for transitioning stations.* (1) License relinquishment stations that operate on a commercial basis will be required to air at least one Public Service Announcement (PSA) and run at least one crawl in every quarter of every day for 30 days prior to the date that the station terminates operations on its pre-auction channel. One of the required PSAs and one of the required crawls must be run during prime time hours (for purposes of this section, between 8:00 p.m. and 11:00 p.m. in the Eastern and Pacific time zones, and between 7:00 p.m. and 10:00 p.m. in the Mountain and Central time zones) each day.

(2) Noncommercial educational full power television license relinquishment stations may choose to comply with these requirements in paragraph (c)(1) of this section or may air 60 seconds per day of on-air consumer education PSAs for 30 days prior to the station's termination of operations on its pre-auction channel.

(3) Transitioning stations, except for license relinquishment stations, must air 60 seconds per day of on-air consumer education PSAs or crawls for 30 days prior to the station's termination of operations on its pre-auction channel.

(4) *Transition crawls.* (i) Each crawl must run during programming for no less than 60 consecutive seconds across the bottom or top of the viewing area and be provided in the same language as a majority of the programming carried by the transitioning station.

(ii) Each crawl must include the date that the station will terminate operations on its pre-auction channel; inform viewers of the need to rescan if the station has received a new post-

auction channel assignment; and explain how viewers may obtain more information by telephone or online.

(5) *Transition PSAs.* (i) Each PSA must have a duration of at least 15 seconds.

(ii) Each PSA must be provided in the same language as a majority of the programming carried by the transitioning station; include the date that the station will terminate operations on its pre-auction channel; inform viewers of the need to rescan if the station has received a new post-auction channel assignment; explain how viewers may obtain more information by telephone or online; and for stations with new post-auction channel assignments, provide instructions to both over-the-air and MVPD viewers regarding how to continue watching the television station; and be closed-captioned.

(6) Licensees of transitioning stations, except for license relinquishment stations, must place a certification of compliance with the requirements in paragraph (c) of this section in their online public file within 30 days after beginning operations on their post-auction channels. Licensees of license relinquishment stations must include the certification in their notification of discontinuation of service pursuant to § 73.1750 of this chapter.

(d) *Notice to MVPDs.* (1) Licensees of transitioning stations must provide notice to MVPDs that:

(i) No longer will be required to carry the station because it will cease operations or because of the relocation of a channel sharee station;

(ii) Currently carry and will continue to be obligated to carry a station that will have a new post-auction channel assignment; or

(iii) Will become obligated to carry a station due to the relocation of a channel sharee station.

(2) The notice to MVPDs must be provided in the form of a letter notification and must contain the following information:

(i) Date and time of any channel changes;

(ii) Pre-auction and post-auction channels;

(iii) Modification (if any) to antenna position, location or power levels;

(iv) Stream identification information for channel sharing stations; and

(v) Engineering staff contact information.

(3) Should any of the information in (d)(2) of this section change during the time that the station is transitioning from its pre-auction to its post-auction channel, an amended notification must be sent.

(4) For cable systems, the notification letter must be addressed to the system's official address of record provided in the cable system's most recent filing in the Commission's Cable Operations and Licensing System (COALS) Form 322. For all other MVPDs, the notification letter must be addressed to the official corporate address registered with their State of incorporation.

(5) Notification letters must be sent within the following time frames:

(i) For license relinquishment stations, not less than 30 days prior to terminating operations;

(ii) For channel sharee stations, not less than 30 days prior to terminating operations of the pre-auction channel;

(iii) For channel sharee and channel sharer stations, not less than 30 days prior to initiation of operations on the shared channel; and

(iv) For reassigned stations, UHF-to-VHF stations, and High-VHF-to-Low-VHF stations, not less than 90 days prior to the date on which they will begin operations on their post-auction channel.

(v) If a station's anticipated transition date changes due to an unforeseen delay or change in transition plan, the licensee must send a further notice to affected MVPDs informing them of the new anticipated transition date.

(e) *Reimbursement rules*—(1) *Entities eligible for reimbursement.* The Commission will reimburse relocation costs reasonably incurred only by:

(i) The licensees of full power and Class A broadcast television stations that are reassigned under section 6403(b)(1)(B)(i) of the *Spectrum Act,* including channel sharer stations that are reassigned to a new channel in the Channel Reassignment Public Notice; and

(ii) MVPDs in order to continue to carry the signal of a full power or Class A broadcast television station that is:

(A) Described in paragraph (e)(1)(i) of this section;

(B) A UHF-to-VHF station;

(C) A High-VHF-to-Low-VHF station; or

(D) A channel sharee station.

(2) *Estimated costs.* (i) No later than three months following the release of the Channel Reassignment Public Notice, all broadcast television station licensees and MVPDs that are eligible to receive payment of relocation costs will be required to file an estimated cost form providing an estimate of their reasonably incurred relocation costs.

(ii) Each broadcast television station licensee and MVPD that submits an estimated cost form will be required to certify, *inter alia,* that:

(A) It believes in good faith that it will reasonably incur all of the estimated costs that it claims as eligible for reimbursement on the estimated cost form;

(B) It will use all money received from the TV Broadcaster Relocation Fund only for expenses it believes in good faith are eligible for reimbursement;

(C) It will comply with all policies and procedures relating to allocations, draw downs, payments, obligations, and expenditures of money from the TV Broadcaster Relocation Fund;

(D) It will maintain detailed records, including receipts, of all costs eligible for reimbursement actually incurred; and

(E) It will file all required documentation of its relocation expenses as instructed by the Media Bureau.

(iii) If a broadcast television station licensee or MVPD seeks reimbursement for new equipment, it must provide a justification as to why it is reasonable under the circumstances to purchase new equipment rather than modify its corresponding current equipment in order to change channels or to continue to carry the signal of a broadcast television station that changes channels.

(iv) Entities that submit their own cost estimates, as opposed to the predetermined cost estimates provided in the estimated cost form, must submit supporting evidence and certify that the estimate is made in good faith.

(3) *Final Allocation Deadline.* (i) Upon completing construction or other reimbursable changes, or by a specific deadline prior to the end of the Reimbursement Period to be established by the Media Bureau, whichever is earlier, all broadcast television station licensees and MVPDs that received an initial allocation from the TV Broadcaster Relocation Fund must provide the Commission with information and documentation, including invoices and receipts, regarding their actual expenses incurred as of a date to be determined by the Media Bureau (the ''Final Allocation Deadline'').

(ii) If a broadcast television station licensee or MVPD has not yet completed construction or other reimbursable changes by the Final Allocation Deadline, it must provide the Commission with information and documentation regarding any remaining eligible expenses that it expects to reasonably incur.

(4) *Final accounting.* After completing all construction or reimbursable changes, broadcast television station licensees and MVPDs that have received money from the TV Broadcaster Relocation Fund will be required to submit final expense documentation containing a list of estimated expenses and actual expenses as of a date to be determined by the Media Bureau. Entities that have finished construction and have submitted all actual expense documentation by the Final Allocation Deadline will not be required to file at the final accounting stage.

(5) *Progress reports.* Broadcast television station licensees and MVPDs that receive payment from the TV Broadcaster Relocation Fund are required to submit progress reports at a date and frequency to be determined by the Media Bureau.

(6) *Documentation requirements.* (i) Each broadcast television station licensee and MVPD that receives payment from the TV Broadcaster Relocation Fund is required to retain all relevant documents pertaining to construction or other reimbursable changes for a period ending not less than 10 years after the date on which it

receives final payment from the TV Broadcaster Relocation Fund.

(ii) Each broadcast television station licensee and MVPD that receives payment from the TV Broadcaster Relocation Fund must make available all relevant documentation upon request from the Commission or its contractor.

(7) *Delegation of authority.* The Commission delegates authority to the Chief, Media Bureau, to adopt the necessary policies and procedures relating to allocations, draw downs, payments, obligations, and expenditures of money from the TV Broadcaster Relocation Fund in order to protect against waste, fraud, and abuse and in the event of bankruptcy, to establish a catalog of expenses eligible for reimbursement and predetermined cost estimates, review the estimated cost forms, issue initial allocations for costs reasonably incurred pursuant to section 6403(b)(4) of the Spectrum Act, set filing deadlines and review information and documentation regarding progress reports, final allocations, and final accountings, and issue final allocations to reimburse for costs reasonably incurred pursuant to section 6403(b)(4) of the Spectrum Act.

(f) *Service rule waiver*—(1) *Waiver requests.* (i) A broadcast television station licensee described in paragraph (e)(1)(i) of this section may file a request with the Chief, Media Bureau for a waiver of the Commission's service rules pursuant to section 6403(b)(4)(B) of the *Spectrum Act* during a 30-day window commencing upon the date that the Channel Reassignment Public Notice is released.

(ii) A broadcast television station licensee may request that a waiver be granted on a temporary or permanent basis.

(2) A licensee will have 10 days following a grant of the waiver to notify the Commission whether it accepts the terms of the waiver.

(3) A licensee is required to meet all requirements for receiving payment of relocation costs under section 6403(b)(4) of the Spectrum Act established by the Commission, including the requirements of paragraph (e) of this section, until its waiver request is granted and the licensee accepts the terms of the waiver.

(4) A licensee that is granted and accepts the terms of the waiver or a licensee with a pending waiver application must comply with all filing and notification requirements, construction schedules, and other post-auction transition deadlines set forth in paragraphs (b), (c), and (d) of this section.

(g) *Low Power TV and TV translator stations.* (1) Licensees of operating low power TV and TV translator stations that are displaced by a broadcast television station or a wireless service provider or whose channel is reserved as a guard band as a result of the broadcast television spectrum incentive auction conducted under section 6403 of the *Spectrum Act* shall be permitted to submit an application for displacement relief in a restricted filing window to be announced by the Media Bureau by public notice. Except as otherwise indicated in this section, such applications will be subject to the rules governing displacement applications set forth in §§ 73.3572(a)(4) and 74.787(a)(4) of this chapter.

(2) In addition to other interference protection requirements set forth in the rules, when requesting a new channel in a displacement application, licensees of operating low power TV and TV translator stations will be required to demonstrate that the station would not cause interference to the predicted service of broadcast television stations on:

(i) Pre-auction channels;

(ii) Channels assigned in the Channel Reassignment Public Notice; or

(iii) Alternative channels or expanded facilities broadcast television station licensees have applied for pursuant to paragraph (b)(2) of this section.

(3) *Mutually exclusive displacement applications.* Licensees of low power TV and TV translator stations that file mutually exclusive displacement applications will be permitted to resolve the mutual exclusivity through an engineering solution or settlement agreement. If no resolution of mutually exclusive displacement applications occurs, a selection priority will be granted to the licensee of a displaced digital replacement translator.

(4) *Notification and termination provisions for displaced low power TV and TV*

translator stations. (i) A wireless licensee assigned to frequencies in the 600 MHz band under part 27 of this chapter must notify low power TV and TV translator stations of its intent to commence operations, as defined in §27.4 of this chapter, and the likelihood of receiving harmful interference from the low power TV or TV translator station to such operations within the wireless licensee's licensed geographic service area.

(ii) The new wireless licensees must:

(A) Notify the low power TV or TV translator station in the form of a letter, via certified mail, return receipt requested;

(B) Indicate the date the new wireless licensee intends to commence operations, as defined in §27.4 of this chapter, in areas where there is a likelihood of receiving harmful interference from the low power TV or TV translator station; and

(C) Send such notification not less than 120 days in advance of the commencement date.

(iii) Low power TV and TV translator stations may continue operating on frequencies in the 600 MHz band assigned to wireless licensees under part 27 of this chapter until the wireless licensee commences operations, as defined in §27.4 of this chapter, as indicated in the notification sent pursuant to this paragraph.

(iv) After receiving notification, the low power TV or TV translator licensee must cease operating or reduce power in order to eliminate the potential for harmful interference before the commencement date set forth in the notification.

(v) Low power TV and TV translator stations that are operating on the UHF spectrum that is reserved for guard band channels as a result of the broadcast television incentive auction conducted under section 6403 of the *Spectrum Act* may continue operating on such channels until the end of the post-auction transition period as defined in §27.4 of this chapter, unless they receive notification from a new wireless licensee pursuant to the requirements of paragraph (g)(4) of this section that they are likely to cause harmful interference in areas where the wireless licensee intends to commence operations, as defined in §27.4 of this chapter, in which case the requirements of paragraph (g)(4) of this section will apply.

(h) *Channel sharing operating rules.* (1) Each broadcast television station licensee that is a party to a CSA shall continue to be licensed and operated separately, have its own call sign, and be separately subject to all of the Commission's obligations, rules, and policies applicable to the television service.

(2) Upon termination of the license of a party to a CSA, the spectrum usage rights covered by that license may revert to the remaining parties to the CSA. Such reversion shall be governed by the terms of the CSA in accordance with paragraph (h)(5)(i)(E) of this section. If upon termination of the license of a party to a CSA only one party to the CSA remains, the remaining licensee may file an application to change its license to non-shared status using FCC Form 2100, Schedule B (for a full power licensee) or F (for a Class A licensee).

(3) *Channel sharing between full power television and Class A television stations.* (i) A CSA may be executed between licensees of full power television stations, between licensees of Class A television stations, and between licensees of full power and Class A television stations.

(ii) A Class A channel sharee station licensee that is a party to a CSA with a full power channel sharer station licensee must comply with the rules of part 73 governing power levels and interference, and must comply in all other respects with the rules and policies applicable to Class A television stations, as set forth in §§73.6000 *et seq.*

(iii) A full power channel sharee station licensee that is a party to a CSA with a Class A channel sharer station licensee must comply with the rules of part 74 of this chapter governing power levels and interference.

(iv) A Class A channel sharee station may qualify only for the cable carriage rights afforded to ''qualified low power television stations'' in §76.56(b)(3) of this chapter.

(4) *Channel sharing between commercial and noncommercial educational television*

stations. (i) A CSA may be executed between commercial and NCE broadcast television station licensees.

(ii) The licensee of an NCE station operating on a reserved channel under § 73.621 that becomes a party to a CSA, either as a channel sharee station or as a channel sharer station, will retain its NCE status and must continue to comply with § 73.621.

(iii) If the licensee of an NCE station operating on a reserved channel under § 73.621 becomes a party to a CSA, either as a channel sharee station or as a channel sharer station, the portion of the shared television channel on which the NCE station operates shall be reserved for NCE-only use.

(iv) The licensee of an NCE station operating on a reserved channel under § 73.621 that becomes a party to a CSA may assign or transfer its shared license only to an entity qualified under § 73.621 as an NCE television licensee.

(5) *Required CSA provisions.* (i) CSAs must contain provisions outlining each licensee's rights and responsibilities regarding:

(A) Access to facilities, including whether each licensee will have unrestrained access to the shared transmission facilities;

(B) Allocation of bandwidth within the shared channel;

(C) Operation, maintenance, repair, and modification of facilities, including a list of all relevant equipment, a description of each party's financial obligations, and any relevant notice provisions;

(D) Transfer/assignment of a shared license, including the ability of a new licensee to assume the existing CSA; and

(E) Termination of the license of a party to the CSA, including reversion of spectrum usage rights to the remaining parties to the CSA.

(ii) CSAs must include provisions:

(A) Affirming compliance with the requirements in paragraph (h)(5) of this section and all relevant Commission rules and policies; and

(B) Requiring that each channel sharing licensee shall retain spectrum usage rights adequate to ensure a sufficient amount of the shared channel capacity to allow it to provide at least one Standard Definition (SD) program stream at all times.

(6) If the rights under a CSA are transferred or assigned, the assignee or the transferee must comply with the terms of the CSA. If the transferee or assignee and the licensees of the remaining channel sharing station or stations agree to amend the terms of the existing CSA, the agreement may be amended, subject to Commission approval.

(7) *Preservation of carriage rights.* A channel sharee station that possessed carriage rights under section 338, 614, or 615 of the Communications Act of 1934 (47 U.S.C. 338; 534; 535) on November 30, 2010, shall have, at its shared location, the carriage rights under such section that would apply to such station at the shared location if it were not sharing a channel.

(i) A broadcast television station licensed in the 600 MHz band, as that band is defined in section 27.5(l)—

(1) Shall not be permitted to modify its facilities, except as provided in paragraph (b)(1)(ii) of this section, if such modification will expand its noise limited service contour (in the case of a full power station) or protected contour (in the case of a Class A station) in such a way as to:

(i) Increase the potential of harmful interference to a wireless licensee which is co-channel or adjacent channel to the broadcast television station; or

(ii) Require such a wireless licensee to restrict its operations in order to avoid causing harmful interference to the broadcast television station's expanded noise limited service or protected contour;

(2) Shall be permitted to modify its facilities, even when prohibited by paragraph (i)(1) of this section, if all the wireless licensees in paragraph (i)(1) who either will experience an increase in the potential for harmful interference or must restrict their operations in order to avoid causing interference agree to permit the modification and the modification otherwise meets all the requirements in this part;

(3) For purposes of this section, the following definitions apply:

(i) Co-channel operations in the 600 MHz band are defined as operations of

broadcast television stations and wireless services where their assigned channels or frequencies spectrally overlap.

(ii) Adjacent channel operations are defined as operations of broadcast television stations and wireless services where their assigned channels or frequencies spectrally abut each other or are separated by up to 5 MHz.

[79 FR 48539, Aug. 15, 2014, as amended at 79 FR 76914, Dec. 23, 2014; 80 FR 46846, Aug. 6, 2015; 80 FR 67342, 67346, Nov. 2, 2015; 80 FR 71743, Nov. 17, 2015; 81 FR 4975, Jan. 29, 2016]

§ 73.3800 Full power television channel sharing outside the incentive auction.

(a) *Eligibility*. Subject to the provisions of this section, a full power television station with an auction-related Channel Sharing Agreement (CSA) may voluntarily seek Commission approval to relinquish its channel to share a single six megahertz channel with a full power, Class A, low power, or TV translator television station. An auction-related CSA is a CSA filed with and approved by the Commission pursuant to § 73.3700(b)(1)(vii).

(b) *Licensing of channel sharing stations*. (1) Each station sharing a single channel pursuant to this section shall continue to be licensed and operated separately, have its own call sign, and be separately subject to all applicable Commission obligations, rules, and policies.

(2) A full power television channel sharing station relinquishing its channel must file an application for a construction permit (FCC Form 2100), include a copy of the CSA as an exhibit, and cross reference the other sharing station(s). Any engineering changes necessitated by the CSA may be included in the station's application. Upon initiation of shared operations, the station relinquishing its channel must notify the Commission that it has terminated operation pursuant to § 73.1750 and each sharing station must file an application for license (FCC Form 2100).

(c) *Channel sharing between full power television stations and Class A, Low power television, or TV translator stations*. (1) A full power television sharee station (defined as a station relinquishing a channel in order to share) that is a party to a CSA with a Class A sharer station (defined as the station hosting a sharee pursuant to a CSA) must comply with the rules governing power levels and interference applicable to Class A stations, and must comply in all other respects with the rules and policies applicable to full power television stations set forth in this part.

(2) A full power television sharee station that is a party to a CSA with a low power television or TV translator sharer station must comply with the rules of part 74 of this chapter governing power levels and interference applicable to low power television or TV translator stations, and must comply in all other respects with the rules and policies applicable to full power television stations set forth in this part.

(d) *Channel sharing between commercial and noncommercial educational television stations*. (1) A CSA may be executed between commercial and NCE broadcast television station licensees.

(2) The licensee of an NCE station operating on a reserved channel under § 73.621 that becomes a party to a CSA, either as a channel sharee station or as a channel sharer station, will retain its NCE status and must continue to comply with § 73.621.

(3) If the licensee of an NCE station operating on a reserved channel under § 73.621 becomes a party to a CSA, either as a channel sharee station or as a channel sharer station, the portion of the shared television channel on which the NCE station operates shall be reserved for NCE–only use.

(4) The licensee of an NCE station operating on a reserved channel under § 73.621 that becomes a party to a CSA may assign or transfer its shared license only to an entity qualified under § 73.621 as an NCE television licensee.

(e) *Deadline for implementing CSAs*. CSAs submitted pursuant to this section must be implemented within three years of the grant of the channel sharing construction permit.

(f) *Channel sharing agreements (CSAs)*. (1) CSAs submitted under this section must contain provisions outlining each licensee's rights and responsibilities regarding:

(i) Access to facilities, including whether each licensee will have unrestrained access to the shared transmission facilities;

(ii) Allocation of bandwidth within the shared channel;

(iii) Operation, maintenance, repair, and modification of facilities, including a list of all relevant equipment, a description of each party's financial obligations, and any relevant notice provisions; and

(iv) Transfer/assignment of a shared license, including the ability of a new licensee to assume the existing CSA; and

(v) Termination of the license of a party to the CSA, including reversion of spectrum usage rights to the remaining parties to the CSA.

(2) CSAs must include provisions:

(i) Affirming compliance with the channel sharing requirements in this section and all relevant Commission rules and policies; and

(ii) Requiring that each channel sharing licensee shall retain spectrum usage rights adequate to ensure a sufficient amount of the shared channel capacity to allow it to provide at least one Standard Definition program stream at all times.

(g) *Termination and assignment/transfer of shared channel.* (1) Upon termination of the license of a party to a CSA, the spectrum usage rights covered by that license may revert to the remaining parties to the CSA. Such reversion shall be governed by the terms of the CSA in accordance with paragraph (f)(1)(v) of this section. If upon termination of the license of a party to a CSA only one party to the CSA remains, the remaining licensee may file an application for license to change its status to non-shared.

(2) If the rights under a CSA are transferred or assigned, the assignee or the transferee must comply with the terms of the CSA in accordance with paragraph (f)(1)(iv) of this section. If the transferee or assignee and the licensees of the remaining channel sharing station or stations agree to amend the terms of the existing CSA, the agreement may be amended, subject to Commission approval.

(h) *Notice to MVPDs.* (1) Stations participating in channel sharing agreements must provide notice to MVPDs that:

(i) No longer will be required to carry the station because of the relocation of the station;

(ii) Currently carry and will continue to be obligated to carry a station that will change channels; or

(iii) Will become obligated to carry the station due to a channel sharing relocation.

(2) The notice required by this section must contain the following information:

(i) Date and time of any channel changes;

(ii) The channel occupied by the station before and after implementation of the CSA;

(iii) Modification, if any, to antenna position, location, or power levels;

(iv) Stream identification information; and

(v) Engineering staff contact information.

(3) Should any of the information in paragraph (h)(2) of this section change, an amended notification must be sent.

(4) Sharee stations must provide notice as required by this section at least 90 days prior to terminating operations on the sharee's channel. Sharer stations and sharee stations must provide notice as required by this section at least 90 days prior to initiation of operations on the sharer channel. Should the anticipated date to either cease operations or commence channel sharing operations change, the stations must send a further notice to affected MVPDs informing them of the new anticipated date(s).

(5) Notifications provided to cable systems pursuant to this section must be either mailed to the system's official address of record provided in the cable system's most recent filing in the FCC's Cable Operations and Licensing System (COALS) Form 322, or emailed to the system if the system has provided an email address. For all other MVPDs, the letter must be addressed to the official corporate address registered with their State of incorporation.

[82 FR 18249, Apr. 18, 2017]

§ 73.3999 Enforcement of 18 U.S.C. 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.

[60 FR 44439, Aug. 28, 1995]

§ 73.4000 Listing of FCC policies.

The following sections list, solely for the purpose of reference and convenience, certain Policies of the FCC. The present listing of FCC policies and citations thereto should not be relied upon as an all-inclusive list, and the failure to include a policy in this list does not affect its validity. Each section bears the title of one Policy and the citations which will direct the user to the specific document(s) pertaining to that Policy.

[44 FR 36387, June 22, 1979]

§ 73.4005 Advertising—refusal to sell.

See 412 U.S. 94 (Supreme Court, 1973).

[44 FR 36388, June 22, 1979]

§ 73.4015 Applications for AM and FM construction permits, incomplete or defective.

See Public Notice, FCC 84–366, dated August 2, 1984, 49 FR 47331, December 3, 1984.

[49 FR 50048, Dec. 26, 1984]

§ 73.4017 Application processing: Commercial FM stations.

See Report and Order, MM Docket 84–750, FCC 85–125, adopted March 4, 1985. 50 FR 19936, May 13, 1985.

[59 FR 52086, Oct. 14, 1994]

§ 73.4045 Barter agreements.

See Order, FCC 72–167, adopted February 16, 1972. 33 FCC 2d 653; 37 FR 4009, February 25, 1972.

[44 FR 36388, June 22, 1979]

§ 73.4050 Children's TV programs.

(a) See Report and Policy Statement, Docket 19142, FCC 74–1174, adopted October 24, 1974. 50 FCC 2d 1; 39 FR 39396, November 6, 1974.

(b) See Report and Order; Policy Statement, Docket 19142, FCC 83–609, adopted December 22, 1983. 96 FCC 2d 634; 49 FR 1704, January 13, 1984.

(c) See Report and Order, MM Dockets 90–570 and 83–670, FCC 91–113, adopted April 9, 1991. 6 FCC Rcd 2111; 56 FR 19611, April 19, 1991; Memorandum Opinion and Order, MM Dockets 90–570 and 83–670, FCC 91–248, adopted August 1, 1991. 6 FCC Rcd 5093; 56 FR 42707, August 29, 1991.

[49 FR 14509, Apr. 12, 1984, as amended at 59 FR 52086, Oct. 14, 1994]

§ 73.4055 Cigarette advertising.

See 15 U.S.C. 1335.

[44 FR 36388, June 22, 1979]

§ 73.4060 Citizens agreements.

(a) See Report and Order, Docket 20495, FCC 75–1359, adopted December 10, 1975. 57 F.C.C. 2d 42; 40 F.R. 49730, December 30, 1975.

(b) See Memorandum Opinion and Order, FCC 78–875, adopted December 21, 1978. 70 F.C.C. 2d 1672.

[44 FR 58720, Oct. 11, 1979]

§ 73.4075 Commercials, loud.

See Memorandum Opinion and Order, BC Docket 79–168, FCC 84–300, adopted June 27, 1984. 49 FR 28077, July 10, 1984.

[49 FR 38132, Sept. 27, 1984]

§ 73.4082 Comparative broadcast hearings—specialized programming formats.

(a) See Memorandum Opinion and Order, FCC 80–33, adopted January 30, 1980. 75 FCC 2d 721.

(b) See Report and Order, Docket 79–137, FCC 79–331, adopted June 1, 1979. 72 FCC 2d 202.

(c) See Memorandum Opinion and Order, FCC 79–206, adopted March 30, 1979. 71 FCC 2d 460.

[47 FR 3792, Jan. 27, 1982]

§ 73.4091 Direct broadcast satellites.

(a) See Report and Order, General Docket 80–603, FCC 82–285, adopted June 23, 1982. 90 FCC 2d 676; 47 FR 31555, July 21, 1982.

(b) See Memorandum Opinion and Order, FCC 82–427, adopted September 23, 1982. 91 FCC 2d.

(c) See Memorandum Opinion and Order, FCC 82–498, adopted November 4, 1982. 91 FCC 2d.

[48 FR 9012, Mar. 3, 1983]

§ 73.4094 Dolby encoder.

See Public Notice dated July 10, 1974, 72 FCC 2d 790.

[45 FR 6403, Jan. 28, 1980]

§ 73.4095 Drug lyrics.

(a) See Public Notice, FCC 71–205, dated March 5, 1971. 28 FCC 2d 409; 36 FR 4901, March 13, 1971.

(b) See Memorandum Opinion and Order, FCC 71–428, adopted April 16, 1971. 31 FCC 2d 377; 36 FR 8090, April 29, 1971.

[44 FR 36388, June 22, 1979]

§ 73.4097 EBS (now EAS) attention signals on automated programing systems.

See Public Notice dated March 1, 1979. 72 FCC 2d 788; 44 FR 17792, March 23, 1979.

[49 FR 50049, Dec. 26, 1984, as amended at 59 FR 67103, Dec. 28, 1994]

§ 73.4099 Financial qualifications, certification of.

See Public Notice, FCC 87–97, adopted March 19, 1987. 52 FR 17333, May 7, 1987.

[53 FR 2499, Jan. 28, 1988]

§ 73.4100 Financial qualifications; new AM and FM stations.

See Public Notice, FCC 78–556, dated August 2, 1978. 69 FCC 2d 407; 43 FR 34841, August 7, 1978.

[44 FR 36388, June 22, 1979]

§ 73.4101 Financial qualifications, TV stations.

See Public Notice, FCC 79–299, dated May 11, 1979. 72 F.C.C. 2d 784; 44 FR 29160, May 18, 1979.

[45 FR 6403, Jan. 28, 1980]

§ 73.4102 FAA communications, broadcast of.

See Public Notice, FCC 72–105, dated February 2, 1972. 37 FR 3567, February 17, 1972.

[45 FR 6403, Jan. 28, 1980]

§ 73.4104 FM assignment policies and procedures.

See Report and Order, BC Docket 80–130, FCC 82–240, adopted May 20, 1982. 90 FCC 2d, 88; 47 FR 26625, June 21, 1982.

[47 FR 54448, Dec. 3, 1982]

§ 73.4107 FM broadcast assignments, increasing availability of.

(a) See, First Report and Order MM Docket 84–231, FCC 84–640, adopted December 19, 1984. 100 FCC 2d 1332; 50 FR 3514, January 25, 1994.

(b) See, Second Report and Order, MM Docket 84–231, FCC 85–124, adopted March 14, 1985. 101 FCC 2d 630; 50 FR 15558, April 19, 1985.

(c) See, Memorandum Opinion and Order, MM Docket 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.

[51 FR 26251, July 22, 1986, as amended at 52 FR 11656, Apr. 10, 1987; 59 FR 52086, Oct. 14, 1994]

§ 73.4108 FM transmitter site map submissions.

See Memorandum Opinion and Order and Public Notice, adopted October 24, 1986. 1 FCC Rcd 381 (1986); 51 FR 45945, December 23, 1986.

[52 FR 11656, Apr. 10, 1987]

§ 73.4110 Format changes of stations.

See Memorandum Opinion and Order, Docket 20682, FCC 76–744, adopted July 28, 1976. 60 FCC 2d 858; 41 FR 37153, September 2, 1976.

[44 FR 36388, June 22, 1979]

§ 73.4135 Interference to TV reception by FM stations.

See Public Notice, FCC 67–1012, dated August 30, 1967, 74 FCC 2d 619.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[44 FR 36388, June 22, 1979, as amended at 45 FR 28142, Apr. 28, 1980; 49 FR 45154, Nov. 15, 1984; 50 FR 5073, Feb. 6, 1985; 51 FR 26251, July 22, 1986]

§ 73.4140 Minority ownership; tax certificates and distress sales.

(a) See Public Notice, FCC 78–322, dated May 25, 1978. 68 FCC 2d 979; 43 FR 25188, June 9, 1978.

(b) See Public Notice, FCC 78–725, dated October 11, 1978. 43 FR 47612, October 16, 1978.

(c) See Policy Statement, General Docket 82–797, FCC 82–523, adopted December 2, 1982. 92 FCC 2d 849; 48 FR 5943, February 9, 1983.

(d) See Report and Order, General Docket 82–797, FCC 84–647, adopted December 21, 1984. 99 FCC 2d 1249; 50 FR 1239, January 10, 1985.

[44 FR 36388, June 22, 1979, as amended at 49 FR 38132, Sept. 27, 1984; 49 FR 50049, Dec. 26, 1984; 50 FR 47055, Nov. 14, 1985; 52 FR 11656, Apr. 10, 1987]

§ 73.4154 Network/AM, FM station affiliation agreements.

See Report, Statement of Policy, and Order, Docket 20721, FCC 77–206, adopted March 10, 1977. 63 FCC 2d 674.

[47 FR 28388, June 30, 1982]

§ 73.4157 Network signals which adversely affect affiliate broadcast service.

See Public Notice, FCC 79–387, dated April 20, 1970. 22 F.C.C. 2d 779.

[45 FR 6403, Jan. 28, 1980]

§ 73.4163 Noncommercial nature of educational broadcast stations.

(a) See Second Report and Order, BC Docket 21136, FCC 81–204, adopted April 23, 1981. 86 FCC 2d 141; 46 FR 27944, May 22, 1981.

(b) See Order, BC Docket 21136, FCC 82–327 adopted July 15, 1982. 90 FCC 2d 895; 47 FR 36171, August 19, 1982.

(c) See Memorandum Opinion and Order, BC Docket 21136, FCC 84–105, adopted March 28, 1984. 97 FCC 2d 255; 49 FR 13534, April 5, 1984.

(d) See, Public Notice, FCC 86–161, dated April 11, 1986. 51 FR 21800, June 16, 1986. Excerpt reprinted at 7 FCC Rcd 827.

(e) See Memorandum Opinion and Order, FCC 90–111, adopted March 28, 1990. 5 FCC Rcd 4920.

[47 FR 54448, Dec. 3, 1982, as amended at 51 FR 26251, July 22, 1986; 59 FR 52087, Oct. 14, 1994]

§ 73.4165 Obscene language.

(a) See *FCC* v. *Pacifica Foundation*, 438 U.S. 726, 57 L.Ed 2d 1073, 46 U.S.L.W. 5018 (1978). See also *Action for Children's Television* v. *FCC*, 852 F.2d 1332 (D.C. Cir. 1988).

(b) See *Action for Children's Television* v. *FCC*, [ACT III] 11 F.3d 170 (D.C. Cir. 1993). See also, *Action for Children's Television* v. *FCC*, [ACT IV] 15 F.3d 186 (D.C. Cir. 1994), rehearing granted, en banc.

(c) See Report and Order, GC Docket 92–223, FCC 93–42, adopted January 19, 1993. 8 FCC Rcd 704; 58 FR 5937, January 25, 1993.

(d) See Memorandum Opinion and Order, FCC 93–246, adopted May 11, 1993, 8 FCC Rcd 3600.

(e) See Letter to Rusk Corporation, dated May 6, 1993, FCC 93–229, 8 FCC Rcd 3228.

(f) See Memorandum Opinion and Order, FCC 93–4, adopted January 5, 1993. 8 FCC Rcd 498

(g) See *Branton* v. *FCC*, 993 F.2d 906 (D.C. Cir. 1993).

(h) See Memorandum Opinion and Order, DA 91–557, adopted April 30, 1991. 6 FCC Rcd 2560.

[59 FR 52087, Oct. 14, 1994]

§ 73.4170 Obscene broadcasts.

(a) See *Miller* v. *California*, 413 U.S.C. 15 (1973). See also *Pope* v. *Illinois*, 107 S.Ct. 1918 (1987). 18 U.S.C. 1464.

(b) See Memorandum Opinion and Order, MM Docket 83–575, FCC 88–4, adopted January 12, 1988. 3 FCC Rcd 757. See also Memorandum Opinion and Order, MM Docket 83–575, FCC 93–180, adopted April 2, 1993. 8 FCC Rcd 2753.

(c) See Memorandum Opinion and Order, FCC 87–365, adopted November 24, 1987. 3 FCC Rcd 930.

(d) See ''Memorandum of Understanding between the Federal Communications Commission and the Department of Justice concerning Complaints and Cases Involving Obscenity and Indecency,'' released April 9, 1991. See also News Release dated April 19, 1991.

[59 FR 52087, Oct. 14, 1994]

§ 73.4180 Payment disclosure: Payola, plugola, kickbacks.

(a) See 47 U.S.C. 507.

(b) See Public Notice, FCC 70–593, dated June 4, 1970. 23 FCC 2d 588; 35 FR 9045, June 11, 1970.

(c) See Public Notice, FCC 88–175, dated May 18, 1988.

[44 FR 36389, June 22, 1979, as amended at 49 FR 20504, May 15, 1984; 59 FR 52087, Oct. 14, 1994]

§ 73.4185 Political broadcasting and telecasting, the law of.

(a) See ''The Law of Political Broadcasting and Cablecasting: Political Primer 1984,'' 100 FCC 2d 1476 (1984).

(b) See Report and Order, MM Docket 91–168, FCC 91–403, adopted December 12, 1991. 7 FCC Rcd 678; 57 FR 189, January 3, 1992; Memorandum Opinion and Order, MM Docket 91–168, FCC 92–210, adopted May 14, 1992. 7 FCC Rcd 4611; 57 FR 27705, June 22, 1992.

[59 FR 52087, Oct. 14, 1994]

§ 73.4190 Political candidate authorization notice and sponsorship identification.

(a) See Joint Public Notice by the Federal Communications Commission and the Federal Election Commission, FCC 78–419, dated June 19, 1978. 69 FCC 2d 1129; 43 FR 30126, July 13, 1978.

(b) See Memorandum Opinion and Order, FCC 92–55, adopted February 12, 1992. 7 FCC Rcd 1616.

[44 FR 36389, June 22, 1979, as amended at 59 FR 52087, Oct. 14, 1994]

§ 73.4195 Political advertising by UHF translators.

See Public Notice, FCC 76936, dated October 8, 1976. 62 FCC 2d 896; 41 FR 45043, October 14, 1976.

[44 FR 36389, June 22, 1979]

§ 73.4210 Procedure Manual: "The Public and Broadcasting".

See FCC 74–942, dated September 5, 1974. 49 FCC 2d 1; 39 FR 32288, dated September 5, 1974.

[44 FR 36389, June 22, 1979]

§ 73.4215 Program matter: Supplier identification.

See Public Notice, FCC 73–595, dated June 1, 1973. 41 FCC 2d 333; 38 FR 14979, June 7, 1973.

[44 FR 36389, June 22, 1979]

§ 73.4242 Sponsorship identification rules, applicability of.

See Public Notice dated September 3, 1975, 40 FR 41936, September 9, 1975.

[47 FR 28388, June 30, 1982]

§ 73.4246 Stereophonic pilot subcarrier use during monophonic programming.

See Report and Order, Docket 19571, FCC 73–680, adopted June 21, 1973. 41 FCC 2d 534; 38 FR 17021, June 28, 1973.

[47 FR 3792, Jan. 27, 1982]

§ 73.4247 STV: Competing applications.

See Second Report and Order, Docket 21502, FCC 81–13, adopted January 8, 1981. 85 FCC 2d 631; 46 FR 19937, April 2, 1981.

[47 FR 3792, Jan. 27, 1982]

§ 73.4250 Subliminal perception.

(a) See Public Notice, FCC 74–78, dated January 24, 1974. 44 FCC 2d, 1016; 39 FR 3714, January 29, 1974.

(b) See FCC Information Bulletin, ''Subliminal Projection'', dated November 1977.

[44 FR 36389, June 22, 1979]

§ 73.4255 Tax certificates: Issuance of.

(a) See Public Notice, FCC 76–337, dated April 21, 1976. 59 FCC 2d, 91; 41 FR 17605, April 27, 1976.

(b) See Report and Order MM Docket 87–267, FCC 91–303 adopted, September 26, 1991. 6 FCC Rcd 6273; 56 FR 64842, December 12, 1991.

[56 FR 64874, Dec. 12, 1991, as amended at 59 FR 52087, Oct. 14, 1994]

§ 73.4260 Teaser announcements.

See Public Notice, FCC 62–592, dated June 1, 1962. 27 FR 5274, June 5, 1962.

[44 FR 36389, June 22, 1979]

§ 73.4265 Telephone conversation broadcasts (network and like sources).

See Memorandum Opinion and Order, FCC 75–1406, adopted December 18, 1975. 57 FCC 2d, 334; 41 FR 816, January 5, 1976.

[44 FR 36389, June 22, 1979]

§ 73.4266 Tender offer and proxy statements.

See *Policy Statement,* MM Docket 85–218, FCC 86–67, adopted January 30, 1986. 51 FR 9794, March 21, 1986.

[51 FR 26251, July 22, 1986]

§ 73.4267 Time brokerage.

(a) See Policy Statement, Docket 78–355, FCC 80–621, adopted October 21, 1980. 82 FCC 2d 107.

(b) See Report and Order, MM Docket 91–140, FCC 92–97, adopted March 12, 1992. 7 FCC Rcd 2755; 57 FR 18089, April 29, 1992.

(c) See Memorandum Opinion and Order and Further Notice of Proposed Rule Making, MM Docket 91–140, FCC 92–361, adopted August 5, 1992. 7 FCC Rcd 6387; 57 FR 42701, September 16, 1992.

[47 FR 3792, Jan. 27, 1982, as amended at 59 FR 52087, Oct. 14, 1994]

§ 73.4275 Tone clusters; audio attention-getting devices.

See Public Notice, FCC 76–610, dated July 2, 1976. 60 FCC 2d 920; 41 FR 28582, July 12, 1976.

[44 FR 36389, June 22, 1979]

§ 73.4280 Character evaluation of broadcast applicants.

(a) See Report and Order and Policy Statement, Gen. Docket 81–500, BC Docket 78–108, FCC 85–648, adopted December 10, 1985. 102 FCC 2d 1179; 51 FR 3049, January 23, 1986.

(b) See Policy Statement and Order, FCC 90–195, adopted May 10, 1990. 5 FCC Rcd 3252, 55 FR 23082, June 6, 1990.

(c) See Memorandum Opinion and Order, FCC 91–146, adopted May 1, 1991. 6 FCC Rcd 3448, 56 FR 25633, June 5, 1991.

(d) See Memorandum Opinion and Order, FCC 92–448, adopted September 18, 1992. 7 FCC Rcd 6564, 57 FR 47410, October 16, 1992.

[59 FR 52087, Oct. 14, 1994]

Subpart I—Procedures for Competitive Bidding and for Applications for Noncommercial Educational Broadcast Stations on Non-Reserved Channels

SOURCE: 63 FR 48629, Sept. 11, 1998, unless otherwise noted.

§ 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; television translator; and Class A television. Mutually exclusive applications for minor modifications of Class A television and television broadcast are also subject to competitive bidding. The general competitive bidding procedures set forth in part 1, subpart Q of this chapter will apply unless otherwise provided in part 73 or part 74 of this chapter.

(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. Applications for noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6), on non-reserved channels also are not subject to competitive bidding procedures.

[63 FR 48629, Sept. 11, 1998, as amended at 67 FR 45374, July 9, 2002; 68 FR 26228, May 15, 2003; 69 FR 72043, Dec. 10, 2004]

§ 73.5001 [Reserved]

§ 73.5002 Application and certification procedures; return of mutually exclusive applications not subject to competitive bidding procedures; prohibition of collusion.

(a) Prior to any broadcast service 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, and all applicants for noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6), on non-reserved channels, must file their applications for new broadcast facilities or for major changes to existing facilities. Broadcast service 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 auction, and applications for noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6), on non-reserved channels, as well as 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 that must be resolved through competitive bidding, 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, or in the event that any applications that are submitted that had been mutually exclusive with other applications in the same service are resolved as a result of the dismissal or modification of any applications, the non-mutually exclusive applications will be identified by public notice and will not be subject to auction.

(b) To participate in broadcast service auctions, or to apply for a noncommercial educational station, as described in 47 U.S.C. 397(6), on a non-reserved channel, all applicants must timely submit short-form applications (FCC Form 175), along with all required certifications, information and exhibits, pursuant to the provisions of §1.2105(a) of this chapter and any Commission public notices. So determinations of mutual exclusivity for auction purposes can be made, applicants for non-table broadcast services must also submit the engineering data contained in the appropriate FCC form (FCC Form 301, FCC Form 346, or FCC Form 349). Beginning January 1, 1999, all short-form applications must be filed electronically. If any application for a noncommercial educational broadcast station, as described in 47 U.S.C. 397(6), is mutually exclusive with applications for commercial broadcast stations, and the applicants that have the opportunity to resolve the mutually exclusivity pursuant to paragraphs (c) and (d) of this section fail to do so, the application for noncommercial educational broadcast station, as described in 47 U.S.C. 397(6), will be returned as unacceptable for filing, and the remaining applications for commercial broadcast stations will be processed in accordance with competitive bidding procedures.

(c) Applicants in all broadcast service auctions, and applicants for noncommercial educational stations, as described in 47 U.S.C. 397(6), on non-reserved channels 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 auctions, and applicants for noncommercial educational stations, as described in 47 U.S.C. 397(6), on non-reserved channels, 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 who file major modification applications that are mutually exclusive with each other;

(2) Applicants for all broadcast services who file major modification and

new station applications that are mutually exclusive with each other; or

(3) Applicants for the secondary broadcast services 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 auctions. Notwithstanding the general applicability of §1.2105(c) of this chapter to broadcast 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 who file major modification applications that are mutually exclusive with each other;

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

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

(e) Applicants seeking to resolve their mutual exclusivities by means of engineering solution or settlement during a limited period as specified by public notice, pursuant to paragraph (d) of this section, may submit a non-universal engineering solution or settlement proposal, so long as such engineering solution or settlement proposal results in the grant of at least one application from the mutually exclusive group. A technical amendment submitted under this subsection must resolve all of the applicant's mutual exclusivities with respect to the other applications in the specified mutually exclusive application group.

[69 FR 72043, Dec. 10, 2004, as amended at 75 FR 9806, Mar. 4, 2010]

§ 73.5003 Submission of full payments.

Winning bidders are required to pay the balance of their winning bids in a lump sum prior to the deadline established by the Commission pursuant to §1.2109(a) of this chapter. 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 in accordance with §1.2109(a) of this chapter. Broadcast construction permits will be granted by the Commission only after full and timely payment of winning bids and any applicable late fees and in accordance with the provisions of this section.

[71 FR 6228, Feb. 7, 2006]

§ 73.5004 [Reserved]

§ 73.5005 Filing of long-form applications.

(a) Within thirty (30) days following the close of bidding and notification to the winning bidders, unless a longer period is specified by public notice, each winning bidder must submit an appropriate long-form application (FCC Form 301, FCC Form 346, or FCC Form 349) 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 §1.2107(d) of this chapter (concerning any bidding consortia or joint bidding arrangements); §1.2110(j) of this chapter (concerning designated entity status, if applicable); and §1.2112 of this chapter (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 § 73.5002(b), was not mutually exclusive with any other short-form application in the same service, or whose short-form application was mutually exclusive only with one or more short-form applications for a noncommercial educational broadcast station, as described in 47 U.S.C. 397(6), 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 paragraph (a) of this section, 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.

[63 FR 48629, Sept. 11, 1998, as amended at 67 FR 45375, July 9, 2002; 68 FR 26229, May 15, 2003; 68 FR 43000, July 21, 2003; 69 FR 72044, Dec. 10, 2004; 75 FR 9806, Mar. 4, 2010]

§ 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 auctions and against the long-form applications filed by applicants whose short-form applications were not mutually exclusive with any other applicant, or whose short-form applications were mutually exclusive only with one or more short-form applications for a noncommercial educational broadcast station, as described in 47 U.S.C. 397(6).

(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 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, 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) Broadcast construction permits will be granted by the Commission only if the Commission denies or dismisses all petitions to deny, if any are filed, and is otherwise satisfied that an applicant is qualified, and after full and timely payment of winning bids and any applicable late fees. See 47 CFR 73.5003. Construction of broadcast stations shall not commence until the grant of such permit or license to the winning bidder and only after full and timely payment of winning bids and any applicable late fees.

[69 FR 72044, Dec. 10, 2004, as amended at 71 FR 6228, Feb. 7, 2006]

§ 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. Eligibility for the new entrant bidding credit must be specified in an applicant's FCC Form 175 application, and the new entrant bidding credit specified in an applicant's FCC Form 175 application establishes that applicant's maximum bidding credit eligibility for that auction. Any post-FCC Form 175 filing change in the applicant's circumstances underlying its new entrant bidding credit eligibility claim, or that of any attributable interest-holder in the applicant, must be reported to the Commission immediately, and no later than five business days after the change occurs. Any such post-FCC Form 175 filing change may cause a reduction or elimination of the new entrant bidding credit claimed in the applicant's FCC Form 175 application, if the change would cause the applicant not to qualify for the originally claimed new entrant bidding credit under the eligibility provisions of §73.5007, and the change occurred prior to grant of the construction permit to the applicant. Final determinations regarding new entrant status will be made at the time of long form construction permit application grant. Applicants whose eligibility is lost or reduced subsequent to the FCC Form 175 filing must, before a construction permit will be issued, make such payments as are necessary to account for the difference between claimed and actual bidding credit eligibility.

(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* §73.24(i));

(ii) FM Broadcast station—principal community contour (*see* §73.315(a));

(iii) Television broadcast station—television Grade B or equivalent contour (*see* §73.683(a) for analog TV and §73.622(e) for DTV);

(iv) Cable television system—the franchised community of a cable system; and

(v) Daily newspaper—community of publication.

(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* §73.24(i));

(ii) FM broadcast station—principal community contour (*see* §73.315(a));

(iii) FM translator station—predicted, protected contour (see §74.1204(a) of this chapter);

(iv) Television broadcast station—television Grade B or equivalent contour (*see* § 73.683(a) for analog TV and § 73.622(e) for DTV).

(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.

NOTE 1 TO § 73.5007: For purposes of paragraph (b)(3)(ii) of this section, the contour of the proposed new FM broadcast station is based on the maximum class facilities at the FM allotment site, which is defined as the perfectly circular standard 70 dBu contour distance for the class of station.

[64 FR 24526, May 7, 1999, as amended at 68 FR 46358, Aug. 5, 2003; 69 FR 72045, Dec. 10, 2004; 75 FR 9807, Mar. 4, 2010]

§ 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, or a direct broadcast satellite transponder.

(c)(1) 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 to § 73.3555. In addition, any interest 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.

(2) Notwithstanding paragraph (c)(1) of this section, where the winning bidder is an eligible entity, the combined equity and debt of the interest holder in the winning bidder may exceed the 33 percent threshold therein without triggering attribution, provided that:

(i) The combined equity and debt of the interest holder in the winning bidder is less than 50 percent, or

(ii) The total debt of the interest holder in the winning bidder does not exceed 80 percent of the asset value of the winning bidder and the interest

holder does not hold any equity interest, option, or promise to acquire an equity interest in the winning bidder or any related entity. For purposes of paragraph (c)(2) of this section, an ''eligible entity'' shall include any entity that qualifies as a small business under the Small Business Administration's size standards for its industry grouping, as set forth in 13 CFR 121.201, at the time the transaction is approved by the FCC, and holds:

(A) 30 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet; or

(B) 15 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet, provided that no other person or entity owns or controls more than 25 percent of the outstanding stock or partnership interests; or

(C) More than 50 percent of the voting power of the corporation that will own the media outlet if such corporation is a publicly traded company.

[63 FR 48629, Sept. 11, 1998, as amended at 64 FR 24527, May 7, 1999; 64 FR 44858, Aug. 18, 1999; 69 FR 72045, Dec. 10, 2004; 73 FR 28370, May 16, 2008; 75 FR 27200, May 14, 2010]

§ 73.5009 Assignment or transfer of control.

(a) The unjust enrichment provisions found at §1.2111(b) through (e) of this chapter shall not apply to applicants seeking approval of 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.

(b) The ownership disclosure requirements found at §1.2112(a) of this chapter shall not apply to an applicant seeking consent to assign or transfer control of a broadcast construction permit or license awarded by competitive bidding.

[67 FR 45375, July 9, 2002, as amended at 68 FR 43000, July 21, 2003]

Subpart J—Class A Television Broadcast Stations

SOURCE: 65 FR 30009, May 10, 2000, unless otherwise noted.

§ 73.6000 Definitions.

Locally produced programming. For the purpose of this subpart, locally produced programming is programming:

(1) Produced within the predicted Grade B contour of the station broadcasting the program or within the contiguous predicted Grade B contours of any of the stations in a commonly owned group; or

(2) Produced within the predicted DTV noise-limited contour (*see* §73.622(e) of this part) of a digital Class A station broadcasting the program or within the contiguous predicted DTV noise-limited contours of any of the digital Class A stations in a commonly owned group; or

(3) Programming produced at the station's main studio.

NOTE TO §73.6000: *See Report and Order*, In the Matter of Establishment of a Class A Television Service, MM Docket No. 00–10, released April 4, 2000; *Memorandum Opinion and Order on Reconsideration*, In the Matter of Establishment of a Class A Television Service, MM Docket No. 00–10, released April 13, 2001.

[66 FR 21690, May 1, 2001, as amended at 69 FR 69330, Nov. 29, 2004]

§ 73.6001 Eligibility and service requirements.

(a) Qualified low power television licensees which, during the 90-day period ending November 28, 1999, operated their stations in a manner consistent with the programming and operational standards set forth in the Community Broadcasters Protection Act of 1999, may be accorded primary status as Class A television licensees.

(b) Class A television broadcast stations are required to:

(1) Broadcast a minimum of 18 hours per day; and

(2) Broadcast an average of at least three hours per week of locally produced programming each quarter.

(c) Licensed Class A television broadcast stations shall be accorded primary status as a television broadcaster as long as the station continues to meet

the minimum operating requirements for Class A status.

(d) Licensees unable to continue to meet the minimum operating requirements for Class A television stations, or which elect to revert to low power television status, shall promptly notify the Commission, in writing, and request a change in status.

§ 73.6002 Licensing requirements.

(a) A Class A television broadcast license will only be issued to a qualified low power television licensee that:

(1) Filed a Statement of Eligibility for Class A Low Power Television Station Status on or before January 28, 2000, which was granted by the Commission; and

(2) Files an acceptable application for a Class A Television license (FCC Form 302–CA).

§§ 73.6003–73.6005 [Reserved]

§ 73.6006 Channel assignments.

Class A TV stations will not be authorized on UHF TV channels 52 through 69, or on channels unavailable for TV broadcast station use pursuant to § 73.603 of this part.

§ 73.6007 Power limitations.

An application to change the facilities of an existing Class A TV station will not be accepted if it requests an effective radiated power that exceeds the power limitation specified in § 74.735 of this chapter.

§ 73.6008 Distance computations.

The distance between two reference points must be calculated in accordance with § 73.208(c) of this part.

§ 73.6010 Class A TV station protected contour.

(a) A Class A TV station will be protected from interference within the following predicted signal contours:

(1) 62 dBu for stations on Channels 2 through 6;

(2) 68 dBu for stations on Channels 7 through 13; and

(3) 74 dBu for stations on Channels 14 through 51.

(b) The Class A TV station protected contour is calculated from the effective radiated power and antenna height above average terrain, using the F(50,50) charts of Figure 9, 10 or 10b of § 73.699 of this part.

(c) A digital Class A TV station will be protected from interference within the following predicted signal contours:

(1) 43 dBu for stations on Channels 2 through 6;

(2) 48 dBu for stations on Channels 7 through 13; and

(3) 51 dBu for stations on Channels 14 through 51.

(d) The digital Class A TV station protected contour is calculated from the effective radiated power and antenna height above average terrain, using the F(50,90) signal propagation method specified in § 73.625(b)(1) of this part.

§ 73.6011 Protection of TV broadcast stations.

Class A TV stations must protect authorized TV broadcast stations, applications for minor changes in authorized TV broadcast stations filed on or before November 29, 1999, and applications for new TV broadcast stations that had been cut-off without competing applications or that were the winning bidder in a TV broadcast station auction as of that date, or that were the proposed remaining applicant in a group of mutually-exclusive applications for which a settlement agreement was on file as of that date. Protection of these stations and applications must be based on the requirements specified in § 74.705 of this chapter. An application to change the facilities of an existing Class A TV station will not be accepted if it fails to protect these TV broadcast stations and applications pursuant to the requirements specified in § 74.705 of this chapter.

§ 73.6012 Protection of Class A TV, low power TV and TV translator stations.

An application to change the facilities of an existing Class A TV station will not be accepted if it fails to protect other authorized Class A TV, low power TV and TV translator stations and applications for changes in such stations filed prior to the date the Class A application is filed, pursuant to

the requirements specified in § 74.707 of this chapter. The protection of other authorized low power TV and TV translator stations and applications for changes in such stations shall not apply in connection with any application filed by a Class A TV station pursuant to § 73.3700(b)(1).

[79 FR 48544, Aug. 15, 2014]

§ 73.6013 Protection of DTV stations.

Class A TV stations must protect the DTV service that would be provided by the facilities specified in the DTV Table of Allotments in § 73.622 of this part, by authorized DTV stations and by applications that propose to expand DTV stations' allotted or authorized coverage contour in any direction, if such applications either were filed before December 31, 1999 or were filed between December 31, 1999 and May 1, 2000 by a DTV station licensee or permittee that had notified the Commission of its intent to ''maximize'' by December 31, 1999. Protection of these allotments, stations and applications must be based on not causing predicted interference within the service area described in § 73.622(e) of this part. The interference analysis is based on the methods described in § 73.623(c)(2) through (c)(4) of this part, except that a Class A TV station must not cause a loss of service to 0.5 percent or more of the population predicted to receive service from the DTV allotment, station or application. An application to change the facilities of an existing Class A TV station will not be accepted if it fails to protect these DTV allotments, stations and applications in accordance with this section.

§ 73.6014 Protection of digital Class A TV stations.

An application to change the facilities of an existing Class A TV station will not be accepted if it fails to protect authorized digital Class A TV stations and applications for changes in such stations filed prior to the date the Class A application is filed, pursuant to the requirements specified in § 74.706 of this chapter.

§ 73.6016 Digital Class A TV station protection of TV broadcast stations.

Digital Class A TV stations must protect authorized TV broadcast stations, applications for minor changes in authorized TV broadcast stations filed on or before November 29, 1999, and applications for new TV broadcast stations that had been cut-off without competing applications or that were the winning bidder in a TV broadcast station auction as of that date, or that were the proposed remaining applicant in a group of mutually-exclusive applications for which a settlement agreement was on file as of that date. This protection must be based on meeting the requirements of § 74.793 (b)–(d) and (f) of this chapter. An application for DTV operation of an existing Class A TV station or to change the facilities of a digital Class A TV station will not be accepted if it fails to protect these TV broadcast stations and applications pursuant to these requirements.

[69 FR 69330, Nov. 29, 2004]

§ 73.6017 Digital Class A TV station protection of Class A TV and digital Class A TV stations.

An application for digital operation of an existing Class A TV station or to change the facilities of a digital Class A TV station will not be accepted if it fails to protect authorized Class A and digital Class A stations in accordance with the requirements of § 74.793 (b) through (d) and § 74.793(g) of this chapter. This protection must be afforded to applications for changes in other authorized Class A and digital Class A stations filed prior to the date the digital Class A application is filed.

[69 FR 69330, Nov. 29, 2004]

§ 73.6018 Digital Class A TV station protection of DTV stations.

Digital Class A TV stations must protect the DTV service that would be provided by the facilities specified in the DTV Table of Allotments in § 73.622, by authorized DTV stations and by applications that propose to expand DTV stations' allotted or authorized coverage contour in any direction, if such applications either were filed before December 31, 1999 or were filed between December 31, 1999 and May 1, 2000 by a

DTV station licensee or permittee that had notified the Commission of its intent to ''maximize'' by December 31, 1999. Protection of these allotments, stations and applications must be based on meeting the requirements of § 74.793 (b) through (e) of this chapter. An application for digital operation of an existing Class A TV station or to change the facilities of a digital Class A TV station will not be accepted if it fails to protect these DTV allotments, stations and applications in accordance with this section.

[69 FR 69330, Nov. 29, 2004]

§ 73.6019 Digital Class A TV station protection of low power TV, TV translator, digital low power TV and digital TV translator stations.

An application for digital operation of an existing Class A TV station or to change the facilities of a digital Class A TV station will not be accepted if it fails to protect authorized low power TV, TV translator, digital low power TV and digital TV translator stations in accordance with the requirements of § 74.793(b) through (d) and (h) of this chapter. This protection must be afforded to applications for changes filed prior to the date the digital Class A station is filed. The protection of other authorized low power TV, TV translator, digital low power TV and digital TV translator stations shall not apply in connection with any application filed by a Class A TV station pursuant to § 73.3700(b)(1).

[79 FR 48544, Aug. 15, 2014]

§ 73.6020 Protection of stations in the land mobile radio service.

An application for digital operation of an existing Class A TV station or to change the facilities of an existing Class A TV or digital Class A TV station will not be accepted if it fails to protect stations in the land mobile radio service pursuant to the requirements specified in § 74.709 of this chapter. In addition to the protection requirements specified in § 74.709(a) of this chapter, Class A TV and digital Class A TV stations must not cause interference to land mobile stations operating on channel 16 in New York, NY.

[69 FR 69331, Nov. 29, 2004]

§ 73.6022 Negotiated interference and relocation agreements.

(a) Notwithstanding the technical criteria in this subpart, Subpart E of this part, and Subpart G of part 74 of this chapter regarding interference protection to and from Class A TV stations, Class A TV stations may negotiate agreements with parties of authorized and proposed analog TV, DTV, LPTV, TV translator, Class A TV stations or other affected parties to resolve interference concerns; *provided,* however, other relevant requirements are met with respect to the parties to the agreement. A written and signed agreement must be submitted with each application or other request for action by the Commission. Negotiated agreements under this paragraph can include the exchange of money or other considerations from one entity to another. Applications submitted pursuant to the provisions of this paragraph will be granted only if the Commission finds that such action is consistent with the public interest.

(b) A Class A TV station displaced in channel by a channel allotment change for a DTV station may seek to exchange channels with the DTV station, provided both parties consent in writing to the change and that the Class A station meets all applicable interference protection requirements on the new channel. Such requests will be treated on a case-by-case basis and, if approved, will not subject the Class A station to the filing of competing applications for the exchanged channel.

§ 73.6023 Distributed transmission systems.

Station licensees may operate a commonly owned group of digital Class A stations with contiguous predicted DTV noise-limited contours (pursuant to § 73.622(e)) on a common television channel in a distributed transmission system.

[73 FR 74064, Dec. 5, 2008]

§ 73.6024 Transmission standards and system requirements.

(a) A Class A TV station must meet the requirements of §§ 73.682 and 73.687, except as provided in paragraph (b) of this section.

(b) A Class A TV station may continue to operate with the transmitter operated under its previous LPTV license, provided such operation does not cause any condition of uncorrectable interference due to radiation of radio frequency energy outside of the assigned channel. Such operation must continue to meet the requirements of §§ 74.736 and 74.750 of this chapter.

(c) A Class A TV station must meet the offset carrier frequency and frequency tolerance provisions of § 73.1545 of this part.

(d) A digital Class A station must meet the emission requirements of § 74.794 of this chapter.

[65 FR 30009, May 10, 2000, as amended at 66 FR 21690, May 1, 2001; 69 FR 69331, Nov. 29, 2004]

§ 73.6025 Antenna system and station location.

(a) Applications for modified Class A TV facilities proposing the use of directional antenna systems must be accompanied by the following:

(1) Complete description of the proposed antenna system, including the manufacturer and model number of the proposed directional antenna. In the case of a composite antenna composed of two or more individual antennas, the antenna should be described as a ''composite'' antenna. A full description of the design of the antenna should also be submitted.

(2) Relative field horizontal plane pattern (horizontal polarization only) of the proposed directional antenna. A value of 1.0 should be used for the maximum radiation. The plot of the pattern should be oriented so that 0 degrees (True North) corresponds to the maximum radiation of the directional antenna or, alternatively in the case of a symmetrical pattern, the line of symmetry. Where mechanical beam tilt is intended, the amount of tilt in degrees of the antenna vertical axis and the orientation of the downward tilt with respect to true North must be specified, and the horizontal plane pattern must reflect the use of mechanical beam tilt.

(3) A tabulation of the relative field pattern required in paragraph (a)(2), of this section. The tabulation should use the same zero degree reference as the plotted pattern, and be tabulated at least every 10 degrees. In addition, tabulated values of all maxima and minima, with their corresponding azimuths, should be submitted.

(4) Horizontal and vertical plane radiation patterns showing the effective radiated power, in dBk, for each direction. Sufficient vertical plane patterns must be included to indicate clearly the radiation characteristics of the antenna above and below the horizontal plane. In cases where the angles at which the maximum vertical radiation varies with azimuth, a separate vertical radiation pattern must be provided for each pertinent radial direction.

(5) The horizontal and vertical plane patterns that are required are the patterns for the complete directional antenna system. In the case of a composite antenna composed of two or more individual antennas, this means that the patterns for the composite antenna, not the patterns for each of the individual antennas, must be submitted.

(b) Applications for modified Class A TV facilities proposing to locate antennas within 61.0 meters (200 feet) of other Class A TV or TV broadcast antennas operating on a channel within 20 percent in frequency of the proposed channel, or proposing the use of antennas on Channels 5 or 6 within 61.0 meters (200 feet) of FM broadcast antennas, must include a showing as to the expected effect, if any, of such proximate operation.

(c) Where a Class A TV licensee or permittee proposes to mount its antenna on or near an AM tower, as defined in § 1.30002, the Class A TV licensee or permittee must comply with § 1.30003 or § 1.30002.

(d) Class A TV stations are subject to the provisions in § 73.685(d) regarding blanketing interference.

[65 FR 30009, May 10, 2000, as amended at 78 FR 66298, Nov. 5, 2013]

§ 73.6026 Broadcast regulations applicable to Class A television stations.

The following rules are applicable to Class A television stations:

§ 73.603 Numerical designation of television channels.

§ 73.624(b), (c) and (g) Digital television broadcast stations. Section 73.624(b) will apply only to the extent that such stations must also transmit at least one over-the-air video program signal at no direct charge to viewers of the digital Class A station
§ 73.635 Use of common antenna site.
§ 73.642 Subscription TV service.
§ 73.643 Subscription TV operating requirements.
§ 73.644 Subscription TV transmission systems.
§ 73.646 Telecommunications Service on the Vertical Blanking Interval and in the Visual Signal.
§ 73.653 Operation of TV aural and visual transmitters.
§ 73.658 Affiliation agreements and network program practice; territorial exclusivity in non-network program arrangements.
§ 73.664 Determining operating power.
§ 73.665 Use of TV aural baseband subcarriers.
§ 73.667 TV subsidiary communications services.
§ 73.669 TV stereophonic aural and multiplex subcarrier operation.
§ 73.670 Commercial limits in children's programs.
§ 73.671 Educational and informational programming for children.
§ 73.673 Public information initiatives regarding educational and informational programming for children.
§ 73.688 Indicating instruments.
§ 73.691 Visual modulation monitoring.
§ 73.3615(a) and (g) Ownership reports.

[66 FR 21690, May 1, 2001, as amended at 74 FR 25168, May 27, 2009]

§ 73.6027 Class A TV notifications concerning interference to radio astronomy, research and receiving installations.

An applicant for digital operation of an existing Class A TV station or to change the facilities of an existing Class A TV or digital Class A TV station shall be subject to the requirements of § 73.1030—Notifications concerning interference to radio astronomy, research and receiving installations.

[69 FR 69331, Nov. 29, 2004]

§ 73.6028 Class A television channel sharing outside the incentive auction.

(a) *Eligibility.* Subject to the provisions of this section, Class A television stations may voluntarily seek Commission approval to share a single six megahertz channel with other Class A, full power, low power, or TV translator television stations.

(b) *Licensing of channel sharing stations.* (1) Each station sharing a single channel pursuant to this section shall continue to be licensed and operated separately, have its own call sign, and be separately subject to all of the Commission's obligations, rules, and policies.

(2) A station relinquishing its channel must file an application for a construction permit, include a copy of the Channel Sharing Agreement (CSA) as an exhibit, and cross reference the other sharing station(s). Any engineering changes necessitated by the CSA may be included in the station's application. Upon initiation of shared operations, the station relinquishing its channel must notify the Commission that it has terminated operation pursuant to § 73.1750 and each sharing station must file an application for license.

(c) *Channel sharing between Class A television stations and full power, low power television, and TV translator stations.* (1) A Class A television sharee station (defined as a station relinquishing a channel in order to share) that is a party to a CSA with a full power television sharer station (defined as the station hosting a sharee pursuant to a CSA) must comply with the rules of this part governing power levels and interference, and must comply in all other respects with the rules and policies applicable to Class A television stations, as set forth in §§ 73.6000 through 73.6027.

(2) A Class A television sharee station that is a party to a CSA with a low power television or TV translator sharer station must comply with the rules of part 74 of this chapter governing power levels and interference that are applicable to low power television or TV translator stations, and must comply in all other respects with the rules and policies applicable to Class A television stations, as set forth in §§ 73.6000 through 73.6027.

(d) *Deadline for implementing CSAs.* CSAs submitted pursuant to this section must be implemented within three years of the grant of the initial channel sharing construction permit.

(e) *Channel sharing agreements (CSAs).* (1) CSAs submitted under this section must contain provisions outlining each licensee's rights and responsibilities regarding:

(i) Access to facilities, including whether each licensee will have unrestrained access to the shared transmission facilities;

(ii) Allocation of bandwidth within the shared channel;

(iii) Operation, maintenance, repair, and modification of facilities, including a list of all relevant equipment, a description of each party's financial obligations, and any relevant notice provisions;

(iv) Transfer/assignment of a shared license, including the ability of a new licensee to assume the existing CSA; and

(v) Termination of the license of a party to the CSA, including reversion of spectrum usage rights to the remaining parties to the CSA.

(2) CSAs must include provisions:

(i) Affirming compliance with the channel sharing requirements in this section and all relevant Commission rules and policies; and

(ii) Requiring that each channel sharing licensee shall retain spectrum usage rights adequate to ensure a sufficient amount of the shared channel capacity to allow it to provide at least one Standard Definition program stream at all times.

(f) *Termination and assignment/transfer of shared channel.* (1) Upon termination of the license of a party to a CSA, the spectrum usage rights covered by that license may revert to the remaining parties to the CSA. Such reversion shall be governed by the terms of the CSA in accordance with paragraph (e)(1)(v) of this section. If upon termination of the license of a party to a CSA only one party to the CSA remains, the remaining licensee may file an application for license to change its status to non-shared.

(2) If the rights under a CSA are transferred or assigned, the assignee or the transferee must comply with the terms of the CSA in accordance with paragraph (e)(1)(iv) of this section. If the transferee or assignee and the licensees of the remaining channel sharing station or stations agree to amend the terms of the existing CSA, the agreement may be amended, subject to Commission approval.

(g) *Notice to cable systems.* (1) Stations participating in channel sharing agreements must provide notice to cable systems that:

(i) No longer will be required to carry the station because of the relocation of the station;

(ii) Currently carry and will continue to be obligated to carry a station that will change channels; or

(iii) Will become obligated to carry the station due to a channel sharing relocation.

(2) The notice required by this section must contain the following information:

(i) Date and time of any channel changes;

(ii) The channel occupied by the station before and after implementation of the CSA;

(iii) Modification, if any, to antenna position, location, or power levels;

(iv) Stream identification information; and

(v) Engineering staff contact information.

(3) Should any of the information in paragraph (g)(2) of this section change, an amended notification must be sent.

(4) Sharee stations must provide notice as required by this section at least 90 days prior to terminating operations on the sharee's channel. Sharer stations and sharee stations must provide notice as required by this section at least 90 days prior to initiation of operations on the sharer channel. Should the anticipated date to either cease operations or commence channel sharing operations change, the stations must send a further notice to affected cable systems informing them of the new anticipated date(s).

(5) Notifications provided to cable systems pursuant to this section must be either mailed to the system's official address of record provided in the cable system's most recent filing in the FCC's Cable Operations and Licensing System (COALS) Form 322, or emailed to the system if the system has provided an email address.

[82 FR 18250, Apr. 18, 2017]

Subpart K—Application and Selection Procedures for Reserved Noncommercial Educational Channels, and for Certain Applications for Noncommercial Educational Stations on Non-Reserved Channels

SOURCE: 65 FR 36380, June 8, 2000, unless otherwise noted.

§ 73.7000 Definition of terms (as used in subpart K only).

Attributable interest. An interest of an applicant, its parent, subsidiaries, their officers, and members of their governing boards that would be cognizable under the standards in the notes to § 73.3555. Also an interest of an entity providing more than 33 percent of an applicant's equity and/or debt that also either (1) supplies more than 15% of the station's weekly programming, or (2) has an attributable interest pursuant to § 73.3555 in media in the same market.

Established local applicant. An applicant that has, for at least the two years (24 months) immediately preceding application, met the definition of local applicant.

Local applicant. An applicant physically headquartered, having a campus, or having 75% of board members residing within 25 miles of the reference coordinates for the community to be served, or a governmental entity within its area of jurisdiction.

Near reservation lands. Those areas or communities adjacent or contiguous to reservation or other Trust lands which are designated by the Department of Interior's Commission of Indian Affairs upon recommendation of the Local Bureau of Indian Affairs Superintendent, which recommendation shall be based upon consultation with the tribal governing body of those reservations, as locales appropriate for the extension of financial assistance and/or social services on the basis of such general criteria as: Number of Indian people native to the reservation residing in the area; a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area, are socially, culturally and economically affiliated with their tribe and reservation; geographical proximity of the area to the reservation and administrative feasibility of providing an adequate level of services to the area.

Nonreserved (Unreserved) channels. Channels which are not reserved exclusively for noncommercial educational use, and for which commercial entities could thus be eligible to operate full power stations. Such channels appear without an asterisk designation in the FM Table of Allotments (§ 73.202) and TV Table of Allotments (§ 73.606). In the event of a request to allocate a nonreserved channel as reserved pursuant to § 73.202(a) or § 73.606(a), the channel remains classified as nonreserved until release of a Commission decision granting such request.

On-air operations. Broadcast of program material to the public pursuant to Commission authority, generally beginning with program test authority, for periods of time that meet any required minimum operating schedule, e.g., § 73.561(a).

Population. The number of people calculated using the most recent census block data provided by the United States Census Bureau.

Reservations. Any federally recognized Indian tribe's reservation, pueblo or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlements Act (85 Stat. 688) and Indian allotments, for which a Tribe exercises regulatory jurisdiction.

Reserved channels. Channels reserved exclusively for noncommercial educational use, whether by the portion of the spectrum in which they are located (*i.e.* FM channels 200 to 220) or by a case-by-case Commission allotment decision (channels that appear with an asterisk designation in the FM Table of Allotments (§ 73.202) or TV Table of Allotments (§ 73.606)).

Tribe. Any Indian or Alaska Native tribe, band, nation, pueblo, village or community which is acknowledged by the federal government to constitute a

government-to-government relationship with the United States and eligible for the programs and services established by the United States for Indians. *See The Federally Recognized Indian Tribe List Act of 1994* (Indian Tribe Act), Public Law 103–454. 108 Stat. 4791 (1994) (the Secretary of the Interior is required to publish in the FEDERAL REGISTER an annual list of all Indian Tribes which the Secretary recognizes to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians).

Tribal applicant. (1) A Tribe or consortium of Tribes, or

(2) An entity that is 51 percent or more owned or controlled by a Tribe or Tribes that occupy Tribal Lands that receive Tribal Coverage.

Tribal coverage. (1) Coverage of a Tribal Applicant's or Tribal Applicants' Tribal Lands by at least 50 percent of a facility's 60 dBu (1 mV/m) contour, or

(2) The facility's 60 dBu (1 mV/m) contour—

(i) Covers 50 percent or more of a Tribal Applicant's or Tribal Applicants' Tribal Lands,

(ii) Serves at least 2,000 people living on Tribal Lands, and

(iii) The total population on Tribal Lands residing within the station's service contour constitutes at least 50 percent of the total covered population. In neither paragraphs (1) nor (2) of this definition may the applicant claim the priority if the proposed principal community contour would cover more than 50 percent of the Tribal Lands of a non-applicant Tribe. To the extent that Tribal Lands include fee lands not owned by Tribes or members of Tribes, the outer boundaries of such lands shall delineate the coverage area, with no deduction of area for fee lands not owned by Tribes or members of Tribes.

Tribal lands. Both Reservations and Near reservation lands. This definition includes American Indian Reservations and Trust Lands, Tribal Jurisdiction Statistical Areas, Tribal Designated Statistical Areas, Hawaiian Homelands, and Alaska Native Village Statistical Areas, as well as the communities situated on such lands.

[65 FR 36380, June 8, 2000, as amended at 66 FR 15356, Mar. 19, 2001; 75 FR 9807, Mar. 4, 2010; 76 FR 18953, Apr. 6, 2011]

§ 73.7001 Services subject to evaluation by point system.

(a) A point system will be used to evaluate mutually exclusive applications for new radio, television, and FM translator facilities, and for major changes to existing facilities, on reserved channels.

(b) A point system will be used to evaluate mutually exclusive applications for new radio, television, and FM translator facilities, and for major changes to existing facilities, on non-reserved channels, only when all of the mutually exclusive applications are for noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6)(A) or 47 U.S.C. 397(6)(B).

(c) A point system will be used to evaluate mutually exclusive applications for new television translator and low power television facilities, and for major changes to existing facilities, only when all of the mutually exclusive applications are for noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6)(B).

[65 FR 36380, June 8, 2000, as amended at 68 FR 26229, May 15, 2003]

§ 73.7002 Fair distribution of service on reserved band FM channels.

(a) If timely filed applications for full service stations on reserved FM channels are determined to be mutually exclusive, and will serve different communities, the Commission will first determine, as a threshold issue, whether grant of a particular application would substantially further the fair distribution of service goals enunciated in section 307(b) of the Communications Act, 47 U.S.C. 307(b).

(b) In an analysis performed pursuant to paragraph (a) of this section, a full-service FM applicant that identifies itself as a Tribal Applicant, that proposes Tribal Coverage, and that proposes the first reserved channel NCE service owned by any Tribal Applicant at a community of license located on Tribal Lands, will be awarded a construction permit. If two or more full-

service FM applicants identify themselves as Tribal Applicants and meet the above criteria, the applicant providing the most people with reserved channel NCE service to Tribal Lands will be awarded a construction permit, regardless of the magnitude of the superior service or the populations of the communities of license proposed, if different. If two or more full-service FM applicants identifying themselves as Tribal Applicants each meet the above criteria and propose identical levels of NCE aural service to Tribal Lands, only those applicants shall proceed to be considered together in a point system analysis. In an analysis performed pursuant to paragraph (a) of this section that does not include a Tribal Applicant, a full service FM applicant that will provide the first or second reserved channel noncommercial educational (NCE) aural signal received by at least 10% of the population within the station's 60dBu (1mV/m) service contours will be considered to substantially further fair distribution of service goals and to be superior to mutually exclusive applicants not proposing that level of service, provided that such service to fewer than 2,000 people will be considered insignificant. First service to 2,000 or more people will be considered superior to second service to a population of any size. If only one applicant will provide such first or second service, that applicant will be selected as a threshold matter. If more than one applicant will provide an equivalent level (first or second) of NCE aural service, the size of the population to receive such service from the mutually exclusive applicants will be compared. The applicant providing the most people with the highest level of service will be awarded a construction permit, if it will provide such service to 5,000 or more people than the next best applicant. If none of the applicants in a mutually exclusive group would substantially further fair distribution goals, all applicants will proceed to examination under a point system. If two or more applicants will provide the same level of service to an equivalent number of people (differing by less than 5,000), only those equivalent applicants will be considered together in a point system.

(c) For a period of four years of on-air operations, an applicant receiving a decisive preference pursuant to this section is required to construct and operate technical facilities substantially as proposed and shall not downgrade service to the area on which the preference was based. Additionally, for a period beginning from the award of a construction permit through four years of on-air operations, a Tribal Applicant receiving a decisive preference pursuant to this section may not:

(1) Assign or transfer the authorization except to another party that qualifies as a Tribal Applicant;

(2) Change the facility's community of license; or

(3) Effect a technical change that would cause the facility to provide less than full Tribal Coverage.

[65 FR 36380, June 8, 2000, as amended at 66 FR 15356, Mar. 19, 2001; 75 FR 9807, Mar. 4, 2010]

§ 73.7003 Point system selection procedures.

(a) If timely filed applications for reserved FM channels or reserved TV channels are determined to be mutually exclusive, applications will be processed and assessed points to determine the tentative selectee for the particular channels. The tentative selectee will be the applicant with the highest point total under the procedure set forth in this section, and will be awarded the requested permit if the Commission determines that an award will serve the public interest, convenience, and necessity.

(b) Based on information provided in each application, each applicant will be awarded a predetermined number of points under the criteria listed:

(1) *Established local applicant.* Three points for local applicants as defined in § 73.7000 who have been local continuously for no fewer than the two years (24 months) immediately prior to application, if the applicant's own governing documents (e.g. by-laws, constitution, or their equivalent) require that such localism be maintained.

(2) *Local diversity of ownership.* Two points for applicants with no attributable interests as defined in § 73.7000,

in any other broadcast station or authorized construction permit (comparing radio to radio and television to television) whose principal community (city grade) contour overlaps that of the proposed station, if the applicant's own governing documents (e.g. by-laws, constitution, or their equivalent) require that such diversity be maintained. The principal community (city grade) contour is the 5 mV/m for AM stations, the 3.16 mV/m for FM stations calculated in accordance with §73.313(c), and the contour identified in §73.685(a) for TV. Radio applicants will count commercial and noncommercial AM, FM, and FM translator stations other than fill-in stations. Television applicants will count UHF, VHF, and Class A stations.

(3) *State-wide network.* Two points for an applicant that does not qualify for the credit for local diversity of ownership, if it is:

(i) An entity, public or private, with authority over a minimum of 50 accredited full-time elementary and/or secondary schools within a single state, encompassed by the combined primary service contours of the proposed station and its existing station(s), if the existing station(s) are regularly providing programming to the schools in furtherance of the school curriculum and the proposed station will increase the number of schools it will regularly serve; or

(ii) An accredited public or private institution of higher learning with a minimum of five full time campuses within a single state encompassed by the combined primary service contours of the proposed station and its existing station(s), if the existing station(s) are regularly providing programming to campuses in furtherance of their curriculum and the proposed station will increase the number of campuses it will regularly serve; or

(iii) An organization, public or private, with or without direct authority over schools, that will regularly provide programming for and in coordination with an entity described in paragraph (b)(3) (i) or (ii) of this section for use in the school curriculum.

(iv) No entity may claim both the diversity credit and the state-wide network credit in any particular application.

(4) *Technical parameters.* One point to the applicant covering the largest geographic area and population with its relevant contour (60 dBu for FM and Grade B for TV), provided that the applicant covers both a ten percent greater area and a ten percent greater population than the applicant with the next best technical proposal. The top applicant will receive two points instead of one point if its technical proposal covers both a 25 percent greater area and 25 percent greater population than the next best technical proposal.)

(c) If the best qualified (highest scoring) two or more applicants have the same point accumulation, the tentative selectee will be determined by a tie-breaker mechanism as follows:

(1) Each applicant's number of attributable existing authorizations (licenses and construction permits, commercial and noncommercial) in the same service (radio or television) nationally, as of the time of application shall be compared, and the applicant with the fewest authorizations will be chosen as tentative selectee. Radio applicants will count commercial and noncommercial AM, FM, and FM translator stations other than fill-in stations. Television applicants will count UHF, VHF, and Class A stations.

(2) If a tie remains after the tie breaker in paragraph (c)(1) of this section, the tentative selectee will be the remaining applicant with the fewest pending new and major change applications in the same service at the time of filing;

(3) If a tie remains after the tie breaker in paragraph (c)(2) of this section, each of the remaining applicants will be identified as a tentative selectee, with the time divided equally among them.

(d) *Settlements.* At any time during this process, the applicants may advise the Commission that they are negotiating or have reached settlement, and the Commission will withhold further comparative processing for a reasonable period upon such notification. Settlement may include an agreement to share time on the channel voluntarily or other arrangement in compliance with Commission rules. Parties to a

settlement shall comply with § 73.3525, limiting any monetary payment to the applicant's reasonable and prudent expenses.

(e) For applications filed after April 21, 2000, an applicant's maximum qualifications are established at the time of application and will be reduced for any post-application changes that negatively affect any evaluation criterion.

(f) For applications filed on or before April 21, 2000, an applicant's maximum qualifications are established as of the relevant date listed in paragraph (f)(1), (2), or (3) of this section. After the relevant date for determining an applicant's maximum points, points will be reduced for any changes that negatively affect any evaluation criterion. Applicants will establish their qualifications according to the following:

(1) If the applicant is in a group for which a ''B'' cut-off notice issued prior to April 21, 2000 its maximum non-technical qualifications are established as of the date by which applicants must supplement their applications to supply point information, and its maximum technical qualifications are established as of the date of the ''B'' cut-off notice;

(2) If the applicant is in a group for which an ''A'' cut-off notice issued prior to April 21, 2000 but for which no ''B'' cut-off notice issued, its maximum non-technical qualifications are established as of the date by which applicants must supplement their applications to supply point information, and its maximum technical qualifications are established as of April 21, 2000;

(3) If the applicant was neither placed on an ''A'' cut-off list prior to April 21, 2000 nor filed in response to such an ''A'' cut-off list, it is subject to competition from applications filed within the first filing window, and its maximum technical and non-technical qualifications will be determined as of the close of the first filing window.

[65 FR 36380, June 8, 2000, as amended at 66 FR 15356, Mar. 19, 2001]

§ 73.7004 Petitions to deny tentative selectee(s).

(a) For mutually exclusive applicants subject to the selection procedures in subpart K of this part, Petitions to Deny will be accepted only against the tentative selectee(s).

(b) Within thirty (30) days following the issuance of a public notice announcing the tentative selection of an applicant through fair distribution (§ 73.7002) or point system (§ 73.7003) procedures, 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. The time for filing such oppositions shall be 10 days from the filing date for petitions to deny, and the time for filing replies shall be 5 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, the application will be granted. If the Commission determines that the points originally claimed were higher than permitted, but that there is no substantial and material question of fact of applicant qualifications, it will compare the revised point tally of the tentative selectee to the other mutually exclusive applicants and, either grant the original application or announce a new tentative selectee, as appropriate. If an applicant is found unqualified, the application shall be denied, and the applicant(s) with the next highest point tally named as the new tentative selectee.

§ 73.7005 Holding period.

(a) *Assignments/Transfers.* NCE stations awarded by use of the point system in § 73.7003 shall be subject to a holding period. From the grant of the construction permit and continuing until the facility has achieved four years of on-air operations, an applicant proposing to assign or transfer the construction permit/license to another party will be required to demonstrate the following two factors: that the proposed buyer would qualify for the same

number of or greater points as the assignor or transferor originally received; and that consideration received and/or promised does not exceed the assignor's or transferor's legitimate and prudent expenses. For purposes of this section, legitimate and prudent expenses are those expenses reasonably incurred by the assignor or transferor in obtaining and constructing the station (e.g. expenses in preparing an application, in obtaining and installing broadcast equipment to be assigned or transferred, etc.). Costs incurred in operating the station are not recoverable (e.g., rent, salaries, utilities, music licensing fees, etc.). Any successive applicants proposing to assign or transfer the construction permit/license prior to the end of the aforementioned holding period will be required to make the same demonstrations.

(b) *Technical.* In accordance with the provisions of § 73.7002, an NCE applicant receiving a decisive preference for fair distribution of service is required to construct and operate technical facilities substantially as proposed, and can not downgrade service to the area on which the preference is based for a period of four years of on-air operations.

(c) The holding period in this section does not apply to construction permits that are awarded on a non-comparative basis, such as those awarded to non-mutually exclusive applicants or through settlement.

Subpart L—Incorporated Standards

SOURCE: 76 FR 62642, Oct. 11, 2011, unless otherwise noted.

§ 73.8000 Incorporation by reference.

(a) The materials listed in this section are incorporated by reference in this part. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the FEDERAL REGISTER. The materials are available for inspection at the Federal Communications Commission (FCC), 445 12th St., SW., Reference Information Center, Room CY–A257, Washington, DC 20554 and at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) The following materials are available from Advanced Television Systems Committee (ATSC), 1776 K Street NW., 8th Floor, Washington, DC 20006; or at the ATSC Web site: *http://www.atsc.org/standards.html.*

(1) ATSC A/52: ''ATSC Standard Digital Audio Compression (AC–3),'' 1995, IBR approved for § 73.682.

(2) ATSC A/53 Parts 1–4 and 6: 2007 ''ATSC Digital Television Standard,'' (January 3, 2007) and ATSC A/53 Part 5: 2010 ''ATSC Digital Television Standard: Part 5—AC–3 Audio System Characteristic,'' (July 6, 2010), as listed below:

(i) A/53, Part 1:2007, ''Digital Television System'' (January 3, 2007), IBR approved for § 73.682.

(ii) A/53, Part 2:2007, ''RF/Transmission System Characteristics'' (January 3, 2007), IBR approved for § 73.682.

(iii) A/53, Part 3:2007, ''Service Multiplex and Transport Subsystem Characteristics'' (January 3, 2007), IBR approved for § 73.682.

(iv) A/53, Part 4:2007, ''MPEG–2 Video System Characteristics'' (January 3, 2007), IBR approved for § 73.682, except for § 6.1.2 of A/53 Part 4: 2007, and the phrase ''see Table 6.2'' in section 6.1.1 Table 6.1 and section 6.1.3 Table 6.3.

(v) A/53, Part 5: 2010, ''AC–3 Audio System Characteristics'' (July 6, 2010), IBR approved for § 73.682.

(vi) A/53, Part 6:2007, ''Enhanced AC–3 Audio System Characteristics'' (January 3, 2007), IBR approved for § 73.682.

(3) [Reserved]

(4) ATSC A/65C: ''ATSC Program and System Information Protocol for Terrestrial Broadcast and Cable, Revision C With Amendment No. 1 dated May 9, 2006,'' (January 2, 2006), IBR approved for §§ 73.682.

(5) ATSC A/85:2013 ''ATSC Recommended Practice: Techniques for Establishing and Maintaining Audio Loudness for Digital Television,''

(March 12, 2013) (''ATSC A/85 RP''), IBR approved for §73.682.

(c) [Reserved]

(d) The following materials are available at the FCC, 445 12th St., SW., Reference Information Center, Room CY–A257, Washington, DC 20554, or at the FCC's Office of Engineering and Technology (OET) Web site: *http://www.fcc.gov/oet/info/documents/bulletins/*.

(1) OET Bulletin No. 69: ''Longley-Rice Methodology for Evaluating TV Coverage and Interference'' (February 6, 2004), IBR approved for §73.616.

(2) [Reserved]

[76 FR 62642, Oct. 11, 2011, as amended at 76 FR 55604, Sept. 8, 2011; 77 FR 40299, July 9, 2012; 79 FR 51113, Aug. 27, 2014]

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PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

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ALPHABETICAL INDEX—PART 74

AUTHORITY: 47 U.S.C. 154, 302a, 303, 307, 309, 310, 336 and 554.

EDITORIAL NOTE: Nomenclature changes to part 74 appear at 64 FR 4055, Jan. 27, 1999.

Subpart—General; Rules Applicable to All Services in Part 74

§ 74.1 Scope.

(a) The rules in this subpart are applicable to the Auxiliary and Special

Broadcast and Other Program Distributional Services.

(b) Rules in part 74 which apply exclusively to a particular service are contained in that service subpart, as follows: Remote Pickup Broadcast Stations, subpart D; Aural Broadcast STL and Intercity Relay Stations, subpart E; TV Auxiliary Broadcast Stations, subpart F; Low-power TV, TV Translator and TV Booster Stations, subpart G; Low-power Auxiliary Stations, subpart H; FM Broadcast Translator Stations and FM Broadcast Booster Stations, subpart L.

[78 FR 25174, Apr. 29, 2013]

§ 74.2 General definitions.

Broadcast network-entity. A broadcast network-entity is an organization which produces programs available for simultaneous transmission by 10 or more affiliated broadcast stations and having distribution facilities or circuits available to such affiliated stations at least 12 hours each day.

Cable network-entity. A cable network-entity is an organization which produces programs available for simultaneous transmission by cable systems serving a combined total of at least 5,000,000 subscribers and having distribution facilities or circuits available to such affiliated stations or cable systems.

[51 FR 4601, Feb. 6, 1986]

§ 74.3 FCC inspections of stations.

(a) The licensee of a station authorized under this part must make the station available for inspection by representatives of the FCC during the station's business hours, or at any time it is in operation.

(b) In the course of an inspection or investigation, an FCC representative may require special equipment tests or program tests.

(c) The logs and records required by this part for the particular class or type of station must be made available upon request to representatives of the FCC.

[47 FR 53022, Nov. 24, 1982]

§ 74.5 Cross reference to rules in other parts.

Certain rules applicable to Auxiliary, Special Broadcast and other Program Distribution services, some of which are also applicable to other services, are set forth in the following parts of the FCC Rules and Regulations:

(a) Part 1, ''Practice and procedure''.

(1) Subpart A, ''General Rules of Practice and Procedure''. (§§ 1.1 to 1.117).

(2) Subpart B, ''Hearing Proceedings''. (§§ 1.201 to 1.364).

(3) Subpart C, ''Rulemaking Proceedings''. (§§ 1.399 to 1.430).

(4) Subpart F, ''Wireless Telecommunications Services Applications and Proceedings''. (§§ 1.901 to 1.981).

(5) Subpart G, ''Schedule of Statutory Charges and Procedures for Payment''. (§§ 1.1101 to 1.1120).

(6) Subpart H, ''Ex Parte Presentations''. (§§ 1.1200 to 1.1216).

(7) Subpart I, ''Procedures Implementing the National Environmental Policy Act of 1969''. (§§ 1.1301 to 1.1319).

(8) Subpart T, ''Foreign Ownership of Broadcast, Common Carrier, Aeronautical En Route, and Aeronautical Fixed Radio Station Licensees''. (§§ 1.5000 to 1.5004).

(9) Part 1, Subpart W of the chapter, ''FCC Registration Number''. (§§ 1.8001–1.8005).

(b) Part 2, ''Frequency Allocations and Radio Treaty Matters, General Rules and Regulations'', including subparts A, ''Terminology''; B, ''Allocation, Assignments and Use of Radio Frequencies''; C, ''Emissions''; D, ''Call Signs and Other Forms of Identifying Radio Transmissions''; and J, ''Equipment Authorization Proceedings''.

(c) [Reserved]

(d) Part 17, ''Construction, Marking and Lighting of Antenna Structures''.

(e) Part 73, ''Radio Broadcast Services''.

(f) Part 101, ''Fixed Microwave Services''.

[53 FR 2499, Jan. 28, 1988, as amended at 60 FR 55482, Nov. 1, 1995; 66 FR 47896, Sept. 14, 2001; 68 FR 12761, Mar. 17, 2003; 76 FR 70911, Nov. 16, 2011; 78 FR 25174, Apr. 29, 2013; 81 FR 86613, Dec. 1, 2016]

§ 74.6 Licensing of broadcast auxiliary and low power auxiliary stations.

Applicants for and licensees of remote pickup broadcast stations, aural broadcast auxiliary stations, television broadcast auxiliary stations, and low power auxiliary stations authorized under subparts D, E, F, and H of this part are subject to the application and procedural rules for wireless telecommunications services contained in part 1, subpart F of this chapter. Applicants for these stations may file either manually or electronically as specified in §1.913(b) and (d) of this chapter.

[68 FR 12761, Mar. 17, 2003]

§ 74.12 Notification of filing of applications.

The provisions of §73.1030 ''Notification concerning interference to Radio Astronomy, Research, and Receiving Installations'' apply to all stations authorized under this part of the FCC Rules except the following:

(a) Mobile remote pickup stations (subpart D).

(b) TV pickup stations (subpart F).

(c) Low power auxiliary stations (subpart H).

[44 FR 58735, Oct. 11, 1979, as amended at 44 FR 77167, Dec. 31, 1979; 47 FR 28388, June 30, 1982]

§ 74.13 Equipment tests.

(a) During the process of construction of any class of radio station listed in this part, the permittee, without further authority of the Commission, may conduct equipment tests for the purpose of such adjustments and measurements as may be necessary to assure compliance with the terms of the construction permit, the technical provisions of the application therefor, the technical requirements of this chapter, and the applicable engineering standards.

(b) Equipment tests may be continued so long as the construction permit shall remain valid.

(c) The authorization for tests embodied in this section shall not be construed as constituting a license to operate.

[38 FR 18378, July 10, 1973]

§ 74.14 Service or program tests.

(a) Upon completion of construction of a radio station in accordance with the terms of the construction permit, the technical provisions of the application therefor, technical requirements of this chapter, and applicable engineering standards, and when an application for station license has been filed showing the station to be in satisfactory operating condition, the permittee or any class of station listed in this part may, without further authority of the Commission, conduct service or program tests.

(b) Program test authority for stations authorized under this part will continue valid during Commission consideration of the application for license and during this period further extension of the construction permit is not required. Program test authority shall be automatically terminated with final action on the application for station license.

(c) The authorization for tests embodied in this section shall not be construed as approval by the Commission of the application for station license.

[38 FR 18378, July 10, 1973]

§ 74.15 Station license period.

(a) [Reserved]

(b) Licenses for stations or systems in the Auxiliary Broadcast Service held by a licensee of a broadcast station will be issued for a period running concurrently with the license of the associated broadcast station with which it is licensed. Licenses held by eligible networks for the purpose of providing program service to affiliated stations under subpart D of this part, and by eligible networks, cable television operators, motion picture producers and television program producers under subpart H of this part will be issued for a period running concurrently with the normal licensing period for broadcast stations located in the same area of operation. Licenses held by large venue owners or operators and professional sound companies under subpart H of this part will be issued for a period not to exceed ten years from the date of initial issuance or renewal.

(c) The license of an FM broadcast booster station or a TV broadcast

booster station will be issued for a period running concurrently with the license of the FM radio broadcast station or TV broadcast station (primary station) with which it is used.

(d) Initial licenses for low power TV, TV translator, and FM translator stations will ordinarily be issued for a period running until the date specified in §73.1020 of this chapter for full service stations operating in their State or Territory, or if issued after such date, to the next renewal date determined in accordance with §73.1020 of this chapter. Lower power TV and TV translator station and FM translator station licenses will ordinarily be renewed for 8 years. However, if the FCC finds that the public interest, convenience or necessity will be served, it may issue either an initial license or a renewal thereof for a lesser term. The FCC may also issue a license renewal for a shorter term if requested by the applicant. The time of expiration of all licenses will be 3 a.m. local time, on the following dates, and thereafter to the schedule for full service stations in their states as reflected in §73.1020 of this chapter:

(1) Nevada:

(i) FM translators, February 1, 1997.

(ii) LPTV and TV translator, February 1, 1998.

(2) California:

(i) FM translators, April 1, 1997.

(ii) LPTV and TV translators, April 1, 1998

(3) Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhodes Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, West Virginia, Ohio and the District of Colbumia:

(i) FM translators, June 1, 1997

(ii) LPTV and TV translators, June 1, 1998

(4) Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, Missouri, Kentucky, Tennessee, Indiana, Illinois, Michigan, Wisconsin, Pureto Rico and the Virgin Islands:

(i) FM translators, August 1, 1997

(ii) LPTV and TV translators, August 1, 1998

(5) Oklahoma and Texas:

(i) FM translators, October 1, 1997

(ii) LPTV and TV translators, October 1, 1998

(6) Kansas and Nebraska:

(i) FM translators, December 1, 1997

(ii) LPTV and TV translators, December 1, 1998

(7) Iowa and South Dakota:

(i) FM translators, February 1, 1998

(ii) LPTV and TV translators, February 1, 1999

(8) Minnesota and North Dakota:

(i) FM translators, April 1, 1998

(ii) LPTV and TV translators, April 1, 1999

(9) Wyoming:

(i) FM translators, June 1, 1998

(ii) LPTV and TV translators, June 1, 1999

(10) Montana:

(i) FM translators, August 1, 1998

(ii) LPTV and TV translators, August 1, 1999

(11) Idaho:

(i) FM translators, October 1, 1995

(ii) LPTV and TV translators, October 1, 1996

(12) Washington:

(i) FM translators, December 1, 1995

(ii) LPTV and TV translators, December 1, 1996

(13) Oregon:

(i) FM translators, February 1, 1996

(ii) LPTV and TV translators, February 1, 1997

(14) Alaska, American Samoa, Guam, Mariana Islands and Hawaii:

(i) FM translators, April 1, 1996

(ii) LPTV and TV translators, April 1, 1997

(15) Colorado:

(i) FM translators, June 1, 1996

(ii) LPTV and TV translators, June 1, 1997

(16) New Mexico:

(i) FM translators, August 1, 1996

(ii) LPTV and TV translators, August 1, 1997

(17) Utah:

(i) FM translators, October 1, 1996

(ii) LPTV and TV translators, October 1, 1997

(18) Arizona:

(i) FM translators, December 1, 1996

(ii) LPTV and TV translators, December 1, 1997

(e) Licenses held by broadcast network-entities under Subpart F will ordinarily be issued for a period of 8 years running concurrently with the

normal licensing period for broadcast stations located in the same area of operation. An application for renewal of license shall be filed in accordance with the provisions of § 1.949.

(f) The license of an FM translator or FM broadcast booster, TV translator or TV broadcast booster, or low power TV station will expire as a matter of law upon failure to transmit broadcast signals for any consecutive 12-month period notwithstanding any provision, term, or condition of the license to the contrary. Further, if the license of any AM, FM, or TV broadcasting station licensed under part 73 of this chapter expires for failure to transmit signals for any consecutive 12-month period, the licensee's authorizations under part 74, subparts D, E, F, and H in connection with the operation of that AM, FM, or TV broadcasting station will also expire notwithstanding any provision, term, or condition to the contrary.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[28 FR 13706, Dec. 14, 1963, as amended at 49 FR 32583, Aug. 15, 1984; 50 FR 26758, June 28, 1985; 52 FR 7142, Mar. 9, 1987; 52 FR 25604, July 8, 1987; 52 FR 31402, Aug. 20, 1987; 59 FR 63052, Dec. 7, 1994; 61 FR 28767, June 6, 1996; 62 FR 5347, Feb. 5, 1997; 68 FR 12761, Mar. 17, 2003; 69 FR 72045, Dec. 10, 2004; 78 FR 25174, Apr. 29, 2013; 79 FR 40688, July 14, 2014]

§ 74.16 Temporary extension of station licenses.

Where there is pending before the Commission any application, investigation, or proceeding which, after hearing, might lead to or make necessary the modification of, revocation of, or the refusal to renew an existing auxiliary broadcast station license or a television broadcast translator station license, the Commission in its discretion, may grant a temporary extension of such license: *Provided, however,* That no such temporary extension shall be construed as a finding by the Commission that the operation of any radio station thereunder will serve public interest, convenience, and necessity beyond the express terms of such temporary extension of license: *And provided further,* That such temporary extension of license will in no wise affect or limit the action of the Commission with respect to any pending application or proceeding.

[78 FR 25175, Apr. 29, 2013]

§ 74.18 Transmitter control and operation.

Except where unattended operation is specifically permitted, the licensee of each station authorized under the provisions of this part shall designate a person or persons to activate and control its transmitter. At the discretion of the station licensee, persons so designated may be employed for other duties and for operation of other transmitting stations if such other duties will not interfere with the proper operation of the station transmission systems.

[60 FR 55482, Nov. 1, 1995]

§ 74.19 Special technical records.

The FCC may require a broadcast auxiliary station licensee to keep operating and maintenance records necessary to resolve conditions of actual or potential interference, rule violations, or deficient technical operation.

[48 FR 38482, Aug. 24, 1983]

§ 74.21 Broadcasting emergency information.

(a) In an emergency where normal communication facilities have been disrupted or destroyed by storms, floods or other disasters, the stations licensed under this part may be operated for the purpose of transmitting essential communications intended to alleviate distress, dispatch aid, assist in rescue operations, maintain order, or otherwise promote the safety of life and property. In the course of such operation, a station of any class may communicate with stations of other classes and in other services. However, such operation shall be conducted only on the frequency or frequencies for which the station is licensed and the used power shall not exceed the maximum authorized in the station license. When such operation involves the use of frequencies shared with other stations, licensees are expected to cooperate fully to avoid unnecessary or disruptive interference.

(b) Whenever such operation involves communications of a nature other than

those for which the station is licensed to perform, the licensee shall, at the earliest practicable time, notify the FCC in Washington, DC of the nature of the emergency and the use to which the station is being put and shall subsequently notify the same offices when the emergency operation has been terminated.

(c) Emergency operation undertaken pursuant to the provisions of this section shall be discontinued as soon as substantially normal communications facilities have been restored. The Commission may at any time order discontinuance of such operation.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[28 FR 13706, Dec. 14, 1963, as amended at 37 FR 25843, Dec. 5, 1972; 44 FR 65765, Nov. 15, 1979; 47 FR 40175, Sept. 13, 1982]

§ 74.22 Use of common antenna structure.

The simultaneous use of a common antenna structure by more than one station authorized under this part, or by one or more stations of any other service may be authorized. The owner of each antenna structure is responsible for ensuring that the structure, if required, is painted and/or illuminated in accordance with part 17 of this chapter. In the event of default by the owner, each licensee or permittee shall be responsible for ensuring that the structure complies with applicable painting and lighting requirements.

[61 FR 4368, Feb. 6, 1996]

§ 74.23 Interference jeopardizing safety of life or protection of property.

(a) The licensee of any station authorized under this part that causes harmful interference, as defined in §2.1 of the Commission's rules, to radio communications involving the safety of life or protection of property shall promptly eliminate the interference.

(b) If harmful interference to radio communications involving the safety of life or protection of property cannot be promptly eliminated and the Commission finds that there exists an imminent danger to safety of life or protection of property, pursuant to 47 U.S.C. 312 (b) and (e) and 5 U.S.C. 558, operation of the offending equipment shall temporarily be suspended and shall not be resumed until the harmful interference has been eliminated or the threat to the safety of life or property has passed. In situations where the protection of property alone is jeopardized, before taking any action under this paragraph, the Commission shall balance the nature and extent of the possible property damage against the potential harm to a licensee or the public caused by suspending part 74 operations. When specifically authorized, short test operations may be made during the period of suspended operation to check the efficacy of remedial measures.

[47 FR 1395, Jan. 13, 1982]

§ 74.24 Short-term operation.

All classes of broadcast auxiliary stations provided for in subparts D, E, F and H of this part, except wireless video assist devices, may be operated on a short-term basis under the authority conveyed by a part 73 license or a broadcast auxiliary license without prior authorization from the FCC, subject to the following conditions:

(a) Licensees operating under this provision must be eligible to operate the particular class of broadcast auxiliary station.

(b) The short-term broadcast auxiliary station shall be operated in conformance with all normally applicable regulations to the extent they are not superceded by specific provisions of this section.

(c) Short-term operation is on a secondary, non-interference basis to regularly authorized stations and shall be discontinued immediately upon notification that perceptible interference is being caused to the operation of a regularly authorized station. Short-term station operators shall, to the extent practicable, use only the effective radiated power and antenna height necessary for satisfactory system performance.

(d) Short-term operation under this section shall not exceed 720 hours annually per frequency.

NOTE TO PARAGRAPH (d): Certain frequencies shared with other services which are normally available for permanent broadcast auxiliary station assignment may not be available for short-term operation. Refer

to any note(s) which may be applicable to the use of a specific frequency prior to initiating operation.

(e) The antenna height of a station operated pursuant to this section shall not increase the height of any man-made antenna supporting structure, or increase by more than 6.1 meters (20 feet) the height of any other type of man-made structure or natural formation. However, the facilities of an authorized broadcast auxiliary station belonging to another licensee may be operated in accordance with the terms of its outstanding authorization.

(f) Stations operated pursuant to this section shall be identified by the transmission of the call sign of the associated part 73 broadcast station or broadcast auxiliary station, or, in the case of stations operated by broadcast network and cable network entities, by the network or cable entity's name and base of operations city.

(g) Prior to operating pursuant to the provisions of this section, licensees shall, for the intended location or area-of-operation, notify the appropriate frequency coordination committee or any licensee(s) assigned the use of the proposed operating frequency, concerning the particulars of the intended operation and shall provide the name and telephone number of a person who may be contacted in the event of interference. Except as provided herein, this notification provision shall not apply where an unanticipated need for immediate short-term mobile station operation would render compliance with the provisions of this paragraph impractical.

(1) A CARS licensee shall always be given advance notification prior to the commencement of short-term operation on or adjacent to an assigned frequency.

(2) The Commission may designate a frequency coordinator as the single point of contact under this section for advance coordination of major national and international events. Once designated, all short-term auxiliary broadcast use under this section must be coordinated in advance through the designated coordinator.

(i) Coordinators under this provision will not be designated unless the Commission receives an initial request, in writing, to designate a coordinator.

(ii) The Commission will issue a Public Notice with information regarding the designation of such a coordinator.

(iii) All coordination must be done on a non-discriminatory basis.

(iv) All licensees must abide by the decision of the coordinator. The Commission will be the final arbiter of any disputes.

(3) An unanticipated need will never be deemed to exist for a scheduled event, such as a convention, sporting event, etc.

(h) Short-term operation is limited to areas south or west of the United States-Canada border as follows:

(1) Use of broadcast auxiliary service frequencies below 470 MHz is limited to areas of the United States south of Line A or west of Line C unless the effective radiated power of the station is 5 watts or less. *See* §1.928(e) of this chapter for a definition of Line A and Line C.

(2) A broadcast auxiliary service station operating on frequencies between 470 MHz and 1 GHz must be at least 56.3 kilometers (35 miles) south (or west, as appropriate of the United States-Canada border if the antenna looks within a 200° sector toward the border; or, the station must be at least 8.1 kilometers (5 miles) south (or west, as appropriate) if the antenna looks within a 160° sector away from the border. However, operation is not permitted in either of these two situations if the station would be within the coordination distance of a receiving earth station in Canada which uses the same frequency band. (The coordination distance is the distance, calculated for any station, according to Appendix 28 of the International Radio Regulations.)

(3) A broadcast auxiliary service station operating on frequencies above 1 GHz shall not be located within the coordination distance of a receiving earth station in Canada which uses the same frequency band. (The coordination distance is the distance, calculated for any station, according to Appendix 28 of the international Radio Regulations.)

(i) Short-term operation of a remote pickup broadcast base station, a remote pickup automatic relay station,

an aural broadcast STL station, an aural broadcast intercity relay station, a TV STL station, a TV intercity relay station or a TV translator relay station in the National Radio Quiet Zone, the Table Mountain Radio Receiving Zone, or near FCC monitoring stations is subject to the same advance notification procedures applicable to regular applications as provided for in §73.1030 of this chapter and §74.12, except that inasmuch as short-term operation does not involve an application process, the provisions relating to agency objection procedures shall not apply. It shall simply be necessary for the licensee to contact the potentially affected agency and obtain advance approval for the proposed short-term operation. Where protection to FCC monitoring stations is concerned, approval for short-term operation may be given by the Regional Director of a Commission field facility.

(j)(1) This paragraph applies only to operations which will transmit on frequencies under 15 GHz. Prior to commencing short-term operation of a remote pickup broadcast station, a remote pickup automatic relay station, an aural broadcast STL station, an aural broadcast intercity relay station, a TV STL station, a TV intercity relay station, a TV translator relay station, a TV pickup station, or a TV microwave booster station within the 4-mile (6.4 kilometer) radius Commonwealth of Puerto Rico Protection Zone (centered on NAD–83 Geographical Coordinates North Latitude 18°20′38.28″, West Longitude 66°45′09.42″), an applicant must notify the Arecibo Observatory, located near Arecibo, Puerto Rico. Operations within the Puerto Rico Coordination Zone (*i.e.*, on the islands of Puerto Rico, Desecheo, Mona, Vieques, or Culebra), but outside the Protection Zone, whether short term or long term, shall provide notification to the Arecibo Observatory prior to commencing operation. Notification should be directed to the following: Interference Office, Arecibo Observatory, HC3 Box 53995, Arecibo, Puerto Rico 00612, Tel. (809) 878–2612, Fax (809) 878–1861, E-mail *prcz@naic.edu*.

(2) Notification of short-term operations may be provided by telephone, fax, or electronic mail. The notification for long-term operations shall be written or electronic, and shall set forth the technical parameters of the proposed station, including the geographical coordinates of the antenna (NAD–83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Observatory. Generally, submission of the information in the technical portion of the FCC license application is adequate notification. After receipt of such applications in non-emergency situations, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory and to file either an amendment to the application or a modification application, as appropriate. If the Commission determines that an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, its application may be granted. In emergency situations in which prior notification or approval is not practicable, notification or approval must be accomplished as soon as possible after operations begin.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1032; 47 U.S.C. 158, 303)

[47 FR 9219, Mar. 4, 1982, as amended at 49 FR 34356, Aug. 30, 1984; 50 FR 23709, June 5, 1985; 62 FR 55532, Oct. 27, 1997; 68 FR 12762, Mar. 17, 2003; 70 FR 31373, June 1, 2005; 80 FR 53751, Sept. 8, 2015]

§74.25 Temporary conditional operating authority.

An applicant for a new broadcast auxiliary radio service station or a modification of an existing station under subparts D, E, F, or H of this part may operate the proposed station during the pendency of its applications upon the filing of a properly completed

formal application that complies with the rules for the particular class of station, provided that the conditions set forth are satisfied.

(a) *Conditions applicable to all broadcast auxiliary stations.* (1) Stations operated pursuant to this section shall be identified by the transmission of the call sign of the associated part 73 of this chapter broadcast station, if one exists, or the prefix ''WT'' followed by the applicant's local business telephone number for broadcast or cable network entities.

(2) The antenna structure(s) has been previously studied by the Federal Aviation Administration and determined to pose no hazard to aviation safety as required by subpart B of part 17 of this chapter; or the antenna or tower structure does not exceed 6.1 meters above ground level or above an existing manmade structure (other than an antenna structure), if the antenna or tower has not been previously studied by the Federal Aviation Administration and cleared by the FCC;

(3) The grant of the application(s) does not require a waiver of the Commission's rules;

(4) The applicant has determined that the facility(ies) will not significantly affect the environment as defined in §1.1307 of this chapter;

(5) The station site does not lie within an area identified in §1.924 of this chapter.

(b) *Conditions applicable to remote pickup broadcast auxiliary stations.* (1) The auxiliary station must be located within 80 km (50 mi) of the broadcast studio or broadcast transmitter.

(2) The applicant must coordinate the operation with all affected co-channel and adjacent channel licensees in the area of operation. This requirement can be satisfied by coordination with the local frequency committee if one exists.

(3) Operation under this provision is not permitted between 152.87 MHz and 153.35 MHz.

(c) *Conditions applicable to aural and television broadcast auxiliary stations.* (1) The applicable frequency coordination procedures have been successfully completed and the filed application is consistent with that coordination.

(2) The station site does not lie within an area requiring international coordination.

(3) If operated on frequencies in the 17.8–19.7 GHz band for any services or on frequencies in the 17.7–17.8 GHz band for MVPD operations, the station site does not lie within any of the areas identified in §1.924 of this chapter.

(d) Operation under this section shall be suspended immediately upon notification from the Commission or by the Regional Director of a Commission field facility, and shall not be resumed until specific authority is given by the Commission or Regional Director. When authorized by the Regional Director, short test operations may be made.

(e) Conditional authority ceases immediately if the application(s) is returned by the Commission because it is not acceptable for filing.

(f) Conditional authorization does not prejudice any action the Commission may take on the subject application(s). Conditional authority is accepted with the express understanding that such authority may be modified or cancelled by the Commission at any time without hearing if, in the Commission's discretion, the need for such action arises. An applicant operating pursuant to this conditional authority assumes all risks associated with such operation, the termination or modification of the conditional authority, or the subsequent dismissal or denial of its application(s).

[68 FR 12762, Mar. 17, 2003, as amended at 69 FR 17958, Apr. 6, 2004; 71 FR 69048, Nov. 29, 2006; 80 FR 53751, Sept. 8, 2015]

§ 74.28 Additional orders.

In case the rules contained in this part do not cover all phases of operation with respect to external effects, the FCC may make supplemental or additional orders in each case as may be deemed necessary.

[78 FR 25175, Apr. 29, 2013]

§ 74.30 Antenna structure, marking and lighting.

The provisions of part 17 of the FCC rules (Construction, Marking, and Lighting of Antenna Structures) require certain antenna structures to be

painted and/or lighted in accordance with the provisions of §§17.47 through 17.56 of the FCC rules.

[47 FR 53022, Nov. 24, 1982]

§ 74.32 Operation in the 17.7–17.8 GHz and 17.8–19.7 GHz bands.

The following exclusion areas and coordination areas are established to minimize or avoid harmful interference to Federal Government earth stations receiving in the 17.7–19.7 GHz band:

(a) No application seeking authority for fixed stations supporting the operations of Multichannel Video Programming Distributors (MVPD) in the 17.7–17.8 GHz band or to operate in the 17.8–19.7 GHz band for any service will be accepted for filing if the proposed station is located within 20 km of Denver, CO (39°43′ N., 104°46′ W.) or Washington, DC (38°48′ N., 76°52′ W.).

(b) Any application for a new station license to provide MVPD operations in the 17.7–17.8 GHz band or to operate in the 17.8–19.7 GHz band for any service, or for modification of an existing station license in these bands which would change the frequency, power, emission, modulation, polarization, antenna height or directivity, or location of such a station, must be coordinated with the Federal Government by the Commission before an authorization will be issued, if the station or proposed station is located in whole or in part within any of the following areas:

(1) *Denver, CO area:*

(i) Between latitudes 41°30′ N. and 38°30′ N. and between longitudes 103°10′ W. and 106°30′ W.

(ii) Between latitudes 38°30′ N. and 37°30′ N. and between longitudes 105°00′ W. and 105°50′ W.

(iii) Between latitudes 40°08′ N. and 39°56′ N. and between longitudes 107°00′ W. and 107°15′ W.

(2) *Washington, DC area:*

(i) Between latitudes 38°40′ N. and 38°10′ N. and between longitudes 78°50′ W. and 79°20′ W.

(ii) Within 178 km of 38°48′ N, 76°52′ W.

(3) *San Miguel, CA area:*

(i) Between latitudes 34°39′ N. and 34°00′ N. and between longitudes 118°52′ W. and 119°24′ W.

(ii) Within 200 km of 35°44′ N., 120°45′ W.

(4) *Guam area:* Within 100 km of 13°35′ N., 144°51′ E.

Note to §74.32: The coordinates cited in this section are specified in terms of the ''North American Datum of 1983 (NAD 83).''

[80 FR 38908, July 7, 2015]

§ 74.34 Period of construction; certification of completion of construction.

(a) Each aural and television broadcast auxiliary station authorized under subparts E and F of this part must be in operation within 18 months from the initial date of grant.

(b) Each remote pickup broadcast auxiliary station authorized under subpart D of this part must be in operation within 12 months from the initial date of grant.

(c) Failure to timely begin operation means the authorization terminates automatically.

(d) Requests for extension of time may be granted upon a showing of good cause pursuant to §1.946(e) of this chapter.

(e) Construction of any authorized facility or frequency must be completed by the date specified in the license and the Commission must be notified pursuant to §1.946 of this chapter.

[68 FR 12763, Mar. 17, 2003]

Subparts A–C [Reserved]

Subpart D—Remote Pickup Broadcast Stations

§ 74.401 Definitions.

Associated broadcasting station(s). The broadcasting station or stations with which a remote pickup broadcast station or system is licensed as an auxiliary and with which it is principally used.

Authorized bandwidth. The occupied or necessary bandwidth, whichever is greater, authorized to be used by a station.

Automatic relay station. A remote pickup broadcast base station which is actuated by automatic means and is used to relay transmissions between remote pickup broadcast base and mobile stations, between remote pickup broadcast mobile stations and from remote

pickup broadcast mobile stations to broadcasting stations. (Automatic operation is not operation by remote control.)

Carrier power. The average power at the output terminals of a transmitter (other than a transmitter having a suppressed, reduced or controlled carrier) during one radio frequency cycle under conditions of no modulation.

Mean power. The power at the output terminals of a transmitter during normal operation, averaged over a time sufficiently long compared with the period of the lowest frequency encountered in the modulation. A time of 1/10 second during which the mean power is greatest will be selected normally.

Necessary bandwidth. For a given class of emission, the minimum value of the occupied bandwidth sufficient to ensure the transmission of information at the rate and with the quality required for the system employed, under specified conditions. Emissions useful for the good functioning of the receiving equipment, as for example, the emission corresponding to the carrier of reduced carrier systems, shall be included in the necessary bandwidth.

Occupied bandwidth. The frequency bandwidth such that, below its lower and above its upper frequency limits, the mean powers radiated are each equal to 0.5 percent of the total mean power radiated by a given emission.

Operational communications. Communications concerning the technical and programming operation of a broadcast station and its auxiliaries.

Remote control operation. Operation of a base station by a properly designated person on duty at a control position from which the transmitter is not visible but that position is equipped with suitable controls so that essential functions can be performed therefrom.

Remote pickup broadcast base station. A remote pickup broadcast station authorized for operation at a specified location.

Remote pickup broadcast mobile station. A remote pickup broadcast station authorized for use while in motion or during halts at unspecified locations. (As used in this subpart, mobile stations include hand-carried, pack-carried and other portable transmitters.)

Remote pickup broadcast stations. A term used in this subpart to include both remote pickup broadcast base stations and remote pickup broadcast mobile stations.

Remote pickup mobile repeater unit. A vehicular receiver-transmitter repeater used to provide extended communications range for a low-power hand-carried or pack-carried transmitter.

Station. As used in this subpart, each remote pickup broadcast transmitter, and its associated accessory equipment necessary to the radio communication function, constitutes a separate station.

Studio. Any room or series of rooms equipped for the regular production of broadcast programs of various kinds. A broadcasting booth at a stadium, convention hall, church, or other similar place is not considered to be a studio.

Systems. A complete remote pickup broadcast facility consisting of one or more mobile stations and/or one or more base stations authorized pursuant to a single license.

[41 FR 29686, July 19, 1976, as amended at 42 FR 14728, Mar. 16, 1977; 47 FR 28388, June 30, 1982; 47 FR 54448, Dec. 3, 1982; 51 FR 4601, Feb. 6, 1986]

§ 74.402 Frequency assignment.

Operation on all channels listed in this section (except: frequencies 26.07 MHz, 26.11 MHz, and 26.45 MHz, and frequencies listed in paragraphs (a)(4) and (c)(1) of this section shall be in accordance with the ''priority of use'' provisions in § 74.403(b)). The channel will be assigned by its center frequency, channel bandwidth, and emission designator. In general, the frequencies listed in this section represent the center of the channel or channel segment. When an even number of channels are stacked in those sections stacking is permitted, channel assignments may be made for the frequency halfway between those listed.

(a) The following channels may be assigned for use by broadcast remote pickup stations using any emission (other than single sideband or pulse) that will be in accordance with the provisions of § 74.462.

(1) [Reserved]

(2) HF Channels: 25.87, 25.91, 25.95, 25.99, 26.03, 26.07, 26.09, 26.11, 26.13, 26.15,

26.17, 26.19, 26.21, 26.23, 26.25, 26.27, 26.29, 26.31, 26.33, 26.35, 26.37, 26.39, 26.41, 26.43, 26.45, and 26.47 MHz. The channels 25.87–26.09 MHz are subject to the condition listed in paragraph (e)(2) of this section.

(3) VHF Channels: 166.25 and 170.15 MHz. These channels are subject to the condition listed in paragraph (e)(8) of this section.

(4) UHF Channels: Up to two of the following 6.25 kHz segments may be stacked to form a channel which may be assigned for use by broadcast remote pickup stations using any emission contained within the resultant channel in accordance with the provisions of §74.462: 450.00625 MHz, 450.0125 MHz, 450.01875 MHz, 450.025 MHz, 450.98125 MHz, 450.9875 MHz, 450.99375 MHz, 455.00625 MHz, 455.0125 MHz, 455.01875 MHz, 455.025 MHz, 455.98125 MHz, 455.9875 MHz, and 455.99375 MHz. These channels are subject to the condition listed in paragraph (e)(9) of this section.

(b) Up to four of the following 7.5 kHz VHF segments and up to eight of the following 6.25 kHz UHF segments may be stacked to form a channel which may be assigned for use by broadcast remote pickup stations using any emission contained within the resultant channel in accordance with the provisions of §74.462.

(1) VHF segments: 152.8625, 152.870, 152.8775, 152.885, 152.8925, 152.900, 152.9075, 152.915, 152.9225, 152.930, 152.9375, 152.945, 152.9525, 152.960, 152.9675, 152.975, 152.9825, 152.990, 152.9975, 153.005, 153.0125, 153.020, 153.0275, 153.035, 153.0425, 153.050, 153.0575, 153.065, 153.0725, 153.080, 153.0875, 153.095, 153.1025, 153.110, 153.1175, 153.125, 153.1325, 153.140, 153.1475, 153.155, 153.1625, 153.170, 153.1775, 153.185, 153.1925, 153.200, 153.2075, 153.215, 153.2225, 153.230, 153.2375, 153.245, 153.2525, 153.260, 153.2675, 153.275, 153.2825, 153.290, 153.2975, 153.305, 153.3125, 153.320, 153.3275, 153.335, 153.3425, 153.350, and 153.3575. These channels are subject to the conditions listed in paragraphs (e)(3), (4), (5), and (10) of this section.

(2) VHF segments: 160.860, 160.8675, 160.875, 160.8825, 160.890, 160.8975, 160.905, 160.9125, 160.920, 160.9275, 160.935, 160.9425, 160.950, 160.9575, 160.965, 160.9725, 160.980, 160.9875, 160.995, 161.0025, 161.010, 161.0175, 161.025, 161.0325, 161.040, 161.0475, 161.055, 161.0625, 161.070, 161.0775, 161.085, 161.0925, 161.100, 161.1075, 161.115, 161.1225, 161.130, 161.1375, 161.145, 161.1525, 161.160, 161.1675, 161.175, 161.1825, 161.190, 161.1975, 161.205, 161.2125, 161.220, 161.2275, 161.235, 161.2425, 161.250, 161.2575, 161.265, 161.2725, 161.280, 161.2875, 161.295, 161.3025, 161.310, 161.3175, 161.325, 161.3325, 161.340, 161.3475, 161.355, 161.3625, 161.370, 161.3775, 161.385, 161.3925, 161.400. These channels are subject to the condition listed in paragraph (e)(6) and (10) of this section.

(3) VHF segments: 161.625, 161.6325, 161.640, 161.6475, 161.655, 161.6625, 161.670, 161.6775, 161.685, 161.6925, 161.700, 161.7075, 161.715, 161.7225, 161.730, 161.7375, 161.745, 161.7525, 161.760, 161.7675, 161.775. These channels are subject to the conditions listed in paragraphs (e)(4), (7), and (10) of this section.

(4) UHF segments: 450.03125, 450.0375, 450.04375, 450.050, 450.05625, 450.0625, 450.06875, 450.075, 450.08125, 450.0875, 450.09375, 450.100, 450.10625, 450.1125, 450.11875, 450.125, 450.13125, 450.1375, 450.14375, 450.150, 450.15625, 450.1625, 450.16875, 450.175, 450.18125, 450.1875, 450.19375, 450.200, 450.20625, 450.2125, 450.21875, 450.225, 450.23125, 450.2375, 450.24375, 450.250, 450.25625, 450.2625, 450.26875, 450.275, 450.28125, 450.2875, 450.29375, 450.300, 450.30625, 450.3125, 450.31875, 450.325, 450.33125, 450.3375, 450.34375, 450.350, 450.35625, 450.3625, 450.36875, 450.375, 450.38125, 450.3875, 450.39375, 450.400, 450.40625, 450.4125, 450.41875, 450.425, 450.43125, 450.4375, 450.44375, 450.450, 450.45625, 450.4625, 450.46875, 450.475, 450.48125, 450.4875, 450.49375, 450.500, 450.50625, 450.5125, 450.51875, 450.525, 450.53125, 450.5375, 450.54375, 450.550, 450.55625, 450.5625, 450.56875, 450.575, 450.58125, 450.5875, 450.59375, 450.600, 450.60625, 450.6125, 450.61875, 455.03125, 455.0375, 455.04375, 455.050, 455.05625, 455.0625, 455.06875, 455.075, 455.08125, 455.0875, 455.09375, 455.100, 455.10625, 455.1125, 455.11875, 455.125, 455.13125, 455.1375, 455.14375, 455.150, 455.15625, 455.1625, 455.16875, 455.175, 455.18125, 455.1875, 455.19375, 455.200, 455.20625, 455.2125, 455.21875, 455.225, 455.23125, 455.2375, 455.24375,

455.250, 455.25625, 455.2625, 455.26875, 455.275, 455.28125, 455.2875, 455.29375, 455.300, 455.30625, 455.3125, 455.31875, 455.325, 455.33125, 455.3375, 455.34375, 455.350, 455.35625, 455.3625, 455.36875, 455.375, 455.38125, 455.3875, 455.39375, 455.400, 455.40625, 455.4125, 455.41875, 455.425, 455.43125, 455.4375, 455.44375, 455.450, 455.45625, 455.4625, 455.46875, 455.475, 455.48125, 455.4875, 455.49375, 455.500, 455.50625, 455.5125, 455.51875, 455.525, 455.53125, 455.5375, 455.54375, 455.550, 455.55625, 455.5625, 455.56875, 455.575, 455.58125, 455.5875, 455.59375, 455.600, 455.60625, 455.6125, 455.61875.

(c) Up to two of the following 25 kHz segments may be stacked to form a channel which may be assigned for use by broadcast remote pickup stations using any emission contained within the resultant channel in accordance with the provisions of §74.462. Users committed to 50 kHz bandwidths and transmitting program material will have primary use of these channels.

(1) UHF segments: 450.6375, 450.6625, 450.6875, 450.7125, 450.7375, 450.7625, 450.7875, 450.8125, 450.8375, 450.8625, 455.6375, 455.6625, 455.6875, 455.7125, 455.7375, 455.7625, 455.7875, 455.8125, 455.8375, 455.8625 MHz.

(2) [Reserved]

(d) Up to two of the following 50 kHz segments may be stacked to form a channel which may be assigned for use by broadcast remote pickup stations using any emission contained within the resultant channel in accordance with the provisions of §74.462. Users committed to 100 kHz bandwidths and transmitting program material will have primary use of these channels.

(1) UHF segments: 450.900, 450.950, 455.900, and 455.950 MHz.

(2) [Reserved]

(e) Conditions on Broadcast Remote Pickup Service channel usage as referred to in paragraphs (a) through (d) of this section:

(1) [Reserved]

(2) Operation is subject to the condition that no harmful interference is caused to stations in the broadcast service.

(3) Operation is subject to the condition that no harmful interference is caused to stations operating in accordance with the Table of Frequency Allocations set forth in part 2 of this chapter. Applications for licenses to use frequencies in this band must include statements showing what procedures will be taken to ensure that interference will not be caused to stations in the Industrial/Business Pool (Part 90).

(4) These frequencies will not be licensed to network entities.

(5) These frequencies will not be authorized to new stations for use on board aircraft.

(6) These frequencies are allocated for assignment to broadcast remote pickup stations in Puerto Rico or the Virgin Islands only.

NOTE TO PARAGRAPH (e)(6): These frequencies are shared with Public Safety and Industrial/Business Pools (Part 90).

(7) These frequencies may not be used by broadcast remote pickup stations in Puerto Rico or the Virgin Islands. In other areas, certain existing stations in the Public Safety and Industrial/Business Pools (Part 90) have been permitted to continue operation on these frequencies on the condition that no harmful interference is caused to broadcast remote pickup stations.

(8) Operation on frequencies 166.25 MHz and 170.15 MHz is subject to the condition that harmful interference shall not be caused to present or future Government stations in the band 162–174 MHz and is also subject to the bandwidth and tolerance limitations and compliance deadlines listed in §74.462 of this part. Authorization on these frequencies shall be in the lower 48 contiguous States only, except within the area bounded on the west by the Mississippi River, on the north by the parallel of latitude 37°30′ N., and on the east and south by that arc of the circle with center at Springfield, Illinois, and radius equal to the airline distance between Springfield, Illinois, and Montgomery, Alabama, subtended between the foregoing west and north boundaries, or within 150 miles (241.4 km) of New York City.

(9) The use of these frequencies is limited to operational communications, including tones for signaling and for remote control and automatic transmission system control and telemetry. Stations licensed or applied for before April 16, 2003, must comply with the channel plan by March 17,

2006, or may continue to operate on a secondary, non-interference basis.

(10) Stations licensed or applied for before April 16, 2003, must comply with the channel plan by March 17, 2006, or may continue to operate on a secondary, non-interference basis.

(f) License applicants shall request assignment of only those channels, both in number and bandwidth, necessary for satisfactory operation and for which the system is equipped to operate. However, it is not necessary that each transmitter within a system be equipped to operate on all frequencies authorized to that licensee.

(g) Remote pickup stations or systems will not be granted exclusive channel assignments. The same channel or channels may be assigned to other licensees in the same area. When such sharing is necessary, the provisions of §74.403 shall apply.

[68 FR 12763, Mar. 17, 2003, as amended at 68 FR 25540, May 13, 2003]

§74.403 Frequency selection to avoid interference.

(a) Where two or more remote pickup broadcast station licensees are authorized to operate on the same frequency or group of frequencies in the same area and when simultaneous operation is contemplated, the licensees shall endeavor to select frequencies or schedule operation in such manner as to avoid mutual interference. If mutual agreement to this effect cannot be reached the Commission shall be notified and it will specify the frequency or frequencies on which each station is to be operated.

(b) The following order of priority of transmissions shall be observed on all frequencies except frequencies 26.07 MHz, 26.11 MHz, and 26.45 MHz, and frequencies listed in §74.402(a)(4) and (c)(1):

(1) Communications during an emergency or pending emergency directly related to the safety of life and property.

(2) Program material to be broadcast.

(3) Cues, orders, and other related communications immediately necessary to the accomplishment of a broadcast.

(4) Operational communications.

(5) Tests or drills to check the performance of stand-by or emergency circuits.

[41 FR 29686, July 19, 1976, as amended at 68 FR 12764, Mar. 17, 2003]

§74.431 Special rules applicable to remote pickup stations.

(a) Remote pickup mobile stations may be used for the transmission of material from the scene of events which occur outside the studio back to studio or production center. The transmitted material shall be intended for the licensee's own use and may be made available for use by any other broadcast station or cable system.

(b) Remote pickup mobile or base stations may be used for communications related to production and technical support of the remote program. This includes cues, orders, dispatch instructions, frequency coordination, establishing microwave links, and operational communications. Operational communications are alerting tones and special signals of short duration used for telemetry or control.

(c) Remote pickup mobile or base stations may communicate with any other station licensed under this subpart.

(d) Remote pickup mobile stations may be operated as a vehicular repeater to relay program material and communications between stations licensed under this subpart. Precautions shall be taken to avoid interference to other stations and the vehicular repeater shall only be activated by hand-carried or pack-carried units.

(e) The output of hand-carried or pack-carried transmitter units used with a vehicular repeater is limited to 2.5 watts. The output of a vehicular repeater transmitter used as a talkback unit on an additional frequency is limited to 2.5 watts.

(f) Remote pickup base and mobile stations in Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands may be used for any purpose related to the programming or technical operation of a broadcasting station, except for transmission intended for direct reception by the general public.

(g) [Reserved]

(h) In the event that normal aural studio to transmitter circuits are damaged, stations licensed under Subpart D may be used to provide temporary circuits for a period not exceeding 30 days without further authority from the Commission necessary to continue broadcasting.

(i) Remote pickup mobile or base stations may be used for activities associated with the Emergency Alert System (EAS) and similar emergency survival communications systems. Drills and test are also permitted on these stations, but the priority requirements of §74.403(b) must be observed in such cases.

[51 FR 4602, Feb. 6, 1986, as amended at 68 FR 12764, Mar. 17, 2003]

§74.432 Licensing requirements and procedures.

(a) A license for a remote pickup station will be issued to: the licensee of an AM, FM, noncommercial FM, low power FM, TV, Class A TV, international broadcast or low power TV station; broadcast network-entity; or cable network-entity.

(b) Base stations may operate as automatic relay stations on the frequencies listed in §74.402(b)(4) and (c)(1) under the provisions of §74.436, however, one licensee may not operate such stations on more than two frequency pairs in a single area.

(c) Base stations may use voice communications between the studio and transmitter or points of any intercity relay system on frequencies in Groups I and J.

(d) Base stations may be authorized to establish standby circuits from places where official broadcasts may be made during times of emergency and circuits to interconnect an emergency survival communications system.

(e) In Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands, base stations may provide program circuits between the studio and transmitter or to relay programs between broadcasting stations. A base station may be operated unattended in accordance with the following:

(1) The station must be designed, installed, and protected so that the transmitter can only be activated or controlled by persons authorized by the licensee.

(2) The station must be equipped with circuits to prevent transmitter operation when no signal is received from the station which it is relaying.

(f) Remote pickup stations may use only those frequencies and bandwidths which are necessary for operation.

(g) An application for a remote pickup broadcast station or system shall specify the broadcasting station with which the remote pickup broadcast facility is to be principally used and the licensed area of operation for a system which includes mobile stations shall be the area considered to be served by the associated broadcasting station. Mobile stations may be operated outside the licensed area of operation pursuant to §74.24 of this part. Where the applicant for remote pickup broadcast facilities is the licensee of more than one class of broadcasting station (AM, FM, TV), all licensed to the same community, designation of one such station as the associated broadcasting station will not preclude use of the remote pickup broadcast facilities with those broadcasting stations not included in the designation and such additional use shall be at the discretion of the licensee.

(h) In cases where a series of broadcasts are to be made from the same location, portable or mobile transmitters may be left at such location for the duration of the series of broadcasts: *Provided,* The transmitting apparatus is properly secured so that it may not be operated by unauthorized persons when unattended. Prior Commission authority shall be obtained for the installation of any transmitting antenna which requires notification to the FAA, pursuant to §17.7 of the Commission's rules and regulations, and which will be in existence for more than 2 days.

(i) The location of each remote pickup broadcast base station will be specified in the station or system license and such stations may not be operated at any other location without prior authority of the Commission.

(j) The license shall be retained in the licensee's files at the address shown on the authorization, posted at

the transmitter, or posted at the control point of the station.

(k) In case of permanent discontinuance of operations of a station licensed under this subpart, the licensee shall cancel the station license using FCC Form 601. For purposes of this section, a station which is not operated for a period of one year is considered to have been permanently discontinued.

NOTE: Licensees of remote pickup broadcast stations licensed prior to August 31, 1976, should not file applications to consolidate individually licensed transmitters under a single system license until the renewal application of the associated broadcast station is filed. Applications filed between August 31, 1976, and the date of filing of the renewal applications to obtain authorization to use additional transmitters or modification of existing stations shall be restricted to a single system application necessary to accomplish the desired change, but may include consolidation of previously-licensed transmitters within the system license. Applications submitted for system licensing prior to the time when renewal applications would normally be filed which are unnecessary for either administrative or operational purposes will be returned as unacceptable for filing.

(Sec. 5, 48 Stat. 1068; 47 U.S.C. 155)

[41 FR 29686, July 19, 1976, as amended at 42 FR 2071, Jan. 10, 1977; 47 FR 21496, May 18, 1982; 49 FR 14509, Apr. 12, 1984; 51 FR 4602, Feb. 6, 1986; 58 FR 19775, Apr. 16, 1993; 60 FR 55482, Nov. 1, 1995; 65 FR 30011, May 10, 2000; 68 FR 12764, Mar. 17, 2003]

§ 74.433 Temporary authorizations.

(a) Special temporary authority may be granted for remote pickup station operation which cannot be conducted in accordance with § 74.24. Such authority will normally be granted only for operations of a temporary nature. Where operation is seen as likely on a continuing annual basis, an application for a regular authorization should be submitted.

(b) A request for special temporary authority for the operation of a remote pickup broadcast station must be made in accordance with the procedures of § 1.931(b) of this chapter.

(c) All requests for special temporary authority of a remote pickup broadcast station must include full particulars including: licensee's name and address, facility identification number of the associated broadcast station or stations, call letters of remote pickup station (if assigned), type and manufacturer of equipment, power output, emission, frequency or frequencies proposed to be used, commencement and termination date, location of operation and purpose for which request is made including any particular justification.

(d) A request for special temporary authority shall specify a frequency or frequencies consistent with the provisions of § 74.402: *Provided*, That, in the case of events of wide-spread interest and importance which cannot be transmitted successfully on these frequencies, frequencies assigned to other services may be requested upon a showing that operation thereon will not cause interference to established stations: *And provided further*, In no case will operation of a remote pickup broadcast station be authorized on frequencies employed for the safety of life and property.

(e) The user shall have full control over the transmitting equipment during the period it is operated.

(f) Special temporary authority to permit operation of remote pickup broadcast stations or systems pending Commission action on an application for regular authority will not normally be granted.

[41 FR 29686, July 19, 1976, as amended at 47 FR 9220, Mar. 4, 1982; 47 FR 55936, Dec. 14, 1982; 50 FR 23709, June 5, 1985; 58 FR 19775, Apr. 16, 1993; 68 FR 12765, Mar. 17, 2003]

§ 74.434 Remote control operation.

(a) A remote control system must provide adequate monitoring and control functions to permit proper operation of the station.

(b) A remote control system must be designed, installed, and protected so that the transmitter can only be activated or controlled by persons authorized by the licensee.

(c) A remote control system must prevent inadvertent transmitter operation caused by malfunctions in the circuits between the control point and transmitter.

[51 FR 4602, Feb. 6, 1986, as amended at 60 FR 55482, Nov. 1, 1995]

§ 74.436 Special requirements for automatic relay stations.

(a) An automatic relay station must be designed, installed, and protected so that the transmitter can only be activated or controlled by persons authorized by the licensee.

(b) An automatic relay station may accomplish retransmission of the incoming signals by either heterodyne frequency conversion or by modulating the transmitter with the demodulated incoming signals.

(c) An automatic relay station transmitter may relay the demodulated incoming signals from one or more receivers.

[51 FR 4602, Feb. 6, 1986, as amended at 60 FR 55483, Nov. 1, 1995]

§ 74.451 Certification of equipment.

(a) Applications for new remote pickup broadcast stations or systems or for changing transmitting equipment of an existing station will not be accepted unless the transmitters to be used have been certificated by the FCC pursuant to the provisions of this subpart, or have been certificated for licensing under part 90 of this chapter and do not exceed the output power limits specified in § 74.461(b).

(b) Any manufacturer of a transmitter to be used in this service may apply for certification for such transmitter following the certification procedure set forth in part 2 of the Commission's rules and regulations. Attention is also directed to part 1 of the Commission's rules and regulations which specifies the fees required when filing an application for certification.

(c) An applicant for a remote pickup broadcast station or system may also apply for certification for an individual transmitter by following the certification procedure set forth in part 2 of the Commission's rules and regulations.

(d) All transmitters marketed for use under this subpart shall be certificated by the Federal Communications Commission. (Refer to subpart J of part 2 of the Commission's Rules and Regulations.)

(e) Remote pickup broadcast station equipment authorized to be used pursuant to an application accepted for filing prior to December 1, 1977, may continue to be used by the licensee or its successors or assignees: *Provided, however,* If operation of such equipment causes harmful interference due to its failure to comply with the technical standards set forth in this subpart, the Commission may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

(f) Each instrument of authority which permits operation of a remote pickup broadcast station or system using equipment which has not been certificated will specify the particular transmitting equipment which the licensee is authorized to use.

(Sec. 5, 48 Stat. 1068; 47 U.S.C. 155)

[41 FR 29686, July 19, 1976, as amended at 42 FR 14728, Mar. 16, 1977; 42 FR 43636, Aug. 30, 1977; 43 FR 14661, Apr. 7, 1978; 45 FR 28142, Apr. 28, 1980; 63 FR 36604, July 7, 1998; 68 FR 12765, Mar. 17, 2003]

§ 74.452 Equipment changes.

(a) Modifications may be made to an existing authorization in accordance with §§ 1.929 and 1.947 of this chapter.

(b) All transmitters initially installed after November 30, 1977, must be certificated for use in this service or other service as specified in § 74.451(a).

[68 FR 12765, Mar. 17, 2003]

§ 74.461 Transmitter power.

(a) Transmitter power is the power at the transmitter output terminals and delivered to the antenna, antenna transmission line, or any other impedance-matched, radio frequency load. For the purpose of this Subpart, the transmitter power is the carrier power.

(b) The authorized transmitter power for a remote pickup broadcast station shall be limited to that necessary for satisfactory service and, in any event, shall not be greater than 100 watts, except that a station to be operated aboard an aircraft shall normally be limited to a maximum authorized power of 15 watts. Specific authorization to operate stations on board aircraft with an output power exceeding 15 watts will be issued only upon an adequate engineering showing of need, and of the procedures that will be

taken to avoid harmful interference to other licensees.

(Sec. 5, 48 Stat. 1068; 47 U.S.C. 155)

[41 FR 29686, July 19, 1976, as amended at 43 FR 14662, Apr. 7, 1978]

§ 74.462 Authorized bandwidth and emissions.

(a) Each authorization for a new remote pickup broadcast station or system shall require the use of certificated equipment and such equipment shall be operated in accordance with emission specifications included in the grant of certification and as prescribed in paragraphs (b), (c), and (d) of this section.

(b) The maximum authorized bandwidth of emissions corresponding to the types of emissions specified below, and the maximum authorized frequency deviation in the case of frequency or phase modulated emission, shall be as follows:

Frequencies	Authorized bandwidth (kHz)	Maximum frequency deviation [1] (kHz)	Type of emission [2]
MHz:			
25.87 to 26.03	40	10	Frequencies 25.87 to 153.3575 MHz: A3E, F1E, F3E, F9E.
26.07 to 26.47	20	5	
152.8625 to 153.3575 [3]	30/60	5/10	
160.860 to 161.400	60	10	
161.625 to 161.775	30	5	
166.25 and 170.15 [4]	12.5/25	5	
450.00625 to 450.025 450.98125 to 450.99375 455.00625 to 455.025 455.98125 to 455.99375 .... Up to 12.5 .... 1.5	Frequencies 160.860 to 455.950 MHz: A1A, A1B, A1D, A1E, A2A, A2B, A2D, A2E, A3E, F1A, F1B, F1D, F1E, F2A, F2B, F2D, F2E, F3E, F9E.		
450.03125 to 450.61875 455.03125 to 455.61875 450.6375 to 450.8625 455.6375 to 455.8625 450.900, 450.950 455.900, 455.950	Up to 25 25–50 50–100	5 10 35	

[1] Applies where F1A, F1B, F1D, F1E, F2A, F2B, F2D, F2E, F3E, or F9E emissions are used.

[2] Stations operating above 450 MHz shall show a need for employing A1A, A1B, A1D, A1E, A2A, A2B, A2D, A2E, F1A, F1B, F1D, F1E, F2A, F2B, F2D, or F2E emission.

[3] New or modified licenses for use of the frequencies will not be granted to utilize transmitters on board aircraft, or to use a bandwidth in excess of 30 kHz and maximum deviation exceeding 5 kHz

[4] For stations licensed or applied for before April 16, 2003, the sum of the bandwidth of emission and tolerance on frequencies 166.25 MHz or 170.15 MHz shall not exceed 25 kHz, and such operation may continue until January 1, 2005. For new stations licensed or applied for on or after April 16, 2003, the sum of the bandwidth of emission and tolerance on these frequencies shall not exceed 12.5 kHz. For all remote pickup broadcast stations, the sum of the bandwidth of emission and tolerance on these frequencies shall not exceed 12.5 kHz on or after January 1, 2005.

(c) For emissions on frequencies above 25 MHz with authorized bandwidths up to 30 kHz, the emissions shall comply with the emission mask and transient frequency behavior requirements of §§ 90.210 and 90.214 of this chapter. For all other emissions, the mean power of emissions shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(1) On any frequency removed from the assignment frequency by more than 50 percent up to and including 100 percent of the authorized bandwidth: at least 25 dB:

(2) On any frequency removed from the assigned frequency by more than 100 percent up to and including 250 percent of the authorized bandwidth: at least 35 dB;

(3) On any frequency removed from the assigned frequency by more than 250 percent on the authorized bandwidth; at least 43 plus 10 $\log^{10}$ (mean output power, in watts) dB.

(d) In the event a station's emissions outside its authorized channel cause harmful interference, the Commission

may, at its discretion, require the licensee to take such further steps as may be necessary to eliminate the interference.

NOTE: The measurements of emission power can be expressed in peak or mean values provided they are expressed in the same parameters as the unmodulated transmitter carrier power.

(Sec. 5, 48 Stat. 1068; 47 U.S.C. 155)

[41 FR 29686, July 19, 1976, as amended at 41 FR 32429, Aug. 3, 1976; 41 FR 35068, Aug. 19, 1976; 43 FR 14662, Apr. 7, 1978; 43 FR 38391, Aug. 28, 1978; 44 FR 65765, Nov. 15, 1979; 56 FR 28498, June 21, 1991; 63 FR 36604, July 7, 1998; 68 FR 12765, Mar. 17, 2003; 68 FR 25540, May 13, 2003]

§ 74.463 Modulation requirements.

(a) Each new remote pickup broadcast station authorized to operate with a power output in excess of 3 watts shall be equipped with a device which will automatically prevent modulation in excess of the limits set forth in this subpart.

(b) If amplitude modulation is employed, modulation shall not exceed 100 percent on negative peaks.

(c) If frequency modulation is employed, emission shall conform to the requirements specified in § 74.462.

[41 FR 29686, July 19, 1976, as amended at 47 FR 54448, Dec. 3, 1982]

§ 74.464 Frequency tolerance.

For operations on frequencies above 25 MHz using authorized bandwidths up to 30 kHz, the licensee of a remote pickup broadcast station or system shall maintain the operating frequency of each station in compliance with the frequency tolerance requirements of § 90.213 of this chapter. For all other operations, the licensee of a remote pickup broadcast station or system shall maintain the operating frequency of each station in accordance with the following:

Frequency range	Tolerance (percent)	
	Base station	Mobile station
25 to 30 MHz:		
3 W or less	.002	.005
Over 3 W	.002	.002
30 to 300 MHz:		
3 W or less	.0005	.005
Over 3 W	.0005	.0005
300 to 500 MHz, all powers	.00025	.0005

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[41 FR 29686, July 19, 1976, as amended at 42 FR 2071, Jan. 10, 1977; 43 FR 38391, Aug. 28, 1978; 44 FR 65765, Nov. 15, 1979; 68 FR 12766, Mar. 17, 2003; 68 FR 25540, May 13, 2003]

§ 74.465 Frequency monitors and measurements.

The licensee of a remote pickup station or system shall provide the necessary means to assure that all operating frequencies are maintained within the allowed tolerances.

[51 FR 4603, Feb. 6, 1986]

§ 74.482 Station identification.

(a) Each remote pickup broadcast station shall be identified by the transmission of the assigned station or system call sign, or by the call sign of the associated broadcast station. For systems, the licensee (including those operating pursuant to § 74.24 of this part) shall assign a unit designator to each station in the system. The call sign (and unit designator, where appropriate) shall be transmitted at the beginning and end of each period of operation. A period of operation may consist of a single continuous transmission, or a series of intermittent transmissions pertaining to a single event.

(b) In cases where a period of operation is of more than one hour duration identification of remote pickup broadcast stations participating in the operation shall be made at approximately one-hour intervals. Identification transmissions during operation need not be made when to make such transmissions would interrupt a single consecutive speech, play, religious service, symphony, concert, or any type of production. In such cases, the identification transmissions shall be made at the first interruption in the program continuity and at the conclusion thereof. Hourly identification may be accomplished either by transmission of the station or system call sign and unit designator assigned to the individual station or identification of an associated broadcasting station or network with which the remote pickup broadcast station is being used.

(c) In cases where an automatic relay station is a part of the circuit, the call

sign of the relay transmitter may be transmitted automatically by the relay transmitter or by the remote pickup broadcast base or mobile station that actuates the automatic relay station.

(d) Automatically activated equipment may be used to transmit station identification in International Morse Code, provided that the modulation tone is 1200 Hz±800 Hz, the level of modulation of the identification signal is maintained at 40%±10%, and that the code transmission rate is maintained between 20 and 25 words per minute.

(e) For stations using F1E or G1E emissions, identification shall be transmitted in the unscrambled analog (F3E) mode or in International Morse Code pursuant to the provisions of paragraph (d) of this section at intervals not to exceed 15 minutes. For purposes of rule enforcement, all licensees using F1E or G1E emissions shall provide, upon request by the Commission, a full and complete description of the encoding methodology they currently use.

NOTE: Stations are encouraged to identify using their associated part 73 station call sign.

[41 FR 29686, July 19, 1976, as amended at 47 FR 9220, Mar. 4, 1982; 52 FR 47569, Dec. 15, 1987; 56 FR 28499, June 21, 1991; 68 FR 12766, Mar. 17, 2003]

Subpart E—Aural Broadcast Auxiliary Stations

§ 74.501 Classes of aural broadcast auxiliary stations.

(a) *Aural broadcast STL station.* A fixed station for the transmission of aural program material between the studio and the transmitter of a broadcasting station other than an international broadcasting station.

(b) *Aural broadcast intercity relay (ICR) station.* A fixed station for the transmission of aural program material between radio broadcast stations, other than international broadcast stations, between FM radio broadcast stations and their co-owned FM booster stations, between noncommercial educational FM radio stations and their co-owned noncommercial educational FM translator stations assigned to reserved channels (Channels 201 to 220), between FM radio stations and FM translator stations operating within the coverage contour of their primary stations, or for such other purposes as authorized in § 74.531.

(c) *Aural broadcast microwave booster station.* A fixed station in the broadcast auxiliary service that receives and amplifies signals of an aural broadcast STL or intercity relay station and retransmits them on the same frequency.

[28 FR 13716, Dec. 14, 1963, as amended at 49 FR 7129, Feb. 27, 1984; 53 FR 4169, Feb. 12, 1988; 55 FR 50692, Dec. 10, 1990; 57 FR 41111, Sept. 9, 1992]

§ 74.502 Frequency assignment.

(a) Except as provided in NG30, broadcast auxiliary stations licensed as of November 21, 1984, to operate in the band 942–944 MHz[1] may continue to operate on a co-equal, primary basis to other stations and services operating in the band in accordance with the Table of Frequency Allocations. These stations will be protected from possible interference caused by new users of the band by the technical standards specified in § 101.105(c)(2).

(b) The frequency band 944–952 MHz is available for assignment to aural STL and ICR stations. One or more of the following 25 kHz segments may be stacked to form a channel which may be assigned with a maximum authorized bandwidth of 300 kHz except as noted in the following Table. The channel, will be assigned by its center frequency, channel bandwidth, and emission designator. The following frequencies are the centers of individual segments. When stacking an even number of segments, the center frequency specified will deviate from the following frequencies in that it should correspond to the actual center of stacked channels. When stacking an odd number of channels, the center frequency specified will correspond to one of the following frequencies.

944.0125, 944.0375, 944.0625, 944.0875, 944.1125, 944.1375, 944.1625, 944.1875, 944.2125, 944.2375, 944.2625, 944.2875, 944.3125, 944.3375, 944.3625,

[1] NOTE: In addition to this band, stations in Puerto Rico may continue to be authorized on 942.5, 943.0, 943.5, 944.0 MHz in the band 942–944 MHz on a primary basis to stations and services operating in accordance with the Table of Frequency Allocations.

944.3875, 944.4125, 944.4375, 944.4625, 944.4875, 944.5125, 944.5375, 944.5625, 944.5875, 944.6125, 944.6375, 944.6625, 944.6875, 944.7125, 944.7375, 944.7625, 944.7875, 944.8125, 944.8375, 944.8625, 944.8875, 944.9125, 944.9375, 944.9625, 944.9875, 945.0125, 945.0375, 945.0625, 945.0875, 945.1125, 945.1375, 945.1625, 945.1875, 945.2125, 945.2375, 945.2625, 945.2875, 945.3125, 945.3375, 945.3625, 945.3875, 945.4125, 945.4375, 945.4625, 945.4875, 945.5125, 945.5375, 945.5625, 945.5875, 945.6125, 945.6375, 945.6625, 945.6875, 945.7125, 945.7375, 945.7625, 945.7875, 945.8125, 945.8375, 945.8625, 945.8875, 945.9125, 945.9375, 945.9625, 945.9875, 946.0125, 946.0375, 946.0625, 946.0875, 946.1125, 946.1375, 946.1625, 946.1875, 946.2125, 946.2375, 946.2625, 946.2875, 946.3125, 946.3375, 946.3625, 946.3875, 946.4125, 946.4375, 946.4625, 946.4875, 946.5125, 946.5375, 946.5625, 946.5875, 946.6125, 946.6375, 946.6625, 946.6875, 946.7125, 946.7375, 946.7625, 946.7875, 946.8125, 946.8375, 946.8625, 946.8875, 946.9125, 946.9375, 946.9625, 946.9875, 947.0125, 947.0375, 947.0625, 947.0875, 947.1125, 947.1375, 947.1625, 947.1875, 947.2125, 947.2375, 947.2625, 947.2875, 947.3125, 947.3375, 947.3625, 947.3875, 947.4125, 947.4375, 947.4625, 947.4875, 947.5125, 947.5375, 947.5625, 947.5875, 947.6125, 947.6375, 947.6625, 947.6875, 947.7125, 947.7375, 947.7625, 947.7875, 947.8125, 947.8375, 947.8625, 947.8875, 947.9125, 947.9375, 947.9625, 947.9875, 948.0125, 948.0375, 948.0625, 948.0875, 948.1125, 948.1375, 948.1625, 948.1875, 948.2125, 948.2375, 948.2625, 948.2875, 948.3125, 948.3375, 948.3625, 948.3875, 948.4125, 948.4375, 948.4625, 948.4875, 948.5125, 948.5375, 948.5625, 948.5875, 948.6125, 948.6375, 948.6625, 948.6875, 948.7125, 948.7375, 948.7625, 948.7875, 948.8125, 948.8375, 948.8625, 948.8875, 948.9125, 948.9375, 948.9625, 948.9875, 949.0125, 949.0375, 949.0625, 949.0875, 949.1125, 949.1375, 949.1625, 949.1875, 949.2125, 949.2375, 949.2625, 949.2875, 949.3125, 949.3375, 949.3625, 949.3875, 949.4125, 949.4375, 949.4625, 949.4875, 949.5125, 949.5375, 949.5625, 949.5875, 949.6125, 949.6375, 949.6625, 949.6875, 949.7125, 949.7375, 949.7625, 949.7875, 949.8125, 949.8375, 949.8625, 949.8875, 949.9125, 949.9375, 949.9625, 949.9875, 950.0125, 950.0375, 950.0625, 950.0875, 950.1125, 950.1375, 950.1625, 950.1875, 950.2125, 950.2375, 950.2625, 950.2875, 950.3125, 950.3375, 950.3625, 950.3875, 950.4125, 950.4375, 950.4625, 950.4875, 950.5125, 950.5375, 950.5625, 950.5875, 950.6125, 950.6375, 950.6625, 950.6875, 950.7125, 950.7375, 950.7625, 950.7875, 950.8125, 950.8375, 950.8625, 950.8875, 950.9125, 950.9375, 950.9625, 950.9875, 951.0125, 951.0375, 951.0625, 951.0875, 951.1125, 951.1375, 951.1625, 951.1875, 951.2125, 951.2375, 951.2625, 951.2875, 951.3125, 951.3375, 951.3625, 951.3875, 951.4125, 951.4375, 951.4625, 951.4875, 951.5125, 951.5375, 951.5625, 951.5875, 951.6125, 951.6375, 951.6625, 951.6875, 951.7125, 951.7375, 951.7625, 951.7875, 951.8125, 951.8375, 951.8625, 951.8875, 951.9125, 951.9375, 951.9625, 951.9875.

(1) A single broadcast station may be authorized up to a maximum of twenty segments (500 kHz total bandwidth) for transmission of program material between a single origin and one or more designations. The station may lease excess capacity for broadcast and other uses on a secondary basis, subject to availability of spectrum for broadcast use. However, an FM station licensed for twelve or fewer segments (300 kHz total bandwidth) or an AM station licensed for eight or fewer segments (200 kHz total bandwidth) may lease excess capacity for broadcast and other uses on a primary basis.

(2) An applicant (new or modification of existing license) may assume the cost of replacement of one or more existing licensees equipment with narrowband equipment of comparable capabilities and quality in order to make available spectrum for its facilities. Existing licensees must accept such replacement without cost to them except upon a showing that the replacement equipment does not meet the capability or quality requirements.

(c) Aural broadcast STL and intercity relay stations that were licensed or had applications pending before the Commission as of September 18, 1998 may continue those operations in the band 18,760–18,820 and 19,100–19,160 MHz on a shared co-primary basis with other services under parts 21, 25, and 101 of this chapter until June 8, 2010. Prior to June 8, 2010, such stations are subject to relocation by licensees in the fixed-satellite service. Such relocation is subject to the provisions of §§ 101.85 through 101.97 of this chapter. After June 8, 2010, such operations are not entitled to protection from fixed-satellite service operations and must not cause unacceptable interference to fixed-satellite service station operations. No applications for new licenses will be accepted in these bands after June 8, 2000.

(1)(i) 5 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
340 MHz Separation	
18762.5	19102.5
18767.5	19107.5
18772.5	19112.5
18777.5	19117.5
18782.5	19122.5
18787.5	19127.5
18792.5	19132.5
18797.5	19137.5
18802.5	19142.5

Transmit (receive) (MHz)	Receive (transmit) (MHz)
18807.5	19147.5
18812.5	19152.5
18817.5	19157.5

(ii) Licensees may use either a two-way link or one frequency of a frequency pair for a one-way link.

(2) [Reserved]

(d) For the coordination of all frequency assignments for fixed stations above 944 MHz, for each frequency authorized under this part, the interference protection criteria in §101.105(a), (b), and (c) of this chapter and the frequency usage coordination procedures of §101.103(d) of this chapter will apply.

(e) The use of the frequencies listed in paragraph (b) of this section by aural broadcast intercity relay stations is subject to the condition that no harmful interference is caused to other classes of stations operating in accordance with the Table of Frequency Allocations contained in §2.106 of this chapter.

[28 FR 13716, Dec. 14, 1963, as amended at 48 FR 50332, Nov. 1, 1983; 49 FR 37777, Sept. 26, 1984; 50 FR 4658, Feb. 1, 1985; 50 FR 7341, Feb. 22, 1985; 50 FR 34150, Aug. 23, 1985; 50 FR 48600, Nov. 26, 1985; 54 FR 10329, Mar. 13, 1989; 54 FR 24905, June 12, 1989; 54 FR 30043, July 18, 1989; 65 FR 38325, June 20, 2000; 65 FR 54172, Sept. 7, 2000; 68 FR 12766, Mar. 17, 2003; 68 FR 16967, Apr. 8, 2003; 73 FR 25496, May 6, 2008]

§74.503 Frequency selection.

(a) Each application for a new station or change in an existing station shall be specific with regard to frequency. In general, the lowest suitable frequency will be assigned which, on an engineering basis, will not cause harmful interference to other stations operating in accordance with existing frequency allocations.

(b) Where it appears that interference may result from the operation of a new station or a change in the facilities of an existing station, the Commission may require a showing that harmful interference will not be caused to existing stations or that if interference will be caused the need for the proposed service outweighs the loss of service due to the interference.

[28 FR 13716, Dec. 14, 1963]

§74.531 Permissible service.

(a) An aural broadcast STL station is authorized to transmit aural program material between the studio and transmitter location of a broadcasting station, except an international broadcasting station, for simultaneous or delayed broadcast.

(b) An aural broadcast intercity relay station is authorized to transmit aural program material between broadcasting stations, except international broadcasting stations, for simultaneous or delayed broadcast.

(c) An aural broadcast intercity relay station is authorized to transmit aural program material between noncommercial educational FM radio stations and their co-owned noncommercial educational FM translator stations assigned to reserved channels (Channels 201 to 220) and between FM radio stations and FM translator stations operating within the coverage contour of their primary stations. This use shall not interfere with or otherwise preclude use of these broadcast auxiliary facilities by broadcast auxiliary stations transmitting aural programming between broadcast stations as provided in paragraph (b) of this section.

(d) An aural broadcast STL or intercity relay may be used to transmit material between an FM broadcast radio station and an FM booster station owned, operated, and controlled by the licensee of the originating FM radio station. This use shall not interfere with or otherwise preclude use of these broadcast auxiliary facilities by broadcast auxiliary stations transmitting aural programming between the studio and transmitter location of a broadcast station or between broadcast stations as provided in paragraphs (a) and (b) of this section.

(e) An aural broadcast microwave booster station is authorized to retransmit the signals of an aural broadcast STL or intercity relay station.

(f) Multiplexing of the STL or intercity relay transmitter may be employed to provide additional communication channels for the transmission of aural program material, news-wire teleprinter signals relaying news to be associated with main channel programming, operational communications,

and material authorized to be transmitted over an FM station under a valid Subsidiary Communications Authorization (SCA). An aural broadcast STL or intercity relay station may not be operated solely for the transmission of operational, teleprinter or subsidiary communications. Operational communications include cues, orders, and other communications directly related to the operation of the broadcast station as well as special signals used for telemetry or the control of apparatus used in conjunction with the broadcasting operations.

(g) All program material, including subsidiary communications, transmitted over an aural broadcast STL or intercity relay station shall be intended for use by broadcast stations owned or under common control of the licensee or licensees of the STL or intercity relay station. Other broadcast stations may simultaneously utilize such program material with permission of the STL or intercity relay station licensee.

(h) In any case where multiplexing, is employed on an aural broadcast STL station for the simultaneous transmission of more than one aural channel, the STL transmitter must be capable of transmitting the multiple channels within the channel on which the STL station is authorized to operate and with adequate technical quality so that each broadcast station utilizing the circuit can meet the technical performance standards stipulated in the rules governing that class of broadcasting station. If multiplex operation is employed during the regular operation of the STL station, the additional circuits shall be in operation at the time that the required periodic performance measurements are made of the overall broadcasting system from the studio microphone input circuit to the broadcast transmitter output circuit.

[28 FR 13716, Dec. 14, 1963, as amended at 45 FR 51564, Aug. 4, 1980; 52 FR 31403, Aug. 20, 1987; 55 FR 50693, Dec. 10, 1990; 57 FR 41111, Sept. 9, 1992]

§ 74.532 Licensing requirements.

(a) An aural broadcast STL or an aural broadcast intercity relay station will be licensed only to the licensee or licensees of broadcast stations, including low power FM stations, other than international broadcast stations, and for use with broadcast stations owned entirely by or under common control of the licensee or licensees. An aural broadcast intercity relay station also will be licensed for use by low power FM stations, noncommercial educational FM translator stations assigned to reserved channels (Channels 201–220) and owned and operated by their primary station, by FM translator stations operating within the coverage contour of their primary stations, and by FM booster stations. Aural auxiliary stations licensed to low power FM stations will be assigned on a secondary basis; *i.e.*, subject to the condition that no harmful interference is caused to other aural auxiliary stations assigned to radio broadcast stations. Auxiliary stations licensed to low power FM stations must accept any interference caused by stations having primary use of aural auxiliary frequencies.

(b) More than one aural broadcast STL or intercity relay station may be licensed to a single licensee upon a satisfactory showing that the additional stations are needed to provide different program circuits to more than one broadcast station, to provide program circuits from other studios, or to provide one or more intermediate relay stations over a path which cannot be covered with a single station due to terrain or distance.

(c) If more than one broadcast station or class of broadcast station is to be served by a single aural broadcast auxiliary station, this information must be stated in the application for construction permit or license.

(d) Licensees of aural broadcast STL and intercity relay stations may be authorized to operate one or more aural broadcast microwave booster stations for the purpose of relaying signals over a path that cannot be covered with a single station.

(e) Each aural broadcast auxiliary station will be licensed at a specified transmitter location to communicate with a specified receiving location, and the direction of the main radiation lobe of the transmitting antenna will be a term of the station authorization.

(f) In case of permanent discontinuance of operations of a station licensed under this subpart, the licensee shall cancel the station license using FCC Form 601. For purposes of this section, a station which is not operated for a period of one year is considered to have been permanently discontinued.

[28 FR 13716, Dec. 14, 1963, as amended at 49 FR 7129, Feb. 27, 1984; 49 FR 10930, Mar. 23, 1984; 52 FR 31403, Aug. 20, 1987; 55 FR 50693, Dec. 10, 1990; 57 FR 41111, Sept. 9, 1992; 58 FR 19775, Apr. 16, 1993; 65 FR 7649, Feb. 15, 2000; 68 FR 12766, Mar. 17, 2003]

§ 74.533 Remote control and unattended operation.

(a) Aural broadcast STL and intercity relay stations may be operated by remote control provided that such operation is conducted in accordance with the conditions listed below:

(1) The remote control system must provide adequate monitoring and control functions to permit proper operation of the station.

(2) The remote control system must be designed, installed, and protected so that the transmitter can only be activated or controlled by persons authorized by the licensee.

(3) The remote control system must prevent inadvertent transmitter operation due to malfunctions in circuits between the control point and transmitter.

(b) Aural broadcast auxiliary stations may be operated unattended subject to the following provisions:

(1) The transmitter shall be provided with adequate safeguards to prevent improper operation of the equipment.

(2) The transmitter installation shall be adequately protected against tampering by unauthorized persons.

(3) Whenever an unattended aural broadcast auxiliary station is used, appropriate observations must be made at the receiving end of the circuit as often as necessary to ensure proper station operation. However, an aural broadcast STL (and any aural broadcast microwave booster station) associated with a radio or TV broadcast station operated by remote control may be observed by monitoring the broadcast station's transmitted signal at the remote control or ATS monitoring point.

(c) The FCC may notify the licensee to cease or modify operation in the case of frequency usage disputes, interference or similar situations where such action appears to be in the public interest, convenience and necessity.

(Sec. 318, 48 Stat. 1089, as amended by sec. 1, 74 Stat. 363; 47 U.S.C. 318)

[28 FR 13716, Dec. 14, 1963, as amended at 47 FR 55936, Dec. 14, 1982; 49 FR 7130, Feb. 27, 1984; 50 FR 32417, Aug. 12, 1985; 50 FR 48599, Nov. 26, 1985; 60 FR 55483, Nov. 1, 1995]

§ 74.534 Power limitations.

(a) *Transmitter output power.* (1) Transmitter output power shall be limited to that necessary to accomplish the function of the system.

(2) In the 17,700 to 19,700 MHz band, transmitter output power shall not exceed 10 watts.

(b) In no event shall the average equivalent isotropically radiated power (EIRP), as referenced to an isotropic radiator, exceed the values specified in the following table. In cases of harmful interference, the Commission may, after notice and opportunity for hearing, order a change in the equivalent isotropically radiated power of this station.

Frequency band (MHz)	Maximum Allowable [1] EIRP (dBW)
944 to 952	+ 40
17,700 to 18,600	+ 55
18,600 to 19,700	+ 35

[1] Stations licensed based on an application filed before April 16, 2003, for EIRP values exceeding those specified above, may continue to operate indefinitely in accordance with the terms of their current authorizations, subject to periodic renewal.

(c) The EIRP of transmitters that use Automatic Transmitter Power Control (ATPC) shall not exceed the EIRP specified on the station authorization. The EIRP of non-ATPC transmitters shall be maintained as near as practicable to the EIRP specified on the station authorization.

[68 FR 12766, Mar. 17, 2003]

§ 74.535 Emission and bandwidth.

(a) The mean power of emissions shall be attenuated below the mean transmitter power (P_{MEAN}) in accordance with the following schedule:

(1) When using frequency modulation:

(i) On any frequency removed from the assigned (center) frequency by more than 50% up to and including 100% of the authorized bandwidth: At least 25 dB in any 100 kHz reference bandwidth (B_{REF});

(ii) On any frequency removed from the assigned (center) frequency by more than 100% up to and including 250% of the authorized bandwidth: At least 35 dB in any 100 kHz reference bandwidth;

(iii) On any frequency removed from the assigned (center) frequency by more than 250% of the authorized bandwidth: At least 43 + 10 $\log_{10}$ (P_{MEAN} in watts) dB, or 80 dB, whichever is the lesser attenuation, in any 100 kHz reference bandwidth.

(2) When using transmissions employing digital modulation techniques:

(i) For operating frequencies below 15 GHz, in any 4 kHz reference bandwidth (B_{REF}), the center frequency of which is removed from the assigned frequency by more than 50 percent up to and including 250 percent of the authorized bandwidth: As specified by the following equation but in no event less than 50 decibels:

$A = 35 + 0.8(G - 50) + 10 \text{ Log}_{10} B.$

(Attenuation greater than 80 decibels is not required.)

Where:

A = Attenuation (in decibels) below the mean output power level.
G = Percent removed from the carrier frequency.
B = Authorized bandwidth in megahertz.

(ii) For operating frequencies above 15 GHz, in any 1 MHz reference bandwidth (B_{REF}), the center frequency of which is removed from the assigned frequency by more than 50 percent up to and including 250 percent of the authorized bandwidth: As specified by the following equation but in no event less than 11 decibels:

$A = 11 + 0.4(G - 50) + 10 \text{ Log}_{10} B.$

(Attenuation greater than 56 decibels is not required.)

(iii) In any 4 kHz reference bandwidth (B_{REF}), the center frequency of which is removed from the assigned frequency by more than 250 percent of the authorized bandwidth: At least 43 + 10 Log_{10} (P_{MEAN} in watts) decibels, or 80 decibels, whichever is the lesser attenuation.

(b) For all emissions not covered in paragraph (a) of this section, the peak power of emissions shall be attenuated below the peak envelope transmitter power (P_{PEAK}) in accordance with the following schedule:

(1) On any frequency 500 Hz inside the channel edge up to and including 2500 Hz outside the same edge, the following formula will apply:

$A = 29 \text{ Log}_{10} [(25/11)[(D + 2.5 - (W/2)]^2]$ dB

(Attenuation greater than 50 decibels is not required.)

Where:

A = Attenuation (in dB) below the peak envelope transmitter power.
D = the displacement frequency (kHz) from the center of the authorized bandwidth.
W = the channel bandwidth (kHz).

(2) On any frequency removed from the channel edge by more than 2500 Hz: At least 43 + 10 Log_{10} (P_{PEAK} in watts) dB.

(c) In the event a station's emissions outside its authorized channel cause harmful interference, the Commission may require the licensee to take such further steps as may be necessary to eliminate the interference.

(d) For purposes of compliance with the emission limitation requirements of this section:

(1) If the transmitter modulates a single carrier, digital modulation techniques are considered as being employed when digital modulation occupies 50 percent or more of the total peak frequency deviation of a transmitted radio frequency carrier. The total peak frequency deviation will be determined by adding the deviation produced by the digital modulation signal and the deviation produced by any frequency division multiplex (FDM) modulation used. The deviation (D) produced by the FDM signal must be determined in accordance with § 2.202(f) of this chapter.

(2) If the transmitter modulates two or more carriers, with at least one using digital modulation and one using frequency or other analog modulation, digital modulation techniques are considered as being employed when the

necessary bandwidth of the digital signal(s) is 50 percent or more of the aggregate bandwidth of the system, comprising the digital necessary bandwidth(s), the analog necessary bandwidth(s), and any bandwidth(s) between the digital and analog necessary bandwidths. In this case, the aggregate bandwidth shall be used for the authorized bandwidth (B) in paragraph (a) of this section, and for purposes of compliance with the bandwidth limitations in §74.502 of this subpart; and the sum of the powers of the analog and digital signals shall be used for mean transmitter power (P_{MEAN}) in paragraph (a) or the peak envelope transmitter power (P_{PEAK}) in paragraph (b) of this section, and for purposes of compliance with the power limitations in §74.534 of this subpart.

(3) For demonstrating compliance with the attenuation requirements for frequency modulation and digital modulation in paragraph (a) of this section, the resolution bandwidth (B_{RES}) of the measuring equipment used for measurements removed from the center frequency by more than 250 percent of the authorized bandwidth shall be 100 kHz for operating frequencies below 1 GHz, and 1 MHz for operating frequencies above 1 GHz. The resolution bandwidth for frequencies removed from the center frequency by less than 250 percent of the authorized bandwidth shall be the reference bandwidth (B_{REF}) specified in the individual emission limitations, but may be reduced to not less than one percent of the authorized bandwidth (B), adjusted upward to the nearest greater resolution bandwidth available on the measuring equipment. In all cases, if B_{RES} and B_{REF} are not equal, then the attenuation requirement must be increased (or decreased) as determined by a factor of $10 \log_{10}$ [(B_{REF} in megahertz)/(B_{RES} in megahertz)] decibels, where a positive factor indicates an increase in the attenuation requirement and a negative factor indicates a decrease in the attenuation requirement.

(4) Stations licensed pursuant to an application filed before March 17, 2005, using equipment not conforming with the emission limitations specified above, may continue to operate indefinitely in accordance with the terms of their current authorizations, subject to periodic renewal. Existing equipment and equipment of product lines in production before April 16, 2003, authorized via certification or verification before March 17, 2005, for equipment not conforming to the emission limitations requirements specified above, may continue to be manufactured and/or marketed, but may not be authorized for use under a station license except at stations licensed pursuant to an application filed before March 17, 2005. Any non-conforming equipment authorized under a station license, and replaced on or after March 17, 2005, must be replaced by conforming equipment.

(e) The following limitations apply to the operation of aural broadcast microwave booster stations:

(1) The booster station must receive and amplify the signals of the originating station and retransmit them on the same frequency without significantly altering them in any way. The characteristics of the booster transmitter output signal shall meet the requirements applicable to the signal of the originating station.

(2) The licensee is responsible for correcting any condition of interference that results from the radiation of radio frequency energy outside the assigned channel. Upon notice by the FCC to the station licensee that interference is being caused, operation of the apparatus must be immediately suspended and may not be resumed until the interference has been eliminated or it can be demonstrated that the interference is not due to spurious emissions. However, short term test transmissions may be made during the period of suspended operation to determine the efficacy of remedial measures.

(3) In each instance where suspension of operation is required, the licensee must submit a full report to the FCC after operation is resumed. The report must contain details of the nature of the interference, the source of interfering signals, and the remedial steps taken to eliminate the interference.

[28 FR 13716, Dec. 14, 1963, as amended at 48 FR 50332, Nov. 1, 1983; 49 FR 7130, Feb. 27, 1984; 49 FR 37777, Sept. 26, 1984; 50 FR 48599, Nov. 26, 1985; 68 FR 12766, Mar. 17, 2003.]

§ 74.536 Directional antenna required.

(a) Aural broadcast STL and ICR stations are required to use a directional antenna with the minimum beamwidth necessary, consistent with good engineering practice, to establish the link.

(b) An aural broadcast STL or intercity relay station operating in the 17.7–19.7 GHz band shall employ an antenna that meets the performance standards for Category A, except that in areas not subject to frequency congestion, antennas meeting standards for Category B may be employed. However, the Commission may require the replacement, at the licensee's expense, of any antenna or periscope antenna system of a permanent fixed station that does not meet performance Standard A, which is specified in the table in paragraph (c) of this section, upon a showing that said antenna causes or is likely to cause interference to (or receive interference from) any other authorized or proposed station; provided that an antenna meeting performance Standard A is unlikely to involve such interference.

(c) Licensees shall comply with the antenna standards table shown in this paragraph in the following manner:

(1) With either the maximum beamwidth to 3 dB points requirement or with the minimum antenna gain requirement; and

(2) With the minimum radiation suppression to angle requirement.

ANTENNA STANDARDS

Frequency (GHz)	Category	Maximum beamwidth to 3 dB points [1] (included angle in degrees)	Minimum antenna gain (dbi)	Minimum radiation suppression to angle in degrees from centerline of main beam in decibels						
				5° to 10°	10° to 15°	15° to 20°	20° to 30°	30° to 100°	100° to 140°	140° to 180°
17.7 to 19.7	A	2.2	38	25	29	33	36	42	55	55
	B	2.2	38	20	24	28	32	35	36	36

[1] If a licensee chooses to show compliance using maximum beamwidth to 3 dB points, the beamwidth limit shall apply in both the azimuth and the elevation planes.

[48 FR 50333, Nov. 1, 1983, as amended at 49 FR 7130, Feb. 27, 1984; 50 FR 48599, Nov. 26, 1985; 51 FR 19840, June 3, 1986; 62 FR 4922, Feb. 3, 1997; 68 FR 12767, Mar. 17, 2003]

§ 74.537 Temporary authorizations.

(a) Special temporary authority may be granted for aural broadcast STL or intercity relay station operation which cannot be conducted in accordance with § 74.24. Such authority will normally be granted only for operations of a temporary nature. Where operation is seen as likely on a continuing annual basis, an application for a regular authorization should be submitted.

(b) A request for special temporary authority for the operation of an aural broadcast STL or an intercity relay station must be made in accordance with the procedures of § 1.931(b) of this chapter.

(c) All requests for special temporary authority of an aural broadcast auxiliary stations must include full particulars including: licensee's name and address, facility identification number of the associated broadcast station(s), call letters of the aural broadcast STL or intercity relay station, if assigned, type and manufacturer of equipment, effective isotropic radiated power, emission, frequency or frequencies proposed for use, commencement and termination date and location of the proposed operation, and purpose for which request is made including any particular justification.

(d) A request for special temporary authorization shall specify a frequency or frequencies consistent with the provisions of § 74.502. However, in the case of events of widespread interest and importance which cannot be transmitted successfully on these frequencies, frequencies assigned to other services may be requested upon a showing that operation thereon will not cause interference to established stations. In no case will operation of an aural broadcast STL or intercity relay

station be authorized on frequencies employed for the safety of life or property.

(e) When the transmitting equipment utilized is not licensed to the user, the user shall nevertheless have full control over the use of the equipment during the period it is operated.

(f) Special temporary authorization to permit operation of aural broadcast STL or intercity relay stations or systems pending FCC action on an application for regular authority will normally not be granted.

[47 FR 9220, Mar. 4, 1982, as amended at 50 FR 23709, June 5, 1985; 58 FR 19775, Apr. 16, 1993; 68 FR 12767, Mar. 17, 2003]

§ 74.550 Equipment authorization.

Each authorization for aural broadcast STL, ICR, and booster stations shall require the use of equipment which has been certificated or verified. Equipment which has not been approved under the equipment authorization program and which was in service prior to July 1, 1993, may be retained solely for temporary uses necessary to restore or maintain regular service provided by approved equipment, because the main or primary unit has failed or requires servicing. Such temporary uses may not interfere with or impede the establishment of other aural broadcast auxiliary links and may not occur during more than 720 cumulative hours per year. Should interference occur, the licensee must take all steps necessary to eliminate it, up to and including cessation of operation of the auxiliary transmitter. All unapproved equipment retained for temporary use must have been in the possession of the licensee prior to July 1, 1993, and may not be obtained from other sources. Equipment designed exclusively for fixed operation shall be authorized under the verification procedure. The equipment authorization procedures are contained in subpart J of part 2 of the rules.

NOTE TO §74.550: Consistent with the note to §74.502(a), grandfathered equipment in the 942–944 MHz band and STL/ICR users of these frequencies in Puerto Rico are also required to come into compliance by July 1, 1993. The backup provisions described above apply to these stations also.

[63 FR 36604, July 7, 1998]

§ 74.551 Equipment changes.

(a) Modifications may be made to an existing authorization in accordance with §§1.929 and 1.947 of this chapter.

(b) Permissible changes in equipment operating in the bands 18.3–18.58, 18.76–18.82 GHz and 19.1–19.16 GHz. Notwithstanding other provisions of this section, licensees of stations that remain co-primary under the provisions of §74.502(c) may not make modifications to their systems that increase interference to satellite earth stations, or result in a facility that would be more costly to relocate.

[28 FR 13716, Dec. 14, 1963, as amended at 38 FR 6827, Mar. 13, 1973; 47 FR 54448, Dec. 3, 1982; 49 FR 7130, Feb. 27, 1984; 50 FR 48599, Nov. 26, 1985; 58 FR 19775, Apr. 16, 1993; 61 FR 4368, Feb. 6, 1996; 65 FR 54172, Sept. 7, 2000; 68 FR 12768, Mar. 17, 2003; 68 FR 16967, Apr. 8, 2003; 68 FR 20225, Apr. 24, 2003; 69 FR 43772, July 22, 2004]

§ 74.561 Frequency tolerance.

In the bands above 944 MHz, the operating frequency of the transmitter shall be maintained in accordance with the following table:

Frequency band (MHz)	Tolerance as percentage of assigned frequency
944 to 952	0.005
17,700 to 19,700	0.003

[54 FR 30043, July 18, 1989, as amended at 68 FR 12768, Mar. 17, 2003]

§ 74.562 Frequency monitors and measurements.

The licensee shall ensure that the STL, ICR, TVP, or booster transmitter does not exceed the emission limitations of §74.535. This may be accomplished by appropriate frequency measurement techniques and consideration of the transmitter emissions.

[50 FR 48599, Nov. 26, 1985]

§ 74.564 Posting of station license.

(a) The station license and any other instrument of authorization or individual order concerning the construction of the equipment or manner of operation of the station shall be posted in the room in which the transmitter is located, provided that if the station is

operated by remote control pursuant to §74.533, the station license shall be posted at the operating position.

(b) Posting of the station license and any other instruments of authorization shall be done by affixing the licenses to the wall at the posting location, or by enclosing them in a binder or folder which is retained at the posting location so that the documents will be readily available and easily accessible.

[48 FR 24385, June 1, 1983, as amended at 60 FR 55483, Nov. 1, 1995]

§74.582 Station identification.

(a) Each aural broadcast STL or intercity relay station, when transmitting program material or information shall transmit station identification at the beginning and end of each period of operation, and hourly, as close to the hour as feasible, at a natural break in program offerings by one of the following means:

(1) Transmission of its own call sign by aural means or by automatic transmission of international Morse telegraphy.

(2) Aural transmission of the call sign of the radio broadcast station with which it is licensed as an STL or intercity relay station.

(3) Aural transmission of the call sign of the radio broadcast station whose signals are being relayed, or, when programs are obtained directly from network lines and relayed, the network identification.

(b) Station identification transmissions during operation need not be made when to make such transmission would interrupt a single consecutive speech, play, religious service, symphony concert, or other such productions. In such cases, the identification transmission shall be made at the first interruption of the entertainment continuity and at the conclusion thereof.

(c) Where more than one aural broadcast STL or intercity relay station is employed in an integrated relay system, the station at the point of origination may originate the transmission of the call signs of all of the stations in the relay system.

(d) Aural broadcast microwave booster stations will be assigned individual call signs. However, station identification will be accomplished by the retransmission of identification as provided in paragraph (a) of this section.

(e) Voice transmissions shall normally be employed for station identification. However, other methods of station identification may be permitted or required by the Commission.

[28 FR 13716, Dec. 14, 1963, as amended at 42 FR 36830, July 18, 1977; 42 FR 38178, July 27, 1977; 45 FR 26067, Apr. 17, 1980; 49 FR 7130, Feb. 27, 1984]

Subpart F—Television Broadcast Auxiliary Stations

§74.600 Eligibility for license.

A license for a station in this subpart will be issued only to a television broadcast station, a Class A TV station, a television broadcast network-entity, a low power TV station, or a TV translator station.

[65 FR 30011, May 10, 2000]

§74.601 Classes of TV broadcast auxiliary stations.

(a) *TV pickup stations.* A land mobile station used for the transmission of TV program material and related communications from scenes of events occurring at points removed from TV station studios to a TV broadcast, Class A TV or low power TV station or other purposes as authorized in §74.631.

(b) *TV STL station (studio-transmitter link).* A fixed station used for the transmission of TV program material and related communications from the studio to the transmitter of a TV broadcast, Class A TV or low power TV station or other purposes as authorized in §74.631.

(c) *TV relay station.* A fixed station used for transmission of TV program material and related communications for use by TV broadcast, Class A TV and low power TV stations or other purposes as authorized in §74.631.

(d) *TV translator relay station.* A fixed station used for relaying programs and signals of TV broadcast or Class A TV stations to Class A TV, LPTV, TV translator, and to other communications facilities that the Commission may authorize or for other purposes as permitted by §74.631.

(e) *TV broadcast licensee.* Licensees and permittees of TV broadcast, Class

A TV and low power TV stations, unless specifically otherwise indicated.

(f) *TV microwave booster station.* A fixed station in the TV broadcast auxiliary service that receives and amplifies signals of a TV pickup, TV STL, TV relay, or TV translator relay station and retransmits them on the same frequency.

[65 FR 30012, May 10, 2000]

§ 74.602 Frequency assignment.

(a) The following frequencies are available for assignment to television pickup, television STL, television relay and television translator relay stations. The band segments 17,700–18,580 and 19,260–19,700 MHz are available for broadcast auxiliary stations as described in paragraph (g) of this section. The band segment 6425–6525 MHz is available for broadcast auxiliary stations as described in paragraph (i) of this section. The bands 6875–7125 MHz and 12700–13200 MHz are co-equally shared with stations licensed pursuant to Parts 78 and 101 of the Commission's Rules. Broadcast network-entities may also use the 1990–2110, 6425–6525 and 6875–7125 MHz bands for mobile television pickup only.

Band A MHz	Band B MHz	Band D [1] GHz			
		Group A channels		Group B channels	
		Designation	Channel boundaries	Designation	Channel boundaries
1990–2008		A01	12.700–12.725	B01	12.7125–12.7375
2008–2025		A02	12.725–12.750	B02	12.7375–12.7625
2025–2042		A03	12.750–12.775	B03	12.7625–12.7875
2042–2059		A04	12.775–12.800	B04	12.7875–12.8125
2059–2076	6875–6900	A05	12.800–12.825	B05	12.8125–12.8375
2076–2093	6900–6925	A06	12.825–12.850	B06	12.8375–12.8625
2093–2110	6925–6950	A07	12.850–12.875	B07	12.8625–12.8875
2450–2467	6950–6975	A08	12.875–12.900	B08	12.8875–12.9125
2467–2483.5	6975–7000	A09	12.900–12.925	B09	12.9125–12.9375
	7000–7025	A10	12.925–12.950	B10	12.9375–12.9625
	7025–7050	A11	12.950–12.975	B11	12.9625–12.9875
	7050–7075	A12	12.975–13.000	B12	12.9875–12.0125
	7075–7100	A13	13.000–13.025	B13	13.0125–13.0375
	7100–7125	A14	13.025–13.050	B14	13.0375–13.0625
		A15	13.050–13.075	B15	13.0625–13.0875
		A16	13.075–13.100	B16	13.0875–13.1125
		A17	13.100–13.125	B17	13.1125–13.1375
		A18	13.125–13.150	B18 [2]	13.1375–13.1625
		A19 [2]	13.150–13.175	B19 [2]	13.1625–13.1875
		A20 [2]	13.175–13.200	B20 [2]	13.1875–13.2125
		A21	13.200–13.225	B21	13.2125–13.2375
		A22	13.225–13.250		

[1] For fixed stations using Band D Channels, applicants are encouraged to use alternate A and B channels such that adjacent R.F. carriers are spaced 12.5 MHz. As example, a fixed station, relaying several channels, would use A01, B01, A02, B02, A03, etc.

[2] The band 13.15–13.20 GHz is reserved for television pickup and CARS pickup stations inside a 50 km radius of the 100 television markets delineated in § 76.51 of this chapter. Outside a 50 km radius of the 100 television markets delineated in § 76.51 of this chapter, television pickup stations, CARS stations and NGSO FSS gateway earth stations shall operate on a primary co-equal basis. The band 13.20–13.2125 GHz is reserved for television pickup stations on a primary basis and CARS pickup stations on a secondary basis inside a 50 km radius of the 100 television markets delineated in § 76.51 of this chapter. Outside a 50 km radius of the 100 markets delineated in § 76.51 of this chapter, television pickup stations and NGSO FSS gateway earth stations shall operate on a co-primary basis, CARS stations shall operate on a secondary basis. Fixed television auxiliary stations licensed pursuant to applications accepted for filing before September 1, 1979, may continue operation on channels in the 13.15–13.25 GHz band, subject to periodic license renewals. NGSO FSS gateway uplink transmissions in the 13.15–13.2125 GHz segment shall be limited to a maximum EIRP of 3.2 dBW towards 0 degrees on the radio horizon. These provisions shall not apply to GSO FSS operations in the 12.75–13.25 GHz band.

(1) Frequencies shown above between 2450 and 2500 MHz in Band A are allocated to accommodate the incidental radiations of industrial, scientific, and medical (ISM) equipment, and stations operating therein must accept any interference that may be caused by the operation of such equipment. Frequencies between 2450 and 2500 MHz are also shared with other communication services and exclusive channel assignments will not be made, nor is the channeling shown above necessarily that which will be employed by such other services.

(2) In the band 2483.5–2500 MHz, no applications for new stations or modification to existing stations to increase the number of transmitters will be accepted. Existing licensees as of July 25, 1985, and licensees whose initial applications were filed on or before July 25, 1985, are grandfathered and their operations are on a co-primary basis with the mobile-satellite and radiodetermination-satellite services, and in the segment 2495–2500 MHz, their operations are also on a co-primary basis with part 27 fixed and mobile except aeronautical mobile service operations.

(3)(i) After January 7, 2004, stations may adhere to the channel plan specified in paragraph (a) of this section, or the following channel plan in Band A:

Channel A1r—2025.5–2037.5 MHz
Channel A2r—2037.5–2049.5 MHz
Channel A3r—2049.5–2061.5 MHz
Channel A4—2061.5–2073.5 MHz
Channel A5r—2073.5–2085.5 MHz
Channel A6r—2085.5–2097.5 MHz
Channel A7r—2097.5–2109.5 MHz

(ii) Stations adhering to the channel plan specified in paragraph (a)(3)(i) of this section may also use the following 40 data return link (DRL) channels to facilitate their operations in the 2025.5–2109.5 MHz band:

Lower band DRL channels

2025.000–2025.025 MHz
2025.025–2025.050 MHz
2025.050–2025.075 MHz
2025.075–2025.100 MHz
2025.100–2025.125 MHz
2025.125–2025.150 MHz
2025.150–2025.175 MHz
2025.175–2025.200 MHz
2025.200–2025.225 MHz
2025.225–2025.250 MHz
2025.250–2025.275 MHz
2025.275–2025.300 MHz
2025.300–2025.325 MHz
2025.325–2025.350 MHz
2025.350–2025.375 MHz
2025.375–2025.400 MHz
2025.400–2025.425 MHz
2025.425–2025.450 MHz
2025.450–2025.475 MHz
2025.475–2025.500 MHz

Upper band DRL channels

2109.500–2109.525 MHz
2109.525–2109.550 MHz
2109.550–2109.575 MHz
2109.575–2109.600 MHz
2109.600–2109.625 MHz
2109.625–2109.650 MHz
2109.650–2109.675 MHz
2109.675–2109.700 MHz
2109.700–2109.725 MHz
2109.725–2109.750 MHz
2109.750–2109.775 MHz
2109.775–2109.800 MHz
2109.800–2109.825 MHz
2109.825–2109.850 MHz
2109.850–2109.875 MHz
2109.875–2109.900 MHz
2109.900–2109.925 MHz
2109.925–2109.950 MHz
2109.950–2109.975 MHz
2109.975–2110.000 MHz

(iii) Broadcast Auxiliary Service, Cable Television Remote Pickup Service, and Local Television Transmission Service licensees will be required to use the Band A channel plan in paragraph (a)(3)(i) of this section after completion of relocation by an Emerging Technologies licensee in accordance with § 74.690 or § 78.40. Licensees declining relocation may continue to use their existing channel plan but must discontinue use of the 1990–2025 MHz

band when they indicate to an Emerging Technologies licensee, acting pursuant to § 74.690 or § 78.40 of this chapter, that they decline to be relocated.

(4) [Reserved]

(b) Subject to the conditions of paragraph (a) of this section, frequency assignments will normally be made as requested, provided that the frequency selection provisions of § 74.604 have been followed and that the frequency requested will cause no interference to existing users in the area. The Commission reserves the right to assign frequencies other than those requested if, in its opinion, such action is warranted.

(c) Fixed link stations will be authorized to operate on one channel only.

(d) Cable Television Relay Service stations may be assigned channels in Band D between 12,700 and 13,200 MHz subject to the condition that no harmful interference is caused to TV STL and TV relay stations authorized at the time of such grants. Similarly, new TV STL and TV relay stations must not cause harmful interference to cable television relay stations authorized at the time of such grants. The use of channels between 12,700 and 13,200 MHz by TV pickup stations is subject to the condition that no harmful interference is caused to Cable Television Relay Service stations, TV STL and TV relay stations, except as provided for in § 74.602(a) Note 2. Band D channels are also shared with certain Private Operational Fixed Stations, see § 74.638.

(e) Communication common carriers in the Local Television Transmission Service (Part 101) may be assigned frequencies available to television broadcast station licensees and broadcast network entities for the purpose of providing service to television broadcast stations and broadcast network entities, respectively.

(f) TV auxiliary stations licensed to low power TV stations and translator relay stations will be assigned on a secondary basis, *i.e.*, subject to the condition that no harmful interference is caused to other TV auxiliary stations assigned to TV broadcast stations, or to cable television relay service stations (CARS) operating between 12,700 and 13,200 MHz. Auxiliary stations licensed to low power TV stations and translator relay stations must accept any interference caused by stations having primary use of TV auxiliary frequencies.

(g) The following frequencies are available for assignment to television STL, television relay stations and television translator relay stations. Stations operating on frequencies in the sub-bands 18.3–18.58 GHz and 19.26–19.3 GHz that were licensed or had applications pending before the Commission as of September 18, 1998 may continue those operations on a shared co-primary basis with other services under parts 21, 25, 78, and 101 of this chapter. Such stations, however, are subject to relocation by licensees in the fixed-satellite service. Such relocation is subject to the provisions of §§ 101.85 through 101.97 of this chapter. No new applications for new licenses will be accepted in the 19.26–19.3 GHz band after June 8, 2000, and no new applications for new licenses will be accepted in the 18.3–18.58 GHz band after November 19, 2002. The provisions of § 74.604 do not apply to the use of these frequencies. Licensees may use either a two-way link or one or both frequencies of a frequency pair for a one-way link and shall coordinate proposed operations pursuant to procedures required in § 101.103(d) of this chapter.

(1) 2 MHz maximum authorized bandwidth channel:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
18141.0	n/a

(2) 6 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
216 MHz Separation	
18145.0	n/a
18151.0	18367.0
18157.0	18373.0
18163.0	18379.0
18169.0	18385.0
18175.0	18391.0
18181.0	18397.0
18187.0	18403.0
18193.0	18409.0
18199.0	18415.0
18205.0	18421.0
18211.0	18427.0
18217.0	18433.0
18223.0	18439.0

Transmit (receive) (MHz)	Receive (transmit) (MHz)
18229.0	18445.0
18235.0	18451.0
18241.0	18457.0
18247.0	18463.0
18253.0	18469.0
18259.0	18475.0
18265.0	18481.0
18271.0	18487.0
18277.0	18493.0
18283.0	18499.0
18289.0	18505.0
18295.0	18511.0
18301.0	18517.0
18307.0	18523.0
18313.0	18529.0
18319.0	18535.0
18325.0	18541.0
18331.0	18547.0
18337.0	18553.0
18343.0	18559.0
18349.0	18565.0
18355.0	18571.0
18361.0	18577.0

(3) 10 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 MHz Separation	
17705.0	19265.0
17715.0	19275.0
17725.0	19285.0
17735.0	19295.0
17745.0	19305.0
17755.0	19315.0
17765.0	19325.0
17775.0	19335.0
17785.0	19345.0
17795.0	19355.0
17805.0	19365.0
17815.0	19375.0
17825.0	19385.0
17835.0	19395.0
17845.0	19405.0
17855.0	19415.0
17865.0	19425.0
17875.0	19435.0
17885.0	19445.0
17895.0	19455.0
17905.0	19465.0
17915.0	19475.0
17925.0	19485.0
17935.0	19495.0
17945.0	19505.0
17955.0	19515.0
17965.0	19525.0
17975.0	19535.0
17985.0	19545.0
17995.0	19555.0
18005.0	19565.0
18015.0	19575.0
18025.0	19585.0
18035.0	19595.0
18045.0	19605.0
18055.0	19615.0
18065.0	19625.0
18075.0	19635.0
18085.0	19645.0
18095.0	19655.0
18105.0	19665.0
18115.0	19675.0
18125.0	19685.0
18135.0	19695.0

(4) 20 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 MHz Separation	
17710.0	19270.0
17730.0	19290.0
17750.0	19310.0
17770.0	19330.0
17790.0	19350.0
17810.0	19370.0
17830.0	19390.0
17850.0	19410.0
17870.0	19430.0
17890.0	19450.0
17910.0	19470.0
17930.0	19490.0
17950.0	19510.0
17970.0	19530.0
17990.0	19550.0
18010.0	19570.0
18030.0	19590.0
18050.0	19610.0
18070.0	19630.0
18090.0	19650.0
18110.0	19670.0
18130.0	19690.0

(5) 40 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 MHz Separation	
17720.0	19280.0
17760.0	19320.0
17800.0	19360.0
17840.0	19400.0
17880.0	19440.0
17920.0	19480.0
17960.0	19520.0
18000.0	19560.0
18040.0	19600.0
18080.0	19640.0
18120.0	19680.0

(6) 80 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 MHz Separation	
17740.0	19300.0
17820.0	19380.0
17900.0	19460.0

Transmit (receive) (MHz)	Receive (transmit) (MHz)
17980.0	19540.0
18060.0	19620.0

(h) TV STL, TV relay stations, and TV translator relay stations may be authorized to operate fixed point-to-point service on the UHF TV channels 14–69 on a secondary basis and subject to the provisions of subpart G of this part:

(1) Applications for authorization in accordance with this paragraph must comply with the following technical limits or be accompanied by an engineering analysis demonstrating why these limits must be exceeded:

(i) Maximum EIRP is limited to 35 dBW;

(ii) Transmitting antenna beamwidth is limited to 25 degrees (measured at the 3 dB points); and

(iii) Vertical polarization is used.

(2) These stations must not interfere with and must accept interference from current and future full-power UHF-TV stations, LPTV stations, and translator stations. They will also be secondary to land mobile stations in areas where land mobile sharing is currently permitted.

(3) TV STL and TV relay stations licensed for operation on UHF TV channels 52–69 based on applications filed before April 16, 2003, may continue to operate under the terms of their current authorizations until the end of transition to digital television in their market (DTV Transition), as set forth in §§ 73.622 through 73.625 of this chapter. Applications for TV STL and TV relay stations operating on UHF TV channels 52–69 will not be accepted for filing on or after April 16, 2003.

(4) TV translator relay stations licensed for operation on UHF TV channels 52–59 based on applications filed before the end of DTV transition may continue to operate under the terms of their current authorizations indefinitely. TV translator relay stations licensed for operation on UHF TV channels 60–69 based on applications filed before the end of DTV transition may continue to operate under the terms of their current authorizations until the end of DTV Transition. Applications for TV translator relay stations operating on UHF TV channels 52–69 will not be accepted for filing on or after the end of DTV Transition.

(5)(i) The licensee of a TV STL, TV relay station, or TV translator relay station that operates on frequencies in the 600 MHz band assigned to wireless licensees under part 27 of this chapter must cease operations on those frequencies no later than the end of the post-auction transition period as defined in § 27.4 of this chapter. The licensee of a TV STL, TV relay station, or TV translator relay station may be required to cease operations on a date earlier than the end of the post-auction transition period if it receives a notification pursuant to paragraph (h)(5)(ii) of this section.

(ii) A wireless licensee assigned to frequencies in the 600 MHz band under part 27 of this chapter must notify the licensee of a TV STL, TV relay station, or TV translator relay station of its intent to commence operations, as defined in § 27.4 of this chapter, and the likelihood of harmful interference from the TV STL, TV relay station, or TV translator relay station to those operations within the wireless licensee's licensed geographic service area.

(A) The wireless licensee must:

(*1*) Notify the licensee of the TV STL, TV relay station, or TV translator relay station in the form of a letter, via certified mail, return receipt requested; and

(*2*) Send such notification not less than 30 days in advance of the approximate date of commencement of such operations.

(B) The licensee of the TV STL, TV relay station, or TV translator relay station must cease the subject operation within 30 days of receiving the notification pursuant to this section.

(iii) By the end of the post-auction transition period, all TV STL, TV relay station and TV translator relay station licensees must modify or cancel their authorizations and vacate the 600 MHz band. Applications for TV STL, TV relay and TV translator relay stations in the 600 MHz band will not be accepted for filing on or after the end date for the post-auction transition period.

(6) The licensee of a TV STL, TV relay station, or TV translator relay

station that operates on the UHF spectrum that is reserved for guard band channels as a result of the broadcast television incentive auction conducted under section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96) must cease operations on those frequencies no later than the end of the post-auction transition period as defined in § 27.4 of this chapter. The licensee of a TV STL, TV relay station, or TV translator relay station may be required to cease operations on a date earlier than the end of the post-auction transition period if it receives a notification pursuant to paragraph (h)(5)(ii) of this section.

(i) *6425 to 6525 MHz—Mobile Only.* Paired and un-paired operations permitted. Use of this spectrum for direct delivery of video programs to the general public or multi-channel cable distribution is not permitted. This band is co-equally shared with mobile stations licensed pursuant to parts 78 and 101 of this chapter. The following channel plans apply.

(1) 1 MHz maximum authorized bandwidth channels.

Transmit (or receive MHz)	Receive (or transmit) (MHz)
6425.5	6475.5
6450.5	6500.5

(2) 8 MHz maximum authorized bandwidth channels.

Transmit (or receive MHz)	Receive (or transmit) (MHz)
6430.0	6480.0
6438.0	6488.0
6446.0	6596.0
6455.0	6505.0
6463.0	6513.0
6471.0	6521.0

(3) 25 MHz maximum authorized bandwidth channels.

Transmit (or receive MHz)	Receive (or transmit (MHz)
6437.5	6487.5
6462.5	6512.5

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

[28 FR 13718, Dec. 14, 1963]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 74.602, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§ 74.603 Sound channels.

(a) The frequencies listed in § 74.602(a) may be used for the simultaneous transmission of the picture and sound portions of TV broadcast programs and for cue and order circuits, either by means of multiplexing or by the use of a separate transmitter within the same channel. When multiplexing of a TV STL station is contemplated, consideration should be given to the requirements of § 73.687 of this Chapter regarding the overall system performance requirements. Applications for new TV pickup, TV STL, TV relay and TV translator relay stations shall clearly indicate the nature of any mutliplexing proposed. Multiplexing equipment may be installed on licensed equipment without authority of the FCC, provided the installation of such apparatus on a TV STL station shall not result in degradation of the overall system performance of the TV broadcast station below that permitted by § 73.687 of this chapter.

(b) [Reserved]

(c) Aural STL or intercity relay stations licensed as of July 10, 1970, to operate in the frequency band 942–947 MHz, may continue to so operate pending a decision as to their disposition through a future rule making proceeding.

(d) Remote pickup broadcast stations may be used in conjunction with television pickup stations for the transmission of the aural portion of television programs or events that occur outside a television studio and for the transmission of cues, orders, and other related communications necessary thereto. The rules governing remote pickup broadcast stations are contained in Subpart D of this part.

[28 FR 13718, Dec. 14, 1963, as amended at 47 FR 55936, Dec. 14, 1982; 48 FR 24385, June 1, 1983; 68 FR 12769, Mar. 17, 2003]

§ 74.604 Interference avoidance.

(a) [Reserved]

(b) Where two or more licensees are assigned a common channel for TV pickup, TV STL, or TV relay purposes in the same area and simultaneous operation is contemplated, they shall take such steps as may be necessary to avoid mutual interference, including

consultation with the local coordination committee, if one exists. If a mutual agreement to this effect cannot be reached, the Commission must be notified and it will take such action as may be necessary, including time sharing arrangements, to assure an equitable distribution of available frequencies.

(c) For those interference disputes brought to the Commission for resolution, TV broadcast auxiliary channels will have the following priority for purposes of interference protection:

(1) All fixed links for full service broadcast stations and cable systems.

(2) TV and CARS pickup stations.

(3) Fixed or mobile stations serving translator or low power TV stations.

(4) Backup facilities; TV pickup stations used outside a licensee's local service area.

(5) Any transmission, pursuant to §74.631(f), that does not involve the delivery of program material to a licensee's associated TV broadcast station.

(d) Interference between two stations having the same priority shall be resolved in favor of the station licensed first on a particular path.

[48 FR 17091, Apr. 21, 1983, as amended at 68 FR 12769, Mar. 17, 2003]

§74.605 Registration of stationary television pickup receive sites.

Licensees of TV pickup stations in the 6875–7125 MHz and 12700–13200 MHz bands shall register their stationary receive sites using the Commission's Universal Licensing System.

[76 FR 59571, Sept. 27, 2011]

§74.631 Permissible service.

(a) The licensee of a television pickup station authorizes the transmission of program material, orders concerning such program material, and related communications necessary to the accomplishment of such transmissions, from the scenes of events occurring in places other than a television studio, to its associated television broadcast station, to an associated television relay station, to such other stations as are broadcasting the same program material, or to the network or networks with which the television broadcast station is affiliated. Television pickup stations may be operated in conjunction with other television broadcast stations not aformentioned in this paragraph: *Provided,* That the transmissions by the television pickup station are under the control of the licensee of the television pickup station and that such operation shall not exceed a total of 10 days in any 30-day period. Television pickup stations may be used to provide temporary studio-transmitter links or intercity relay circuits consistent with §74.632 without further authority of the Commission: *Provided, however*, That prior Commission authority shall be obtained if the transmitting antenna to be installed will increase the height of any natural formation or man-made structure by more than 6.1 meters (20 feet) and will be in existence for a period of more than 2 consecutive days.

NOTE: As used in this subpart, ''associated television broadcast station'' means a television broadcast station licensed to the licensee of the television auxiliary broadcast station and with which the television auxiliary station is licensed as an auxiliary facility.

(b) A television broadcast STL station is authorized to transmit visual program material between the studio and the transmitter of a television broadcast station for simultaneous or delayed broadcast.

(c) A TV relay station is authorized to transmit visual program material between TV broadcast stations for simultaneous or delayed broadcast, or may be used to transmit visual program material from a remote pickup receiver site of a single station.

(d) The transmitter of an STL, TV relay station or TV translator relay station may be multiplexed to provide additional communication channels. A TV broadcast STL or TV relay station will be authorized only in those cases where the principal use is the transmission of television broadcast program material for use by its associated TV broadcast station. However, STL or TV relay stations so licensed may be operated at any time for the transmission of multiplexed communications whether or not visual program material is being transmitted, provided that such operation does not cause harmful interference to TV broadcast pickup, STL or TV relay stations

transmitting television broadcast program material.

(e) Except as provided in paragraphs (a), (d), (f) and (j) of this section, all program material transmitted over a TV pickup, STL, or TV relay station shall be used by or intended for use by a TV broadcast station owned by or under the common control of the licensee of the TV pickup, STL, or TV relay station. Program material transmitted over a TV pickup, STL or TV relay station and so used by the licensee of such facility may, with the permission of the licensee of the broadcast auxiliary facility, be used by other TV broadcast stations and by non-broadcast closed circuit educational TV systems operated by educational institutions.

(f) A TV broadcast pickup, STL, or TV relay station may be used for the transmission of material to be used by others, including but not limited to other broadcast stations, cable television systems, and educational institutions. This use shall not interfere with the use of these broadcast auxiliary facilities for the transmission of programs and associated material intended to be used by the television station or stations licensed to or under common control of the licensee of the TV pickup, STL, or TV relay station. This use of the broadcast auxiliary facilities must not cause harmful interference to broadcast auxiliary stations operating in accordance with the basic frequency allocation, and the licensee of the TV pickup, STL, or TV relay station must retain exclusive control over the operation of the facilities. Prior to operating pursuant to the provisions of this section, the licensee shall, for the intended location or area-of-operation, notify the appropriate frequency coordination committee or any licensee(s) assigned the use of the proposed operating frequency, concerning the particulars of the intended operation and must provide the name and telephone number of a person who may be contacted in the event of interference.

(g) Except as provided in paragraph (d) of this section, a television translator relay station is authorized for the purpose of relaying the programs and signals of a television broadcast station to television broadcast translator stations for simultaneous retransmission.

(h) A TV microwave booster station is authorized to retransmit the signals of a TV pickup, TV STL, TV relay, or TV translator relay station.

(i) TV broadcast auxiliary stations authorized pursuant to this subpart may additionally be authorized to supply programs and signals of TV broadcast stations to cable television systems or CARS stations. Where the licensee of a TV broadcast auxiliary station supplies programs and signals to cable television systems or CARS stations, the TV auxiliary licensee must have exclusive control over the operation of the TV auxiliary stations licensed to it. Contributions to capital and operating expenses may be accepted only on a cost-sharing, non-profit basis, prorated on an equitable basis among all parties being supplied with program material.

(j) A broadcast network-entity may use television auxiliary service stations to transmit their own television program materials to broadcast stations, other broadcast network-entities, cable systems and cable network-entities: *Provided, however,* that the bands 1990–2110 MHz, 6425–6525 MHz and 6875–7125 MHz may be used by broadcast network-entities only for television pick-up stations.

[28 FR 13718, Dec. 14, 1963, as amended at 29 FR 15524, Nov. 19, 1964; 43 FR 1950, Jan. 13, 1978; 44 FR 32381, June 6, 1979; 47 FR 55937, Dec. 14, 1982; 48 FR 17092, Apr. 21, 1983; 49 FR 7130, Feb. 27, 1984; 52 FR 7142, Mar. 9, 1987; 68 FR 12769, Mar. 17, 2003]

§ 74.632 Licensing requirements.

(a) Licenses for television pickup, television STL, television microwave booster, or television relay stations will be issued only to licensees of television broadcast stations, and broadcast network-entities and, further, on a secondary basis, to licensees of low power television stations. A separate application is required for each fixed station and the application shall be specific with regard to the frequency requested. A mobile station license

may be issued for any number of mobile transmitters to operate in a specific area or frequency band and the applicant shall be specific with regard to the frequencies requested.

(b) A license for a TV relay station may be issued in any case where the circuit will operate between TV broadcast stations either by means of ''off-the-air'' pickup and relay or location of the initial relay station at the studio or transmitter of a TV broadcast station.

(c) An application for a new TV pickup station shall designate the TV broadcast station with which it is to be operated and specify the area in which the proposed operation is intended. The maximum permissible area of operation will generally be that of a standard metropolitan area, unless a special showing is made that a larger area is necessary.

(d) Licensees who have two or more TV broadcast stations located in different cities shall, in applying for a new TV pickup station, designate the TV broadcast station in conjunction with which it is to be operated principally. Operation in a city which is not the city of license of the associated TV broadcast station is on a secondary, non-interference basis to home-city users.

(e) A license for a TV translator relay station will be issued only to licensees of low power TV and TV translator stations. *However*, a television translator relay station license may be issued to a cooperative enterprise wholly owned by licensees of television broadcast translators or licensees of television broadcast translators and cable television owners or operators upon a showing that the applicant is qualified under the Communication Act of 1934, as amended.

(f) Licensees of TV pickup, TV STL, TV relay, and TV translator relay stations may be authorized to operate one or more TV microwave booster stations for the purpose of relaying signals over a path that cannot be covered with a single station.

(g) In case of permanent discontinuance of operations of a station licensed under this subpart, the licensee shall cancel the station license using FCC Form 601. For purposes of this section, a station which is not operated for a period of one year is considered to have been permanently discontinued.

[28 FR 13718, Dec. 14, 1963, as amended at 44 FR 32382, June 6, 1979; 47 FR 55937, Dec. 14, 1982; 48 FR 9012, Mar. 3, 1983; 48 FR 17092, Apr. 21, 1983; 48 FR 21486, May 12, 1983; 49 FR 7130, Feb. 27, 1984; 49 FR 10930, Mar. 23, 1984; 52 FR 7142, Mar. 9, 1987; 58 FR 19775, Apr. 16, 1993; 63 FR 36605, July 7, 1998; 68 FR 12769, Mar. 17, 2003]

EFFECTIVE DATE NOTE: At 82 FR 41548, Sept. 1, 2017, § 74.632 was amended by removing paragraph (g). This amendment will become effective after OMB review and approval of § 1.953.

§ 74.633 Temporary authorizations.

(a) Special temporary authority may be granted for TV broadcast auxiliary station operation which cannot be conducted in accordance with § 74.24. Such authority will normally be granted only for operations of a temporary nature. Where operation is seen as likely on a continuing annual basis, an application for a regular authorization should be submitted.

(b) A request for special temporary authority for the operation of a television broadcast auxiliary station must be made in accordance with the procedures of § 1.931(b) of this chapter.

(c) All requests for special temporary authority of a television broadcast auxiliary station must include full particulars including: licensee's name and address, facility identification number of the associated broadcast station(s) (if any), call letters of the television broadcast STL or intercity relay station (if assigned), type and manufacturer of equipment, effective isotropic radiated power, emission, frequency or frequencies proposed for use, commencement and termination date and location of the proposed operation, and purpose for which request is made including any particular justification.

(d) A request for special temporary authority shall specify a channel or channels consistent with the provisions of § 74.602: *Provided*, That in the case of events of wide-spread interest and importance which cannot be transmitted successfully on these frequencies, frequencies assigned to other services may be requested upon a showing that operation thereon will not cause interference to established stations: *And*

provided further, That in no case will a television auxiliary broadcast operation be authorized on frequencies employed for the safety of life and property.

(e) When the transmitting equipment utilized is not licensed to the user, the user shall nevertheless have full control over the use of the equipment during the period it is operated.

(f) Special temporary authority to permit operation of a TV auxiliary broadcast station of any class pending FCC action on an application for regular authority will not normally be granted.

(Sec. 318, 48 Stat. 1089, as amended; 47 U.S.C. 318)

[28 FR 13720, Dec. 14, 1963, as amended at 47 FR 9221, Mar. 4, 1982; 47 FR 55937, Dec. 14, 1982; 50 FR 23710, June 5, 1985; 52 FR 10570, Apr. 2, 1987; 58 FR 19775, Apr. 16, 1993; 68 FR 12769, Mar. 17, 2003]

§ 74.634 Remote control operation.

(a) A TV auxiliary station may be operated by remote control provided that such operation is conducted in accordance with the conditions listed below:

(1) The remote control system must be designed, installed, and protected so that the transmitter can only be activated or controlled by persons authorized by the licensee.

(2) The remote control equipment must be maintained to ensure proper operation.

(3) The remote control system must be designed to prevent inadvertent transmitter operation caused by malfunctions in the circuits between the control point and transmitter.

(b) The FCC may notify the licensee to cease or modify operation in the case of frequency usage disputes. interference or similar situations where such action appears to be in the public interest, convenience and necessity.

[28 FR 13718, Dec. 14, 1963, as amended at, 47 FR 55937, Dec. 14, 1982; 50 FR 48600, Nov. 26, 1985; 60 FR 55483, Nov. 1, 1995]

§ 74.635 Unattended operation.

(a) TV relay stations, TV translator relay stations, TV STL stations, and TV microwave booster stations may be operated unattended under the following conditions:

(1) The transmitter must be provided with adequate safeguards to prevent improper operation.

(2) The transmitter shall be so installed and protected that it is not accessible to other than duly authorized persons;

(3) TV relay stations, TV STL stations, TV translator relay stations, and TV microwave booster stations used with these stations, shall be observed at the receiving end of the microwave circuit as often as necessary to ensure proper station operation by a person designated by the licensee, who must institute measures sufficient to ensure prompt correction of any condition of improper operation. However, an STL station (and any TV microwave booster station) associated with a TV broadcast station operated by remote control may be observed by monitoring the TV station's transmitted signal at the remote control point. Additionally, a TV translator relay station (and any associated TV microwave booster station) may be observed by monitoring the associated TV translator station's transmitted signal.

(b) The FCC may notify the licensee to cease or modify operation in the case of frequency usage disputes, interference or similar situations where such action appears to be in the public interest, convenience and necessity.

[28 FR 13718, Dec. 14, 1963, as amended at 31 FR 15314, Dec. 7, 1966; 43 FR 1950, Jan. 13, 1978; 47 FR 55937, Dec. 14, 1982; 49 FR 7131, Feb. 27, 1984; 50 FR 32417, Aug. 12, 1985]

§ 74.636 Power limitations.

(a) On any authorized frequency, transmitter peak output power and the average power delivered to an antenna in this service must be the minimum amount of power necessary to carry out the communications desired and shall not exceed the values listed in the following table. Application of this principle includes, but is not to be limited to, requiring a licensee who replaces one or more of its antennas with larger antennas to reduce its antenna input power by an amount appropriate to compensate for the increased primary lobe gain of the replacement antenna(s). In no event shall the average equivalent isotropically radiated power (EIRP), as referenced to an isotropic

radiator, exceed the values specified in the following table. In cases of harmful interference, the Commission may, after notice and opportunity for hearing, order a change in the effective radiated power of this station. The table follows:

Frequency band (MHz)	Maximum allowable transmitter power	Maximum allowable EIRP[2]	
	Mobile (W)	Fixed (dBW)	Mobile (dBW)
2,025 to 2,110	12.0	+ 45	+ 35
2,450 to 2,483.5	12.0	+ 45	+ 35
6,425 to 6,525	12.0	.....	+ 35
6,875 to 7,125	12.0	+ 55	+ 35
12,700 to 13,250	1.5	+ 55	+ 45
17,700 to 18,600	.....	+ 55	.....
18,600 to 18,800[1]	.....	+ 35	.....
18,800 to 19,700	.....	+ 55	.....

[1] The power delivered to the antenna is limited to −3 dBW.
[2] Stations licensed based on an application filed before April 16, 2003, for EIRP values exceeding those specified above, may continue to operate indefinitely in accordance with the terms of their current authorizations, subject to periodic renewal.

(b) The EIRP of transmitters that use Automatic Transmitter Power Control (ATPC) shall not exceed the EIRP specified on the station authorization. The EIRP of non-ATPC transmitters shall be maintained as near as practicable to the EIRP specified on the station authorization.

[68 FR 12769, Mar. 17, 2003]

§ 74.637 Emissions and emission limitations.

(a) The mean power of emissions shall be attenuated below the mean transmitter power (P_{MEAN}) in accordance with the following schedule:

(1) When using frequency modulation:

(i) On any frequency removed from the assigned (center) frequency by more than 50% up to and including 100% of the authorized bandwidth: At least 25 dB in any 100 kHz reference bandwidth (B_{REF});

(ii) On any frequency removed from the assigned (center) frequency by more than 100% up to and including 250% of the authorized bandwidth: At least 35 dB in any 100 kHz reference bandwidth;

(iii) On any frequency removed from the assigned (center) frequency by more than 250% of the authorized bandwidth: At least 43 + 10 $\log_{10}$ (P_{MEAN} in watts) dB, or 80 dB, whichever is the lesser attenuation, in any 100 kHz reference bandwidth.

(2) When using transmissions employing digital modulation techniques:

(i) For operating frequencies below 15 GHz, in any 4 kHz reference bandwidth (B_{REF}), the center frequency of which is removed from the assigned frequency by more than 50 percent up to and including 250 percent of the authorized bandwidth: As specified by the following equation but in no event less than 50 decibels:

$$A = 35 + 0.8\ (G - 50) + 10\ \mathrm{Log}_{10}\ B.$$

(Attenuation greater than 80 decibels is not required.)

Where:

A = Attenuation (in decibels) below the mean output power level.
G = Percent removed from the carrier frequency.
B = Authorized bandwidth in megahertz.

(ii) For operating frequencies above 15 GHz, in any 1 MHz reference bandwidth (B_{REF}), the center frequency of which is removed from the assigned frequency by more than 50 percent up to and including 250 percent of the authorized bandwidth: As specified by the following equation but in no event less than 11 decibels:

$$A = 11 + 0.4\ (G - 50) + 10\ \mathrm{Log}_{10}\ B.$$

(Attenuation greater than 56 decibels is not required.)

(iii) In any 4 kHz reference bandwidth (B_{REF}), the center frequency of which is removed from the assigned frequency by more than 250 percent of the authorized bandwidth: At least 43 + 10 Log_{10} (P_{MEAN} in watts) decibels, or 80 decibels, whichever is the lesser attenuation.

(3) Amplitude Modulation. For vestigial sideband AM video: On any frequency removed from the center frequency of the authorized band by more than 50%: at least 50 dB below peak power of the emission.

(b) For all emissions not covered in paragraph (a) of this section, the peak power of emissions shall be attenuated below the peak envelope transmitter power (P_{PEAK}) in accordance with the following schedule:

(1) On any frequency 500 Hz inside the channel edge up to and including 2500 Hz outside the same edge, the following formula will apply:

$A = 29\ Log_{10}\ [(25/11)[(D + 2.5 - (W/2)]^2]$ dB

(Attenuation greater than 50 decibels is not required.)

Where:

A = Attenuation (in dB) below the peak envelope transmitter power.
D = The displacement frequency (kHz) from the center of the authorized bandwidth.
W = the channel bandwidth (kHz).

(2) On any frequency removed from the channel edge by more than 2500 Hz: At least $43 + 10\ Log_{10}$ (P_{PEAK} in watts) dB.

(c) For purposes of compliance with the emission limitation requirements of this section:

(1) If the transmitter modulates a single carrier, digital modulation techniques are considered as being employed when digital modulation occupies 50 percent or more of the total peak frequency deviation of a transmitted radio frequency carrier. The total peak frequency deviation will be determined by adding the deviation produced by the digital modulation signal and the deviation produced by any frequency division multiplex (FDM) modulation used. The deviation (D) produced by the FDM signal must be determined in accordance with § 2.202(f) of this chapter.

(2) If the transmitter modulates two or more carriers, with at least one using digital modulation and one using frequency or other analog modulation, digital modulation techniques are considered as being employed when the necessary bandwidth of the digital signal(s) is 50 percent or more of the aggregate bandwidth of the system, comprising the digital necessary bandwidth(s), the analog necessary bandwidth(s), and any bandwidth(s) between the digital and analog necessary bandwidths. In this case, the aggregate bandwidth shall be used for the authorized bandwidth (B) in paragraph (a) of this section, and for purposes of compliance with the bandwidth limitations in paragraph (g) of this section and in § 74.602 of this subpart; and the sum of the powers of the analog and digital signals shall be used for mean transmitter power (P_{MEAN}) in paragraph (a) or the peak envelope transmitter power (P_{PEAK}) in paragraph (b) of this section, and for purposes of compliance with the power limitations in § 74.636 of this subpart.

(3) For demonstrating compliance with the attenuation requirements for frequency modulation and digital modulation in paragraph (a) of this section, the resolution bandwidth (B_{RES}) of the measuring equipment used for measurements removed from the center frequency by more than 250 percent of the authorized bandwidth shall be 100 kHz for operating frequencies below 1 GHz, and 1 MHz for operating frequencies above 1 GHz. The resolution bandwidth for frequencies removed from the center frequency by less than 250 percent of the authorized bandwidth shall be the reference bandwidth (B_{REF}) specified in the individual emission limitations, but may be reduced to not less than one percent of the authorized bandwidth (B), adjusted upward to the nearest greater resolution bandwidth available on the measuring equipment. In all cases, if B_{RES} and B_{REF} are not equal, then the attenuation requirement must be increased (or decreased) as determined by a factor of $10\ log_{10}$ [(B_{REF} in megahertz)/(B_{RES} in megahertz)] decibels, where a positive factor indicates an increase in the attenuation requirement and a negative factor indicates a decrease in the attenuation requirement.

(4) Stations licensed pursuant to an application filed before March 17, 2005, using equipment not conforming with the emission limitations specified above, may continue to operate indefinitely in accordance with the terms of their current authorizations, subject to periodic renewal. Existing equipment and equipment of product lines in production before April 16, 2003, authorized via certification or verification before March 17, 2005, for equipment not conforming to the emission limitations requirements specified above, may continue to be manufactured and/or marketed, but may not be authorized for use under a station license except at stations licensed pursuant to an application filed before March 17, 2005. Any non-conforming equipment authorized

under a station license, and replaced on or after March 17, 2005, must be replaced by conforming equipment.

(d) In the event that interference to other stations is caused by emissions outside the authorized channel, the FCC may require greater attenuation than that specified in paragraph (b) of this section.

(e) The following limitations also apply to the operation of TV microwave booster stations:

(1) The booster station must receive and amplify the signals of the originating station and retransmit them on the same frequency without significantly altering them in any way. The characteristics of the booster transmitter output signal shall meet the requirements applicable to the signal of the originating station.

(2) The licensee is responsible for correcting any condition of interference that results from the radiation of radio frequency energy outside the assigned channel. Upon notice by the FCC to the station licensee that interference is being caused, operation of the apparatus must be immediately suspended and may not be resumed until the interference has been eliminated or it can be demonstrated that the interference is not due to spurious emissions. However, short term test transmissions may be made during the period of suspended operation to determine the efficacy of remedial measures.

(3) In each instance where suspension of operation is required, the licensee must submit a full report to the FCC after operation is resumed. The report must contain details of the nature of the interference, the source of interfering signals, and the remedial steps taken to eliminate the interference.

(f) In the event a station's emissions outside its authorized channel cause harmful interference, the Commission may require the licensee to take such further steps as may be necessary to eliminate the interference.

(g) The maximum bandwidth which will be authorized per frequency assignment is set out in the table which follows. Regardless of the maximum authorized bandwidth specified for each frequency band, the Commission reserves the right to issue a license for less than the maximum bandwidth if it appears that less bandwidth would be sufficient to support an applicant's intended communications.

Frequency Band (MHz)	Maximum authorized bandwidth (MHz)
1,990 to 2,110	18
6,425 to 6,525	25
6,875 to 7,125	25
12,700 to 13,250	25
17,700 to 19,700	80

[45 FR 78692, Nov. 26, 1980, as amended at 48 FR 50734, Nov. 3, 1983; 49 FR 7131, Feb. 27, 1984; 49 FR 37778, Sept. 26, 1984; 50 FR 7342, Feb. 22, 1985; 50 FR 34150, Aug. 23, 1985; 50 FR 48600, Nov. 26, 1985; 52 FR 7142, Mar. 9, 1987; 58 FR 51251, Oct. 1, 1993; 68 FR 12769, Mar. 17, 2003.]

§ 74.638 Frequency coordination.

(a) Coordination of all frequency assignments for fixed stations in all bands above 2110 MHz, and for mobile (temporary fixed) stations in the bands 6425–6525 MHz and 17.7–19.7 GHz, will be in accordance with the procedure established in paragraph (b) of this section, except that the prior coordination process for mobile (temporary fixed) assignments may be completed orally and the period allowed for response to a coordination notification may be less than 30 days if the parties agree. Coordination of all frequency assignments for all mobile (temporary fixed) stations in all bands above 2110 MHz, except the bands 6425–6525 MHz and 17.7–19.7 GHz, will be conducted in accordance with the procedure established in paragraph (b) of this section or with the procedure in paragraph (d) of this section. Coordination of all frequency assignments for all fixed stations in the band 1990–2110 MHz will be in accordance with the procedure established in paragraph (c) of this section. Coordination of all frequency assignments for all mobile (temporary fixed) stations in the band 1990–2110 MHz will be conducted in accordance with the procedure in paragraph (d) of this section.

(b) For each frequency coordinated under this paragraph, the interference protection criteria in 47 CFR 101.105(a),

(b), and (c) and the frequency usage coordination procedures in 47 CFR 101.103(d) will apply.

(c) For each frequency coordinated under this paragraph, the following frequency usage coordination procedures will apply:

(1) *General requirements.* Applicants are responsible for selecting the frequency assignments that are least likely to result in mutual interference with other licensees in the same area. Applicants may consult local frequency coordination committees, where they exist, for information on frequencies available in the area. Proposed frequency usage must be coordinated with existing licensees and applicants in the area whose facilities could affect or be affected by the new proposal in terms of frequency interference on active channels, applied-for channels, or channels coordinated for future growth. Coordination must be completed prior to filing an application for regular authorization, for major amendment to a pending application, or for major modification to a license.

(2) To be acceptable for filing, all applications for regular authorization, or major amendment to a pending application, or major modification to a license, must include a certification attesting that all co-channel and adjacent-channel licensees and applicants potentially affected by the proposed fixed use of the frequency(ies) have been notified and are in agreement that the proposed facilities can be installed without causing harmful interference to those other licensees and applicants.

(d) For each frequency coordinated under this paragraph, applicants are responsible for selecting the frequency assignments that are least likely to result in mutual interference with other licensees in the same area. Applicants may consult local frequency coordination committees, where they exist, for information on frequencies available in the area. In selecting frequencies, consideration should be given to the relative location of receive points, normal transmission paths, and the nature of the contemplated operation.

[68 FR 12770, Mar. 17, 2003, as amended at 75 FR 17061, Apr. 5, 2010]

§ 74.641 Antenna systems.

(a) For fixed stations operating above 2025 MHz, the following standards apply:

(1) Fixed TV broadcast auxiliary stations shall use directional antennas that meet the performance standards indicated in the following table. Upon adequate showing of need to serve a larger sector, or more than a single sector, greater beamwidth or multiple antennas may be authorized. Applicants shall request, and authorization for stations in this service will specify, the polarization of each transmitted signal. Booster station antennas having narrower beamwidths and reduced sidelobe radiation may be required in congested areas, or to resolve interference problems.

(i) Stations must employ an antenna that meets the performance standards for Category B. In areas subject to frequency congestion, where proposed facilities would be precluded by continued use of a Category B antenna, a Category A antenna must be employed. The Commission may require the use of a high performance antenna where interference problems can be resolved by the use of such antennas.

(ii) Licensees shall comply with the antenna standards table shown in this paragraph in the following manner:

(A) With either the maximum beamwith to 3 dB points requirement or with the minimum antenna gain requirement; and

(B) With the minimum radiation suppression to angle requirement.

ANTENNA STANDARDS

Frequency (MHz)	Category	Maximum beamwidth to 3 dB points [1] (included angle in degrees)	Minimum antenna gain (dbi)	Minimum radiation suppression to angle in degrees from centerline of main beam in decibels						
				5° to 10°	10° to 15°	15° to 20°	20° to 30°	30° to 100°	100° to 140°	140° to 180°
1,990 to 2,110	A	5.0	n/a	12	18	22	25	29	33	39
	B	8.0	n/a	5	18	20	20	25	28	36
6,875 to 7,125	A	1.5	n/a	26	29	32	34	38	41	49
	B	2.0	n/a	21	25	29	32	35	39	45
12,700 to 13,250	A	1.0	n/a	23	28	35	39	41	42	50
	B	2.0	n/a	20	25	28	30	32	37	47
17,700 to 19,700	A	2.2	38	25	29	33	36	42	55	55
	B	2.2	38	20	24	28	32	35	36	36

[1] If a licensee chooses to show compliance using maximum beamwith to 3 dB points, the beamwidth limit shall apply in both the azimuth and the elevation planes.

(2) New periscope antenna systems will be authorized upon a certification that the radiation, in a horizontal plane, from an illuminating antenna and reflector combination meets or exceeds the antenna standards of this section. This provision similarly applies to passive repeaters employed to redirect or repeat the signal from a station's directional antenna system.

(3) The choice of receiving antennas is left to the discretion of the licensee. However, licensees will not be protected from interference which results from the use of antennas with poorer performance than identified in the table of this section.

(4) [Reserved]

(5) Pickup stations are not subject to the performance standards herein stated.

(b) All fixed stations are to use antenna systems in conformance with the standards of this section. TV auxiliary broadcast stations are considered to be located in an area subject to frequency congestion and must employ a Category A antenna when:

(1) A showing by an applicant of a new TV auxiliary broadcast station or Cable Television Relay Service (CARS) station, which shares the 12.7–13.20 GHz band with TV auxiliary broadcast, indicates that use of a category B antenna limits a proposed project because of interference, and

(2) That use of a category A antenna will remedy the interference thus allowing the project to be realized.

(c) As an exception to the provisions of this section, the FCC may approve requests for use of periscope antenna systems where a persuasive showing is made that no frequency conflicts exist in the area of proposed use. Such approvals shall be conditioned to a standard antenna as required in paragraph (a) of this section when an applicant of a new TV auxiliary broadcast or Cable Television Relay station indicates that the use of the existing antenna system will cause interference and the use of a category A or B antenna will remedy the interference.

(d) As a further exception to the provision of paragraph (a) of this section, the Commission may approve antenna systems not conforming to the technical standards where a persuasive showing is made that:

(1) Indicates in detail why an antenna system complying with the requirements of paragraph (a) of this section cannot be installed, and

(2) Includes a statement indicating that frequency coordination as required in §74.604 (a) was accomplished.

[45 FR 78693, Nov. 26, 1980, as amended at 49 FR 7131, Feb. 27, 1984; 49 FR 37778, Sept. 26, 1984; 50 FR 7342, Feb. 22, 1985; 51 FR 19840, June 3, 1986; 52 FR 7143, Mar. 9, 1987; 55 FR 11587, Mar. 29, 1990; 56 FR 50663, Oct. 8, 1991; 62 FR 4922, Feb. 3, 1997; 68 FR 12771, Mar. 17, 2003]

§74.643 Interference to geostationary-satellites.

Applicants and licensees must comply with §101.145 of this chapter to minimize the potential of interference to geostationary-satellites.

[68 FR 12771, Mar. 17, 2003]

§ 74.644 Minimum path lengths for fixed links.

(a) The distance between end points of a fixed link must equal or exceed the value set forth in the table below or the EIRP must be reduced in accordance with the equation set forth below.

Frequency band (MHz)	Minimum path length (km)
Below 1,990	n/a
1,990–7,125	17
12,200–13,250	5
Above 17,700	n/a

(b) For paths shorter than those specified in the Table, the EIRP shall not exceed the value derived from the following equation.

$$EIRP = MAXEIRP - 40 \log(A/B) \text{ dBW}$$

Where:

EIRP = The new maximum EIRP (equivalent isotropically radiated power) in dBW.

MAXEIRP = Maximum EIRP as set forth in the Table in § 74.636 of this part.

A = Minimum path length from the Table above for the frequency band in kilometers.

B = The actual path length in kilometers.

NOTE 1 TO PARAGRAPH (b): For transmitters using Automatic Transmitter Power Control, EIRP corresponds to the maximum transmitter power available, not the coordinated transmit power or the nominal transmit power.

NOTE 2 TO PARAGRAPH (b): Stations licensed based on an application filed before April 16, 2003, in the 2450–2483.5 MHz band, for EIRP values exceeding those specified above, may continue to operate indefinitely in accordance with the terms of their current authorizations, subject to periodic renewal.

(c) Upon an appropriate technical showing, applicants and licensees unable to meet the minimum path length requirement may be granted an exception to these requirements.

NOTE: Links authorized prior to April 1, 1987, are excluded from this requirement, except that, effective April 1, 1992, the Commission will require compliance with the criteria where an existing link would otherwise preclude establishment of a new link.

[52 FR 7143, Mar. 9, 1987, as amended at 68 FR 12771, Mar. 17, 2003]

§ 74.651 Equipment changes.

(a) Modifications may be made to an existing authorization in accordance with §§ 1.929 and 1.947 of this chapter.

(b) Multiplexing equipment may be installed on any licensed TV broadcast STL, TV relay or translator relay station without authority from the Commission.

(c) Permissible changes in equipment operating in the bands 18.3–18.58 GHz and 19.26–19.3 GHz. Notwithstanding other provisions of this section, licensees of stations that remain co-primary under the provisions of § 74.602(g) may not make modifications to their systems that increase interference to satellite earth stations, or result in a facility that would be more costly to relocate.

[28 FR 13718, Dec. 14, 1963, as amended at 38 FR 6827, Mar. 13, 1973; 47 FR 55938, Dec. 14, 1982; 49 FR 7131, Feb. 27, 1984; 58 FR 19776, Apr. 16, 1993; 61 FR 4368, Feb. 6, 1996; 63 FR 36605, July 7, 1998; 65 FR 54173, Sept. 7, 2000; 68 FR 12771, Mar. 17, 2003; 68 FR 16967, Apr. 8, 2003]

§ 74.655 Authorization of equipment.

(a) Except as provided in paragraph (b) of this section, all transmitting equipment first marketed for use under this subpart or placed into service after October 1, 1981, must be authorized under the certification or verification procedure, as detailed in paragraph (f) of this section. Equipment which is used at a station licensed prior to October 1, 1985, which has not been authorized as detailed in paragraph (f) of this section, may continue to be used by the licensee or its successors or assignees, provided that if operation of such equipment causes harmful interference due to its failure to comply with the technical standards set forth in this subpart, the FCC may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference. However, such equipment may not be further marketed or reused under part 74 after October 1, 1985.

(b) Certification or verification is not required for transmitters used in conjunction with TV pickup stations operating with a peak output power not greater than 250 mW. Pickup stations operating in excess of 250 mW licensed

pursuant to applications accepted for filing prior to October 1, 1980 may continue operation subject to periodic renewal. If operation of such equipment causes harmful interference the FCC may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

(c) The license of a TV auxiliary station may replace transmitting equipment with authorized equipment, as detailed under paragraph (f) of this section, without prior FCC approval, provided the proposed changes will not depart from any of the terms of the station or system authorization or the Commission's technical rules governing this service, and also provided that any changes made to authorized transmitting equipment is in compliance with the provisions of part 2 of the FCC rules concerning modifications to authorized equipment.

(d) Any manufacturer of a transmitter to be used in this service may authorize the equipment under the certification or verification procedure, as appropriate, following the procedures set forth in subpart J of part 2 of the FCC rules.

(e) An applicant for a TV broadcast auxiliary station may also authorize an individual transmitter, as specified in paragraph (f) of this section, by following the procedures set forth in subpart J of part 2 of the FCC rules and regulations.

(f) Transmitters designed to be used exclusively for a TV STL station, a TV intercity relay station, a TV translator relay station, or a TV microwave booster station, shall be authorized under verification. All other transmitters will be authorized under the certification procedure.

[63 FR 36605, July 7, 1998, as amended at 68 FR 12772, Mar. 17, 2003]

§ 74.661 Frequency tolerance.

Stations in this service shall maintain the carrier frequency of each authorized transmitter to within the following percentage of the assigned frequency.

Frequency band (MHz)	Frequency tolerance (%)
2,025 to 2,110	[1] 0.005
2,450 to 2,483.5	[2] 0.001
6,425 to 6,525	0.005
6,875 to 7,125	[1] 0.005
12,700 to 13,250	[1] 0.005
17,700 to 18,820	0.003
18,920 to 19,700	0.003

[1] Television translator relay stations shall maintain a frequency tolerance of 0.002%.

[2] Stations licensed pursuant to an application filed before March 17, 2005, for tolerance values exceeding those specified above, may continue to operate indefinitely in accordance with the terms of their current authorizations, subject to periodic renewal. Existing equipment and equipment of product lines in production before April 16, 2003, authorized via certification or verification before March 17, 2005, for tolerance values exceeding those specified above, may continue to be manufactured and/or marketed, but may not be authorized for use under station license except at stations licensed pursuant to an application filed before March 17, 2005. Any non-conforming equipment authorized under a station license, and replaced on or after March 17, 2005, must be replaced by conforming equipment.

[52 FR 7143, Mar. 9, 1987, as amended at 68 FR 12772, Mar. 17, 2003]

§ 74.662 Frequency monitors and measurements.

The licensee of a television broadcast auxiliary station must provide means for measuring the operating frequency in order to ensure that the emissions are confined to the authorized channel.

[48 FR 38482, Aug. 24, 1983]

§ 74.663 Modulation limits.

If amplitude modulation is employed, negative modulation peaks shall not exceed 100%.

[45 FR 78694, Nov. 26, 1980]

§ 74.664 Posting of station license.

(a) The station license and any other instrument of authorization or individual order concerning the construction of the equipment or manner of operation of the station shall be posted in the room in which the transmitter is located.

(b) Posting of the station license and any other instruments of authorization shall be done by affixing the license to the wall at the posting location, or by enclosing it in a binder or folder which is retained at the posting location so that the document will be readily available and easily accessible.

[28 FR 13718, Dec. 14, 1963, as amended at 48 FR 24385, June 1, 1983; 49 FR 29070, July 18, 1984; 50 FR 40015, Oct. 1, 1985]

§ 74.682 Station identification.

(a) Each television broadcast auxiliary station operating with a transmitter output power of 1 watt or more must, when actually transmitting programs, transmit station identification at the beginning and end of each period of operation, and hourly, as close to the hour as feasible, at a natural break in program offerings by one of the following means:

(1) Transmission of its own call sign by visual or aural means or by automatic transmission in international Morse telegraphy.

(2) Visual or aural transmission of the call sign of the TV broadcast station with which it is licensed as an auxiliary.

(3) Visual or aural transmission of the call sign of the TV broadcast station whose signals are being relayed or, where programs are obtained directly from network lines and relayed, the network identification.

(b) Identification transmissions during operation need not be made when to make such transmission would interrupt a single consecutive speech, play, religious service, symphony concert, or any type of production. In such cases, the identification transmission shall be made at the first interruption of the entertainment continuity and at the conclusion thereof.

(c) During occasions when a television pickup station is being used to deliver program material for network distribution it may transmit the network identification in lieu of its own or associated TV station call sign during the actual program pickup. However, if it is providing the network feed through its own associated TV broadcast station it shall perform the station identification required by paragraph (a) of this section at the beginning and end of each period of operation.

(d) A period of operation is defined as a single uninterrupted transmission or a series of intermittent transmissions from a single location or continuous or intermittent transmission from a television pickup station covering a single event from various locations, within a single broadcast day.

(e) Regardless of the method used for station identification it shall be performed in a manner conducive to prompt association of the signal source with the responsible licensee. In exercising the discretion provided by this rule, licensees are expected to act in a responsible manner to assure that result.

(f) TV microwave boosters stations will be assigned individual call signs. However, station identification will be accomplished by the retransmission of identification as provided in paragraph (a) of this section.

[31 FR 15488, Dec. 8, 1966; 32 FR 452, Jan. 17, 1967, as amended at 42 FR 36830, July 18, 1977; 43 FR 1951, Jan. 13, 1978; 44 FR 36041, June 20, 1979; 49 FR 7131, Feb. 27, 1984]

§ 74.690 Transition of the 1990–2025 MHz band from the Broadcast Auxiliary Service to emerging technologies.

(a) New Entrants are collectively defined as those licensees proposing to use emerging technologies to implement Mobile Satellite Services in the 2000–2020 MHz band (MSS licensees), those licensees authorized after July 1, 2004 to implement new Fixed and Mobile services in the 1990–1995 MHz band, and those licensees authorized after September 9, 2004 in the 1995–2000 MHz and 2020–2025 MHz bands. New entrants may negotiate with Broadcast Auxiliary Service licensees operating on a primary basis and fixed service licensees operating on a primary basis in the 1990–2025 MHz band (Existing Licensees) for the purpose of agreeing to terms under which the Existing Licensees would relocate their operations to the 2025–2110 MHz band, to other authorized bands, or to other media; or, alternatively, would discontinue use of the 1990–2025 MHz band. New licensees in the 1995–2000 MHz and 2020–2025 MHz bands are subject to the specific relocation procedures adopted in WT Docket 04–356.

(b) An Existing Licensee in the 1990–2025 MHz band allocated for licensed emerging technology services will maintain primary status in the band until the Existing Licensee's operations are relocated by a New Entrant, are discontinued under the terms of paragraph (a) of this section, or become

secondary under the terms of paragraph (e)(6) of this section or the Existing Licensee indicates to a New Entrant that it declines to be relocated.

(c) The Commission will amend the operating license of the Existing Licensee to secondary status only if the following requirements are met:

(1) The service applicant, provider, licensee, or representative using an emerging technology guarantees payment of all relocation costs, including all engineering, equipment, site and FCC fees, as well as any reasonable additional costs that the relocated Existing Licensee might incur as a result of operation in another authorized band or migration to another medium;

(2) The New Entrant completes all activities necessary for implementing the replacement facilities, including engineering and cost analysis of the relocation procedure and, if radio facilities are used, identifying and obtaining, on the incumbents' behalf, new microwave or Local Television Transmission Service frequencies and frequency coordination.

(3) The New Entrant builds the replacement system and tests it for comparability with the existing system.

(d) The Existing Licensee is not required to relocate until the alternative facilities are available to it for a reasonable time to make adjustments, determine comparability, and ensure a seamless handoff. If, within one year after the relocation to new facilities the Existing Licensee demonstrates that the new facilities are not comparable to the former facilities, the New Entrant must remedy the defects.

(e) Subject to the terms of this paragraph (e), the relocation of Existing Licensees will be carried out by MSS licensees in the following manner:

(1) Existing Licensees and MSS licensees may negotiate individually or collectively for relocation of Existing Licensees to one of the channel plans specified in §74.602(a)(3) of this chapter. Parties may not decline to negotiate, though Existing Licensees may decline to be relocated.

(i) MSS licensees may relocate all Existing Licensees in Nielsen Designated Market Areas (DMAs) 1–30, as such DMAs existed on September 6, 2000, and all fixed stations operating in the 1990–2025 MHz band on a primary basis, except those Existing Licensees that decline relocation. Such relocation negotiations shall be conducted as ''mandatory negotiations,'' as that term is used in §101.73 of this chapter. If these parties are unable to reach a negotiated agreement, MSS Licensees may involuntarily relocate such Existing Licensees and fixed stations after December 8, 2004.

(ii) [Reserved]

(iii) On the date that the first MSS licensee begins operations in the 2000–2020 MHz band, a one-year mandatory negotiation period begins between MSS licensees and Existing Licensees in Nielsen DMAs 31–210, as such DMAs existed on September 6, 2000. After the end of the mandatory negotiation period, MSS licensees may involuntary relocate any Existing Licensees with which they have been unable to reach a negotiated agreement. As described elsewhere in this paragraph (e), MSS Licensees are obligated to relocate these Existing Licensees within the specified three- and five-year time periods.

(2) Before negotiating with MSS licensees, Existing Licensees in Nielsen Designated Market Areas where there is a BAS frequency coordinator must coordinate and select a band plan for the market area. If an Existing Licensee wishes to operate in the 2025–2110 MHz band using the channels A03-A07 as specified in the Table in §74.602(a) of this part, then all licensees within that Existing Licensee's market must agree to such operation and all must operate on a secondary basis to any licensee operating on the channel plan specified in §74.602(a)(3) of this part. All negotiations must produce solutions that adhere to the market area's band plan.

(3)–(4) [Reserved]

(5) As of the date the first MSS licensee begins operations in the 1990–2025 MHz band, MSS Licensees must relocate Existing Licensees in DMAs 31–100, as they existed as of September 6, 2000, within three years, and in the remaining DMAs, as they existed as of September 6, 2000, within five years.

(6) On December 9, 2013, all Existing Licensees will become secondary in the

1990–2025 MHz band. Upon written demand by any MSS licensee, Existing Licensees must cease operations in the 1990–2025 MHz band within six months.

[65 FR 48180, Aug. 7, 2000, as amended at 67 FR 53756, Aug. 19, 2002; 68 FR 68252, Dec. 8, 2003; 69 FR 62621, Oct. 27, 2004; 69 FR 67836, Nov. 22, 2004; 74 FR 29613, June 23, 2009]

Subpart G—Low Power TV, TV Translator, and TV Booster Stations

§ 74.701 Definitions.

(a) *Television broadcast translator station.* A station in the broadcast service operated for the purpose of retransmitting the programs and signals of a television broadcast station, without significantly altering any characteristic of the original signal other than its frequency and amplitude, for the purpose of providing television reception to the general public.

(b) *Primary station.* The analog television broadcast station (TV broadcast) or digital television station (DTV) which provides the programs and signals being retransmitted by a television broadcast translator station.

(c) *VHF translator.* A television broacast translator station operating on a VHF television broadcast channel.

(d) *UHF translator.* A television broadcast translator station operating on a UHF television broadcast channel.

(e) *UHF translator signal booster.* A station in the broadcasting service operated for the sole purpose of retransmitting the signals of the UHF translator station by amplifying and reradiating such signals which have been received directly through space, without significantly altering any characteristic of the incoming signal other than its amplitude.

(f) *Low power TV station.* A station authorized under the provisions of this subpart that may retransmit the programs and signals of a TV broadcast station and that may originate programming in any amount greater than 30 seconds per hour and/or operates a subscription service. (See § 73.641 of part 73 of this chapter.)

(g) *Program origination.* For purposes of this part, program origination shall be any transmissions other than the simultaneous retransmission of the programs and signals of a TV broadcast station. Origination shall include locally generated television program signals and program signals obtained via video recordings (tapes and discs), microwave, common carrier circuits, or other sources.

(h) *Local origination.* Program origination if the parameters of the program source signal, as it reaches the transmitter site, are under the control of the low power TV station licensee. Transmission of TV program signals generated at the transmitter site constitutes local origination. Local origination also includes transmission of programs reaching the transmitter site via TV STL stations, but does not include transmission of signals obtained from either terrestrial or satellite microwave feeds or low power TV stations.

(i) *Television broadcast booster station.* A station in the broadcast service operated by the licensee or permittee of a full service television broadcast station for the purpose of retransmitting the programs and signals of such primary station without significantly altering any characteristic of the original signal other than its amplitude. A television broadcast booster station may only be located such that its entire service area is located within the protected contour of the primary station it retransmits. For purposes of this paragraph, the service area of the booster and the protected contour of the primary station will be determined by the methods prescribed in § 74.705(c).

(j) *Digital television broadcast translator station (''digital TV translator station'').* A station operated for the purpose of retransmitting the programs and signals of a digital television (DTV) broadcast station, without significantly altering any characteristic of the original signal other than its frequency and amplitude, for the purpose of providing DTV reception to the general public.

(k) *Digital low power TV station (''digital LPTV station'').* A station authorized under the provisions of this subpart that may retransmit the programs and signals of a DTV broadcast station, may originate programming in any amount greater than 30 seconds per hour for the purpose of providing digital television (DTV) reception to the

general public and, subject to a minimum video program service requirement, may offer services of an ancillary or supplementary nature, including subscription-based services. (*See* § 74.790).

(l) *Digital program origination.* For purposes of this part, digital program origination shall be any transmissions other than the simultaneous retransmission of the programs and signals of a TV or DTV broadcast station or transmissions related to service offerings of an ancillary or supplementary nature. Origination shall include locally generated television program signals and program signals obtained via video recordings (tapes and discs), microwave, common carrier circuits, or other sources.

(m) *Existing low power television or television translator station.* When used in subpart G of this part, the terms existing low power television and existing television translator station refer to an analog or digital low power television station or television translator station that is either licensed or has a valid construction permit.

(n) *Suitable in core channel.* When used in subpart G of this part, the term ''suitable in core channel'' refers to a channel that would enable a digital low power television or television translator station to produce a protected service area comparable to that of its associated analog LPTV or TV translator station.

(o) *Companion digital channel.* When used in subpart G of this part, the term ''companion digital channel'' refers to a digital channel authorized to an existing low power television or television translator station to be associated with the station's analog channel.

(p) *Digital conversion channel.* When used in subpart G of this part, the term ''digital conversion channel'' refers to a channel previously authorized to an existing low power television or television translator station that has been converted to digital operation.

[28 FR 13722, Dec. 14, 1963, as amended at 43 FR 1951, Jan. 13, 1978; 47 FR 21497, May 18, 1982; 48 FR 21486, May 12, 1983; 52 FR 7422, Mar. 11, 1987; 52 FR 31403, Aug. 20, 1987; 62 FR 26720, May 14, 1997; 69 FR 69331, Nov. 29, 2004]

§ 74.702 Channel assignments.

(a) An applicant for a new low power TV or TV translator station or for changes in the facilities of an authorized station shall endeavor to select a channel on which its operation is not likely to cause interference. The applications must be specific with regard to the channel requested. Only one channel will be assigned to each station.

(1) Any one of the 12 standard VHF Channels (2 to 13 inclusive) may be assigned to a VHF low power TV or TV translator station. Channels 5 and 6 assigned in Alaska shall not cause harmful interference to and must accept interference from non-Government fixed operation authorized prior to January 1, 1982.

(2) Any one of the UHF Channels from 14 to 69, inclusive, may be assigned to a UHF low power TV or TV translator station. In accordance with § 73.603(c) of part 73, Channel 37 will not be assigned to such stations.

(3) Application for new low power TV or TV translator stations or for changes in existing stations, specifying operation above 806 MHz will not be accepted for filing. License renewals for existing TV translator stations operating on channels 70 (806–812 MHz) through 83 (884–890 MHz) will be granted only on a secondary basis to land mobile radio operations.

(b) Changes in the TV Table of Allotments or Digital Television Table of Allotments (§§ 73.606(b) and 73.622(a), respectively, of part 73 of this chapter), authorizations to construct new TV broadcast analog or DTV stations or to authorizations to change facilities of existing such stations, may be made without regard to existing or proposed low power TV or TV translator stations. Where such a change results in a low power TV or TV translator station causing actual interference to reception of the TV broadcast analog or DTV station, the licensee or permittee of the low power TV or TV translator station shall eliminate the interference or file an application for a change in channel assignment pursuant to § 73.3572 of this chapter.

(c) A television broadcast booster station will be authorized on the channel assigned to its primary station.

[47 FR 21497, May 18, 1982, as amended at 47 FR 30068, July 12, 1982; 47 FR 35590, Aug. 18, 1982; 52 FR 7423, Mar. 11, 1987; 52 FR 31403, Aug. 20, 1987; 62 FR 26721, May 14, 1997]

§ 74.703 Interference.

(a) An application for a new low power TV, TV translator, or TV booster station or for a change in the facilities of such an authorized station will not be granted when it is apparent that interference will be caused. Except where there is a written agreement between the affected parties to accept interference, or where it can be shown that interference will not occur due to terrain shielding and/or Longley-Rice terrain dependent propagation methods, the licensee of a new low power TV, TV translator, or TV booster shall protect existing low power TV and TV translator stations from interference within the protected contour defined in § 74.707 and shall protect existing Class A TV and digital Class A TV stations within the protected contours defined in § 73.6010 of this chapter. Such written agreement shall accompany the application. Guidance on using the Longley-Rice methodology is provided in OET Bulletin No. 69. Copies of OET Bulletin No. 69 may be inspected during normal business hours at the: Federal Communications Commission, 445 12th Street, S.W., Reference Information Center (Room CY-A257), Washington, DC 20554. This document is also available through the Internet on the FCC Home Page at *http://www.fcc.gov/oet/info/documents/bulletins/#69*.

(b) It shall be the responsibility of the licensee of a low power TV, TV translator, or TV booster station to correct at its expense any condition of interference to the direct reception of the signal of any other TV broadcast analog station and DTV station operating on the same channel as that used by the low power TV, TV translator, or TV booster station or an adjacent channel which occurs as a result of the operation of the low power TV, TV translator, or TV booster station. Interference will be considered to occur whenever reception of a regularly used signal is impaired by the signals radiated by the low power TV, TV translator, or TV booster station, regardless of the quality of the reception or the strength of the signal so used. If the interference cannot be promptly eliminated by the application of suitable techniques, operation of the offending low power TV, TV translator, or TV booster station shall be suspended and shall not be resumed until the interference has been eliminated. If the complainant refuses to permit the low Power TV, TV translator, or TV booster station to apply remedial techniques that demonstrably will eliminate the interference without impairment of the original reception, the licensee of the low power TV, TV translator, or TV booster station is absolved of further responsibility. TV booster stations will be exempt from the provisions of this paragraph to the extent that they may cause limited interference to their primary stations' signal subject to the conditions of paragraph (g) of this section.

(c) It shall be the responsibility of the licensee of a low power TV, TV translator, or TV booster station to correct any condition of interference which results from the radiation of radio frequency energy outside its assigned channel. Upon notice by the FCC to the station licensee or operator that such interference is caused by spurious emissions of the station, operation of the station shall be immediately suspended and not resumed until the interference has been eliminated. However, short test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures.

(d) When a low-power TV or TV translator station causes interference to a CATV system by radiations within its assigned channel at the cable headend or on the output channel of any system converter located at a receiver, the earlier user, whether cable system or low-power TV or TV translator station, will be given priority on the channel, and the later user will be responsible for correction of the interference. When a low-power TV or TV translator station causes interference to a BRS or EBS system by radiations within its assigned channel on the output channel of any system converter

located at a receiver, the earlier user, whether BRS system or low-power TV or TV translator station, will be given priority on the channel, and the later user will be responsible for correction of the interference.

(e) Low power TV and TV translator stations are being authorized on a secondary basis to existing land mobile uses and must correct whatever interference they cause to land mobile stations or cease operation.

(f) It shall be the responsibility of a digital low power TV or TV translator station operating on a channel from channel 52–69 to eliminate at its expense any condition of interference caused to the operation of or services provided by existing and future commercial or public safety wireless licensees in the 700 MHz bands. The offending digital LPTV or translator station must cease operations immediately upon notification by any primary wireless licensee, once it has been established that the digital low power TV or translator station is causing the interference.

(g) An existing or future wireless licensee in the 700 MHz bands may notify (certified mail, return receipt requested), a digital low power TV or TV translator operating on the same channel or first adjacent channel of its intention to initiate or change wireless operations and the likelihood of interference from the low power TV or translator station within its licensed geographic service area. The notice should describe the facilities, associated service area and operations of the wireless licensee with sufficient detail to permit an evaluation of the likelihood of interference. Upon receipt of such notice, the digital LPTV or TV translator licensee must cease operation within 120 days unless:

(1) It obtains the agreement of the wireless licensee to continue operations;

(2) The commencement or modification of wireless service is delayed beyond that period (in which case the period will be extended); or

(3) The Commission stays the effect of the interference notification, upon request.

(h) In each instance where suspension of operation is required, the licensee shall submit a full report to the FCC in Washington, DC, after operation is resumed, containing details of the nature of the interference, the source of the interfering signals, and the remedial steps taken to eliminate the interference.

(i) A TV booster station may not disrupt the existing service of its primary station nor may it cause interference to the signal provided by the primary station within the principal community to be served.

[47 FR 21497, May 18, 1982, as amended at 48 FR 21487, May 12, 1983; 52 FR 31403, Aug. 20, 1987; 53 FR 4169, Feb. 12, 1988; 60 FR 55483, Nov. 1, 1995; 62 FR 26721, May 14, 1997; 65 FR 30012, May 10, 2000; 69 FR 69331, Nov. 29, 2004; 69 FR 72045, Dec. 10, 2004]

§ 74.705 TV broadcast analog station protection.

(a) The TV broadcast station protected contour will be its Grade B contour signal level as defined in § 73.683 and calculated from the authorized maximum radiated power (without depression angle correction), the horizontal radiation pattern, height above average terrain in the pertinent direction, and the appropriate chart from § 73.699.

(b)(1) An application to construct a new low power TV or TV translator station or change the facilities of an existing station will not be accepted if it specifies a site which is within the protected contour of a co-channel or first adjacent channel TV broadast station.

(2) Due to the frequency spacing which exists between TV Channels 4 and 5, between Channels 6 and 7, and between Channels 13 and 14, adjacent channel protection standards shall not be applicable to these pairs of channels. (See § 73.603(a) of part 73 of this chapter.)

(3) A UHF low power TV or TV translator construction permit application will not be accepted if it specifies a site within the UHF TV broadcast station's protected contour and proposes operation on a channel either 14 or 15 channels above the channel in use by the TV broadcast station.

(4) A UHF low power TV or TV translator construction permit application will not be accepted if it specifies a site

less than 100 kilometers from the transmitter site of a UHF TV broadcast analog station operating on a channel which is the seventh channel above the requested channel, unless it can demonstrate that the service area of the low power TV or TV translator station as established in §74.707(a) is not located in an area where the TV broadcast analog station is regularly viewed.

(5) An application for a new UHF low power TV or TV translator construction permit, a change of channel, or a major change in facilities pursuant to §73.3572 of this chapter proposing a maximum effective radiated power of more than 50 kilowatts will not be accepted if it specifies a site less than 32 kilometers from the transmitter site of a UHF TV broadcast analog station operating on a channel which is the second, third, or fourth channel above or below the requested channel.

(c) The low power TV, TV translator, or TV booster station field strength is calculated from the proposed effective radiated power (ERP) and the antenna height above average terrain (HAAT) in pertinent directions.

(1) For co-channel protection, the field strength is calculated using Figure 9a, 10a, or 10c of §73.699 (F(50,10) charts) of Part 73 of this chapter.

(2) For low power TV, TV translator, and TV boosters that do not specify the same channel as the TV broadcast station to be protected, the field strength is calculated using Figure 9, 10, or 10b of §73.699 (F(50,50) charts) of Part 73 of this chapter.

(d) A low power TV, TV translator, or TV booster station application will not be accepted if the ratio in dB of its field strength to that of the TV broadcast station at the protected contour fails to meet the following:

(1) −45 dB for co-channel operations without offset carrier frequency operation or −28 dB for offset carrier frequency operation. An application requesting offset carrier frequency operation must include the following:

(i) A requested offset designation (zero, plus, or minus) identifying the proposed direction of the 10 kHz offset from the standard carrier frequencies of the requested channel. If the offset designation is not different from that of the station being protected, the −45 dB ratio must be used.

(ii) A description of the means by which the low power TV, TV translator, or TV booster station will be maintained within the tolerances specified in §74.761 for offset operation.

(2) 6 dB when the protected TV broadcast station operates on a VHF channel that is one channel above the requested channel.

(3) 12 dB when the protected TV broadcast station operates on a VHF channel that is one channel below the requested channel.

(4) 15 dB when the protected TV broadcast station operates on a UHF channel that is one channel above or below the requested channel.

(5) 23 dB when the protected TV broadcast station operates on a UHF channel that is fourteen channels below the requested channel.

(6) 6 dB when the protected TV broadcast station operates a UHF channel that is fifteen channels below the requested channel.

(e) As an alternative to the preceding paragraphs of 74.705, an applicant for a low power TV, TV translator or TV booster may make full use of terrain shielding and Longley-Rice terrain dependent propagation prediction methods to demonstrate that the proposed facility would not be likely to cause interference to TV broadcast stations. Guidance on using the Longley-Rice methodology is provided in *OET Bulletin No. 69* (but also *see* §74.793(d)). Copies of *OET Bulletin No. 69* may be inspected during normal business hours at the: Federal Communications Commission, CY–C203, 445 12th Street, SW., Reference Information Center, Washington, DC 20554. This document is also available through the Internet on the *FCC Home Page* at *http://www.fcc.gov*.

[47 FR 21497, May 18, 1982, as amended at 48 FR 21487, May 12, 1983; 52 FR 31403, Aug. 20, 1987; 62 FR 26721, May 14, 1997; 65 FR 58467, Sept. 29, 2000; 69 FR 69332, Nov. 29, 2004]

§74.706 Digital TV (DTV) station protection.

(a) For purposes of this section, the DTV station protected service area is the geographic-area in which the field strength of the station's signal exceeds

the noise-limited service levels specified in § 73.622(e) of this chapter. The extremity of this area (noise-limited perimeter) is calculated from the authorized maximum radiated power (without depression angle correction), the horizontal radiation pattern, and height above average terrain in the pertinent direction, using the signal propagation method specified in § 73.625(b) of this chapter.

(b)(1) An application to construct a new low power TV or TV translator station or change the facilities of an existing station will not be accepted if it specifies a site which is located within the noise-limited service perimeter of a co-channel DTV station.

(2) Due to the frequency spacing which exists between TV channels 4 and 5, between Channels 6 and 7, and between Channels 13 and 14, adjacent channel protection standards shall not be applicable to these pairs of channels.

(c) The low power TV, TV translator or TV booster station field strength is calculated from the proposed effective radiated power (ERP) and the antenna height above average terrain (HAAT) in pertinent directions.

(1) For co-channel protection, the field strength is calculated using Figure 9a, 10a, or 10c of § 73.699 (F(50,10) charts) of part 73 of this chapter.

(2) For adjacent channel protection, the field strength is calculated using Figure 9, 10, or 10b of § 73.699 (F(50,50) charts) of part 73 of this chapter.

(d) A low power TV, TV translator or TV booster station application will not be accepted if the ratio in dB of its field strength to that of the DTV station (L/D ratio) fails to meet the following:

(1) −2 dB or less for co-channel operations. This maximum L/D ratio for co-channel interference to DTV service is only valid at locations where the signal-to-noise (S/N) ratio is 25 dB or greater. At the edge of the noise-limited service area, where the S/N ratio is 16 dB, the maximum L/D ratio for co-channel interference from analog low power TV, TV translator or TV booster service into DTV service is −21 dB. At locations where the S/N ratio is greater than 16 dB but less than 25 dB, the maximum L/D field strength ratios are found from the following Table (for values between measured values, linear interpolation can be used):

Signal-to-noise ratio(dB)	DTV-to-low power ratio (dB)
16.00	21.00
16.35	19.94
17.35	17.69
18.35	16.44
19.35	7.19
20.35	4.69
21.35	3.69
22.35	2.94
23.35	2.44
25.00	2.00

(2) + 48 dB for adjacent channel operations at:

(i) The DTV noise-limited perimeter if a low power TV, TV translator or TV booster station is located outside that perimeter.

(ii) At all points within the DTV noise-limited area if a low power TV or TV translator is located within the DTV noise-limited perimeter, as demonstrated by the applicant.

[62 FR 26721, May 14, 1997, as amended at 63 FR 13563, Mar. 20, 1998; 64 FR 4327, Jan. 28, 1999]

§ 74.707 Low power TV and TV translator station protection.

(a)(1) A low power TV or TV translator will be protected from interference from other low power TV or TV translator stations, or TV booster stations within the following predicted contours:

(i) 62 dBu for stations on Channels 2 through 6;

(ii) 68 dBu for stations on Channels 7 through 13; and

(iii) 74 dBu for stations on Channels 14 through 69.

Existing licensees and permittees that did not furnish sufficient data required to calculate the above contours by April 15, 1983 are assigned protected contours having the following radii:

Up to 0.001 kW VHF/UHF—1 mile (1.6 km) from transmitter site

Up to 0.01 kW VHF; up to 0.1 k/W UHF—2 miles (3.2 km) from transmitter site

Up to 0.1 kW VHF; up to 1 kW UHF—4 miles (6.4 km) from transmitter site

New applicants must submit the required information; they cannot rely on this table.

(2) The low power TV or TV translator station protected contour is calculated from the authorized effective radiated power and antenna height above average terrain, using Figure 9, 10, or 10b of § 73.699 (F(50,50) charts) of Part 73 of this chapter.

(b)(1) An application to construct a new low power TV, TV translator, or TV booster station or change the facilities of an existing station will not be accepted if it specifies a site which is within the protected contour of a co-channel or first adjacent channel low power TV, TV translator, or TV booster station, except that a TV booster station may be located within the protected contour of its co-channel primary station.

(2) Due to the frequency spacing which exists between TV Channels 4 and 5, between Channels 6 and 7, and between Channels 13 and 14, adjacent channel protection standards shall not be applicable to these pairs of channels. (See § 73.603(a) of Part 73 of this chapter.)

(3) A UHF low power TV, TV translator, or TV booster construction permit application will not be accepted if it specifies a site within the UHF low power TV, TV translator, or TV booster station's protected contour and proposes operation on a channel that is 15 channels above the channel in use by the low power TV, TV translator, or TV booster station.

(c) The low power TV, TV translator, or TV booster construction permit application field strength is calculated from the proposed effective radiated power (ERP) and the antenna above average terrain (HAAT) in pertinent directions.

(1) For co-channel protection, the field strength is calculated using Figure 9a, 10a, or 10c of § 73.699 (F(50,10) charts) of Part 73 of this chapter.

(2) For low power TV, TV translator, or TV booster applications that do not specify the same channel as the low power TV, TV translator, or TV booster station to be protected, the field strength is calculated using Figure 9, 10, or 10b of § 73.699 (F(50,50) charts) of Part 73 of this chapter.

(d) A low power TV, TV translator, or TV booster station application will not be accepted if the ratio in dB of its field strength to that of the authorized low power TV, TV translator, or TV booster station at its protected contour fails to meet the following:

(1) −45 dB for co-channel operations without offset carrier frequency operation or −28 dB for offset carrier frequency operation. An application requesting offset carrier frequency operation must include the following:

(i) A requested offset designation (zero, plus, or minus) identifying the proposed direction of the 10 kHz offset from the standard carrier frequencies of the requested channel. If the offset designation is not different from that of the station being protected, or if the station being protected is not maintaining its frequencies within the tolerance specified in § 74.761 for offset operation, the −45 dB ratio must be used.

(ii) A description of the means by which the low power TV, TV translator, or TV booster station's frequencies will be maintained within the tolerances specified in § 74.761 for offset operation.

(2) 6 dB when the protected low power TV or TV translator station operates on a VHF channel that is one channel above the requested channel.

(3) 12 dB when the protected low power TV or TV translator station operates on a VHF channel that is one channel below the requested channel.

(4) 15 dB when the protected low power TV or TV translator station operates on a UHF channel that is one channel above or below the requested channel.

(5) 6 dB when the protected low power TV or TV translator station operates on a UHF channel that is fifteen channels below the requested channel.

(e) As an alternative to the preceding paragraphs of § 74.707, an applicant for a low power TV or TV translator station may make full use of terrain shielding and Longley-Rice terrain dependent propagation prediction methods to demonstrate that the proposed facility would not be likely to cause interference to low power TV, TV translator and TV booster stations. Guidance on using the Longley-Rice methodology is provided in *OET Bulletin No. 69* (but also *see* § 74.793(d)). Copies of *OET Bulletin No. 69* may be inspected during normal business hours at the:

Federal Communications Commission, Room CY–C203, 445 12th Street, SW., Reference Information Center, Washington, DC 20554. This document is also available through the Internet on the FCC Home Page at *http://www.fcc.gov*.

[47 FR 21498, May 18, 1982, as amended at 47 FR 35990, Aug. 18, 1982; 48 FR 21487, May 12, 1983; 52 FR 31403, Aug. 20, 1987; 62 FR 26722, May 14, 1997; 65 FR 58467, Sept. 29, 2000; 69 FR 69332, Nov. 29, 2004]

§ 74.708 Class A TV and digital Class A TV station protection.

(a) The Class A TV and digital Class A TV station protected contours are specified in § 73.6010 of this chapter.

(b) An application to construct a new low power TV, TV translator, or TV booster station or change the facilities of an existing station will not be accepted if it fails to protect an authorized Class A TV or digital Class A TV station or an application for such a station filed prior to the date the low power TV, TV translator, or TV booster application is filed.

(c) Applications for low power TV, TV translator and TV booster stations shall protect Class A TV stations pursuant to the requirements specified in paragraphs (b) through (e) of § 74.707.

(d) Applications for low power TV, TV translator and TV booster stations shall protect digital Class A TV stations pursuant to the following requirements:

(i) An application must not specify an antenna site within the protected contour of a co-channel digital Class A TV station.

(ii) The ratio in dB of the field strength of the low power TV, TV translator or TV booster station to that of the digital Class A TV station must meet the requirements specified in paragraph (d) of § 74.706, calculated using the propagation methods specified in paragraph (c) of that section.

[65 FR 30012, May 10, 2000]

§ 74.709 Land mobile station protection.

(a) Stations in the Land Mobile Radio Service, using the following channels in the indicated cities will be protected from interference caused by low power TV or TV translator stations, and low power TV and TV translator stations must accept any interference from stations in the land mobile service operating on the following channels:

City	Channels	Coordinates	
		Latitude	Longitude
Boston, MA	14, 16	42°21′24″	071°03′24″
Chicago, IL	14, 15	41°52′28″	087°38′22″
Cleveland, OH	14, 15	41°29′51″	081°41′50″
Dallas, TX	16	32°47′09″	096°47′37″
Detroit, MI	15, 16	42°19′48″	083°02′57″
Houston, TX	17	29°45′26″	095°21′37″
Los Angeles, CA	14, 16, 20	34°03′15″	118°18′28″
Miami, FL	14	25°46′37″	080°11′32″
New York, NY	14, 15, 16	40°45′06″	073°59′39″
Philadelphia, PA	19, 20	39°56′58″	075°09′21″
Pittsburgh, PA	14, 18	40°26′19″	080°00′00″
San Francisco, CA	16, 17	37°46′39″	122°24′40″
Washington, DC	17, 18	38°53′51″	077°00′33″

(b) The protected contours for the land mobile radio service are 130 kilometers from the above coordinates, except where limited by the following:

(1) If the land mobile channel is the same as the channel in the following list, the land mobile protected contour excludes the area within 145 kilometers of the corresponding coordinates from list below. Except if the land mobile channel is 15 in New York or Cleveland or 16 in Detroit, the land mobile protected contour excludes the area within 95 kilometers of the corresponding coordinates from the list below.

(2) If the land mobile channel is one channel above or below the channel in the following list, the land mobile protected contour excludes the area within 95 kilometers of the corresponding coordinates from the list below.

City	Channel	Coordinates	
		Latitude	Longitude
San Diego, CA	15	32°41′48″	116°56′10″
Waterbury, CT	20	41°31′02″	073°01′00″
Washington, DC	14	38°57′17″	077°00′17″
Washington, DC	20	38°57′49″	077°06′18″
Champaign, IL	15	40°04′11″	087°54′45″
Jacksonville, IL	14	39°45′52″	090°30′29″
Ft. Wayne, IN	15	41°05′35″	085°10′42″
South Bend, IN	16	41°36′20″	086°12′44″
Salisbury, MD	16	38°24′15″	075°34′45″
Mt. Pleasant, MI	14	43°34′24″	084°46′21″
Hanover, NH	15	43°42′30″	072°09′16″
Canton, OH	17	40°51′04″	081°16′37″
Cleveland, OH	19	41°21′19″	081°44′24″
Oxford, OH	14	39°30′26″	084°44′09″
Zanesville, OH	18	39°55′42″	081°59′06″
Elmira-Corning, NY	18	42°06′20″	076°52′17″
Harrisburg, PA	21	40°20′44″	076°52′09″
Johnstown, PA	19	40°19′47″	078°53′45″
Lancaster, PA	15	40°15′45″	076°27′49″

City	Channel	Coordinates	
		Latitude	Longitude
Philadelphia, PA	17	40°02′30″	075°14′24″
Pittsburgh, PA	16	40°26′46″	079°57′51″
Scranton, PA	16	41°10′58″	075°52′21″
Parkersburg, WV	15	39°20′50″	081°33′56″
Madison, WI	15	43°03′01″	089°29′15″

(c) A low power TV or TV translator station application will not be accepted if it specifies a site that is within the protected contour of a co-channel or first adjacent channel land mobile assignment.

(d) The low power TV or TV translator station field strength is calculated from the proposed effective radiated power (ERP) and the antenna height above average terrain (HAAT) in pertinent directions.

(1) The field strength is calculated using Figure 10c of §73.699 (F(50, 10) charts) of part 73 of this chapter.

(2) A low power TV or TV translator station application will not be accepted if it specifies the same channel as one of the land mobile assignments and its field strength at the land mobile protected contour exceeds 52 dBu.

(3) A low power TV or TV translator station application will not be accepted if it specifies a channel that is one channel above or below one of the land mobile assignments and its field strength at the land mobile protected contour exceeds 76 dBu.

(e) To protect stations in the Offshore Radio Service, a low power TV or TV translator station construction permit application will not be accepted if it specifies operation on channels 15, 16, 17 or 18 in the following areas. West Longitude and North Latitude are abbreviated as W.L. and N.L. respectively.

(1) On Channel 15: west of 92°00′ W.L.; east of 98°30′ W.L.; and south of a line extending due west from 30°30′ N.L., 92°00′ W.L. to 30°30′ N.L., 96°00′ W.L.; and then due southwest to 28°00′ N.L., 98°30′ W.L.

(2) On Channel 16: west of 86°40′ W.L.; east of 96°30′ W.L.; and south of a line extending due west from 31°00′ N.L., 86°40′ W.L. to 31°00′ N.L., 95°00′ W.L. and then due southwest to 29°30′ N.L., 96°30′ W.L.

(3) On Channel 17: west of 86°30′ W.L.; east of 96°00′ W.L.; and south of a line extending due west from 31°00′ N.L., 86°30′ W.L. to 31°30′ N.L., 94°00′ W.L. and then due southwest to 29°30′ N.L., 96°00′ W.L.

(4) On Channel 18: west of 87°00′ W.L.; east of 95°00′ W.L.; and south of 31°00′ N.L.

[47 FR 21499, May 18, 1982, as amended at 50 FR 12027, Mar. 27, 1985; 50 FR 33942, Aug. 22, 1985; 69 FR 31906, June 8, 2004]

§74.710 Digital low power TV and TV translator station protection.

(a) An application to construct a new low power TV, TV translator, or TV booster station or change the facilities of an existing station will not be accepted if it fails to protect an authorized digital low power TV or TV translator station or an application for such station filed prior to the date the low power TV, TV translator, or TV booster application is filed.

(b) Applications for low power TV, TV translator and TV booster stations shall protect digital low power TV and TV translator stations pursuant to the following requirements:

(1) An application must not specify an antenna site within the protected contour of a co-channel or adjacent channel digital low power TV or TV translator station, as defined in §74.792.

(2) The ratio in dB of the field strength of the low power TV, TV translator or TV booster station at the protected contour of a co-channel digital TV or TV translator station must meet the requirements specified in §74.706(d)(1).

(3) The ratio in dB of the field strength of the low power TV, TV translator or TV booster station at the protected contour of a digital low power TV or TV translator station on the lower and upper adjacent channels must not exceed 49 dB and 48 dB, respectively.

(4) The analysis used in 74.710 should use the propagation methods specified in §74.706(c).

(c) As an alternative to the requirements of paragraph (b) of this section, an applicant for a low power TV, TV translator or TV booster may make full use of terrain shielding and Longley-Rice terrain dependent propagation prediction methods to demonstrate that the proposed facility

would not be likely to cause interference to digital low power TV or TV translator stations, as described in § 74.707(e) (*i.e.*, reduce the service population by no more than 0.5% within the station's protected contour based on the interference thresholds of § 73.623(c) of this chapter).

[69 FR 69332, Nov. 29, 2004]

§ 74.731 Purpose and permissible service.

(a) Television broadcast translator stations and television broadcast booster stations provide a means whereby the signals of television broadcast stations may be retransmitted to areas in which direct reception of such television broadcast stations is unsatisfactory due to distance or intervening terrain barriers.

(b) Except as provided in paragraph (f) of this section, a television broadcast translator station or television broadcast booster station may be used only to receive the signals of a television broadcast station, another television broadcast translator station, a television translator relay station, a television intercity relay station, a television STL station, or other suitable source such as a CARS or common carrier microwave station, for the simultaneous retransmission of the programs and signals of a television broadcast station. Such retransmissions may be accomplished by either:

(1) Reception of the television programs and signals of a television broadcast station directly through space, conversion to a different channel by simple heterodyne frequency conversion and suitable amplification; or,

(2) Modulation and amplification of a video and audio feed, in which case modulating equipment meeting the requirements of § 74.750(d) shall be used.

(c) The transmissions of each television broadcast translator station shall be intended for direct reception by the general public and any other use shall be incidental thereto. A television broadcast translator station shall not be operated solely for the purpose of relaying signals to one or more fixed receiving points for retransmission, distribution, or further relaying.

(d) The technical characteristics of the retransmitted signals shall not be deliberately altered so as to hinder reception on conventional television broadcast receivers.

(e) A television broadcast translator station shall not deliberately retransmit the signals of any station other than the station it is authorized by license to retransmit. Precautions shall be taken to avoid unintentional retransmission of such other signals.

(f) A locally generated radio frequency signal similar to that of a TV broadcast station and modulated with visual and aural information may be connected to the input terminals of a television broadcast translator or low power station for the purposes of transmitting still photographs, slides and voice announcements. The radio frequency signals shall be on the same channel as the normally used off-the-air signal being rebroadcast. When transmitting originations concerning financial support or public service announcements, connection of the locally generated signals shall be made automatically either by means of a time switch or upon receipt of a control signal from the TV station being rebroadcast designed to actuate the switching circuit. The switching circuit will be so designed that the input circuit will be returned to the off-the-air signal within 30 seconds. The connection for emergency transmissions may be made manually. The apparatus used to generate the local signal which is used to modulate the translator or low power station must be capable of producing a visual or aural signal or both which will provide acceptable reception on television receivers designed for the transmission standards employed by TV broadcast stations. The visual and aural materials so transmitted shall be limited to emergency warnings of imminent danger, to local public service announcements and to seeking or acknowledging financial support deemed necessary to the continued operation of the station. Accordingly, the originations concerning financial support and PSAs are limited to 30 seconds each, no

more than once per hour. Acknowledgements of financial support may include identification of the contributors, the size and nature of the contribution and advertising messages of contributors. Emergency transmissions shall be no longer or more frequent than necessary to protect life and property.

(g) Low power TV stations may operate under the following modes of service:

(1) As a TV translator station, subject to the requirements of this part;

(2) For origination of programming and commercial matter as defined in § 74.701(f);

(3) For the transmission of subscription television broadcast (STV) programs, intended to be received in intelligible form by members of the public for a fee or charge subject to the provisions of §§ 73.642(e) and 73.644.

(h) A low power TV station may not be operated solely for the purpose of relaying signals to one or more fixed receiving points for retransmission, distribution or relaying.

(i) Low power TV stations are subject to no minimum required hours of operation and may operate in any of the 3 modes described in paragraph (g) of this section for any number of hours.

(j) Television broadcast booster stations provide a means whereby the licensee of a television broadcast station may provide service to areas of low signal strength in any region within the primary station's Grade B contour. The booster station may not be located outside the predicted Grade B of its primary station nor may the predicted Grade B signal of the television booster station extend beyond the predicted Grade B contour of the primary station. A television broadcast booster station is authorized to retransmit only the signals of its primary station; it shall not retransmit the signals of any other stations nor make independent transmissions. However, locally generated signals may be used to excite the booster apparatus for the purpose of conducting tests and measurements essential to the proper installation and maintenance of the apparatus.

(k) The transmissions of a television broadcast booster station shall be intended for direct reception by the general public. Such stations will not be permitted to establish a point-to-point television relay system.

(l) After 11:59 p.m. local time on September 1, 2015, Class A television stations may no longer operate any facility in analog (NTSC) mode.

(m) After 11:59 p.m. local time, 51 months following the release of the Channel Reassignment Public Notice announcing completion of the incentive auction conducted under Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96)), low power television and TV translator stations may no longer operate any facility in analog (NTSC) mode and all licenses for such analog operations shall automatically cancel at that time without any affirmative action by the Commission.

[28 FR 13722, Dec. 14, 1963, as amended at 43 FR 1951, Jan. 13, 1978; 47 FR 21499, May 18, 1982; 47 FR 40172, Sept. 13, 1982; 48 FR 21487, May 12, 1983; 52 FR 31404, Aug. 20, 1987; 76 FR 44827, July 27, 2011; 80 FR 27863, May 15, 2015; 81 FR 5052, Feb. 1, 2016]

§ 74.732 Eligibility and licensing requirements.

(a) A license for a low power TV or TV translator station may be issued to any qualified individual, organized group of individuals, broadcast station licensee, or local civil governmental body.

(b) More than one low power TV or TV translator station may be licensed to the same applicant whether or not such stations serve substantially the same area. Low power TV and TV translator stations are not counted for purposes of § 73.3555, concerning multiple ownership.

(c) Only one channel will be assigned to each low power TV or TV translator station. Additional low power or translator stations may be authorized to provide additional reception. A separate application is required for each station and each application must be complete in all respects.

(d) The FCC will not act on applications for new low power TV or TV translator stations, for changes in facilities of existing stations, or for changes in output channel tendered by displaced stations pursuant to

§ 73.3572(a)(1), when such changes will result in a major change until the applicable time for filing a petition to deny has passed pursuant to § 73.3584(c).

(e) A proposal to change the primary TV station being retransmitted or an application of a licensed translator station to include low power TV station operation, *i.e.*, program origination or subscription service will be subject only to a notification requirement.

(f) Applications for transfer of ownership or control of a low power TV or TV translator station will be subject to petitions to deny.

(g) A television broadcast booster station will be authorized only to the licensee or permittee of the television station whose signals the booster will rebroadcast, to areas within the Grade B contour of the primary station.

(h) No numerical limit is placed on the number of booster stations that may be licensed to a single licensee. A separate license is required for each television broadcast booster station.

[47 FR 21499, May 18, 1982, as amended at 48 FR 21487, May 12, 1983; 49 FR 20504, May 15, 1984; 52 FR 7423, Mar. 11, 1987; 52 FR 10571, Apr. 2, 1987; 52 FR 31404, Aug. 20, 1987]

§ 74.733 UHF translator signal boosters.

(a) The licensee of a UHF television broadcast translator station may be authorized to operate one or more signal boosters for the purpose of providing reception to small shadowed areas within the area intended to be served by the translator.

(b) The transmitting apparatus shall consist of a simple linear radio frequency amplifier, with one or more amplifying stages, which is capable of receiving, amplifying, and retransmitting the signals of the parent translator without significantly altering any electrical characteristic of the received signal other than its amplitude. The maximum power input to the plate of the final radio frequency amplifier shall not exceed 5 watts.

(c) The amplifier shall be equipped with suitable circuits which will automatically cause it to cease radiating if no signal is being received from the parent translator station. Care shall be taken in the design of the apparatus to insure that out-of-band radiation is not excessive and that adequate isolation is maintained between the input and output circuits to prevent unstable operation.

(d) The installation of the apparatus and its associated receiving and transmitting antennas shall be in accordance with accepted principles of good engineering practice. Either horizontal, vertical, or circular polarization of the electric field of the radiated signal may be employed. If the isolation between the input and output circuits depends in part upon the polarization or directive properties of the transmitting and receiving antennas, the installation shall be sufficiently rugged to withstand the normal hazards of the environment.

(e) The operation of a UHF translator signal booster is subject to the condition that no harmful interference is caused to the reception of any station, broadcast or non-broadcast, other than the parent translator. The licensee of the UHF translator signal booster is expected to use reasonable diligence to minimize interference to the direct reception of the parent translator station.

(f) UHF translator signal boosters may be operated unattended. Repairs and adjustments shall be made by a qualified person. The required qualifications are set forth in § 74.750 (g) and (h).

(g) An individual call sign will not be assigned to a UHF translator booster station. The retransmission of the call sign of the parent translator will serve as station identification.

(h) Applications for authority to construct and operate a UHF translator signal booster shall be submitted on FCC Form 346A. No construction of facilities or installation of apparatus at the proposed transmitter site shall be made until a construction permit therefor has been issued by the Commission.

(i) The provisions of § 74.765 concerning posting of station license shall apply to a UHF translator signal booster except that the parent UHF translator call sign, followed by the word ''Booster'', shall be displayed at the signal booster site.

(j) The provisions of §§ 74.767 and 74.781 concerning marking and lighting

of antenna structures and station records, respectively, apply to UHF translator signal boosters.

NOTE: Effective July 11, 1975, no new UHF signal boosters will be authorized. Licensees of such existing boosters may make application for renewal of license or change in facilities on the applicable FCC forms for Television Broadcast Translator Stations (Form 346, for construction permits; 347, for license to cover construction permit; and 303-S, for renewal of license). Report and Order, Docket No. 20372. May 28, 1975.

[28 FR 13722, Dec. 14, 1963, as amended at 40 FR 25022, June 12, 1975; 59 FR 63052, Dec. 7, 1994]

§ 74.734 Attended and unattended operation.

(a) Low power TV, TV translator, and TV booster stations may be operated without a designated person in attendance if the following requirements are met:

(1) If the transmitter site cannot be promptly reached at all hours and in all seasons, means shall be provided so that the transmitting apparatus can be turned on and off at will from a point that readily is accessible at all hours and in all seasons.

(2) The transmitter also shall be equipped with suitable automatic circuits that will place it in a nonradiating condition in the absence of a signal on the input channel or circuit.

(3) The transmitting and the ON/OFF control, if at a location other than the transmitter site, shall be adequately protected against tampering by unauthorized persons.

(4) A letter notification must be filed with the FCC in Washington, DC, Attention: Video Division, Media Bureau, providing the name, address, and telephone number of a person or persons who may be called to secure suspension of operation of the transmitter promptly should such action be deemed necessary by the FCC. Such information shall be kept current by the licensee.

(5) In cases where the antenna and supporting structure are considered to be a hazard to air navigation and are required to be painted and lighted under the provisions of part 17 of the Rules, the licensee shall make suitable arrangements for the daily observations, when required, and lighting equipment inspections required by §§ 17.37 and 17.38 of the FCC rules.

(b) An application for authority to construct a new low power TV station (when rebroadcasting the programs of another station) or TV translator station or to make changes in the facilities of an authorized station, and that proposes unattended operation, shall include an adequate showing as to the manner of compliance with this section.

[47 FR 21500, May 18, 1982, as amended at 48 FR 21487, May 12, 1983; 60 FR 55483, Nov. 1, 1995; 63 FR 33878, June 22, 1998; 67 FR 13233, Mar. 21, 2002]

§ 74.735 Power limitations.

(a) The maximum peak effective radiated power (ERP) of an analog low power TV, TV translator, or TV booster station shall not exceed:

(1) 3 kW for VHF channels 2–13; and

(2) 150 kW for UHF channels 14–69.

(b) The maximum ERP of a digital low power TV, TV translator, or TV booster station (average power) shall not exceed:

(1) 3 kW for VHF channels 2–13; and

(2) 15 kW for UHF channels 14–69.

(c) The limits in paragraphs (a) and (b) apply separately to the effective radiated powers that may be obtained by the use of horizontally or vertically polarized transmitting antennas, providing the applicable provisions of §§ 74.705, 74.706, 74.707 and 74.709 are met. For either omnidirectional or directional antennas, where the ERP values of the vertically and horizontally polarized components are not of equal strength, the ERP limits shall apply to the polarization with the larger ERP. Applications proposing the use of directional antenna systems must be accompanied by the following:

(1) Complete description of the proposed antenna system, including the manufacturer and model number of the proposed directional antenna. It is *not* acceptable to label the antenna with only a generic term such as ''Yagi'' or ''Dipole''. A specific model number must be provided. In the case of individually designed antennas with no model number, or in the case of a composite antenna composed of two or more individual antennas, the antenna should be described as a ''custom'' or

''composite'' antenna, as appropriate. A full description of the design of the antenna should also be submitted.

(2) Relative field horizontal plane pattern (horizontal polarization only) of the proposed directional antenna. A value of 1.0 should be used for the maximum radiation. The plot of the pattern should be oriented so that 0° corresponds to the maximum radiation of the directional antenna or, alternatively in the case of a symmetrical pattern, to the line of symmetry. The 0° on the plot should be referenced to the actual azimuth with respect to true North.

(3) A tabulation of the relative field pattern required in paragraph (c)(2), of this section. The tabulation should use the same zero degree reference as the plotted pattern, and be tabulated at least every 10°. In addition, tabulated values of all maximas and minimas, with their corresponding azimuths, should be submitted.

(4) All horizontal plane patterns must be plotted to the largest scale possible on unglazed letter-size polar coordinate paper (main engraving approximately 18 cm × 25 cm (7 inches × 10 inches)) using only scale divisions and subdivisions of 1, 2, 2.5 or 5 times 10-nth. Values of field strength on any pattern less than 10% of the maximum field strength plotted on that pattern must be shown on an enlarged scale.

(5) The horizontal plane patterns that are required are the patterns for the complete directional antenna system. In the case of a composite antenna composed of two or more individual antennas, this means that the patterns for the composite antenna composed of two or more individual antennas, not the patterns for each of the individual antennas, must be submitted.

[30 FR 8847, July 14, 1965, as amended at 41 FR 28267, July 9, 1976; 47 FR 21500, May 18, 1982; 48 FR 21487, May 12, 1983; 52 FR 7423, Mar. 11, 1987; 52 FR 31404, Aug. 20, 1987; 58 FR 44951, Aug. 25, 1993; 62 FR 26722, May 14, 1997; 76 FR 44828, July 27, 2011]

§ 74.736 Emissions and bandwidth.

(a) The license of a low power TV, TV translator, or TV booster station authorizes the transmission of the visual signal by amplitude modulation (A5) and the accompanying aural signal by frequency modulation (F3).

(b) Standard width television channels will be assigned and the transmitting apparatus shall be operated so as to limit spurious emissions to the lowest practicable value. Any emissions including intermodulation products and radio frequency harmonics which are not essential for the transmission of the desired picture and sound information shall be considered to be spurious emissions.

(c) Any emissions appearing on frequencies more than 3 MHz above or below the upper and lower edges, respectively, of the assigned channel shall be attenuated no less than:

(1) 30 dB for transmitters rated at no more than 1 watt power output.

(2) 50 dB for transmitters rated at more than 1 watt power output.

(3) 60 dB for transmitters rated at more than 100 watts power output.

(d) Greater attenuation than that specified in paragraph (c) of this section may be required if interference results from emissions outside the assigned channel.

[28 FR 13722, Dec. 14, 1963, as amended at 33 FR 8677, June 13, 1968; 36 FR 19592, Oct. 8, 1971; 47 FR 21500, May 18, 1982; 52 FR 31404, Aug. 20, 1987]

§ 74.737 Antenna location.

(a) An applicant for a new low power TV, TV translator, or TV booster station or for a change in the facilities of an authorized station shall endeavor to select a site that will provide a line-of-sight transmission path to the entire area intended to be served and at which there is available a suitable signal from the primary station, if any, that will be retransmitted.

(b) The transmitting antenna should be placed above growing vegetation and trees lying in the direction of the area intended to be served, to minimize the possibility of signal absorption by foliage.

(c) A site within 8 kilometers of the area intended to be served is to be preferred if the conditions in paragraph (a) of this section can be met.

(d) Consideration should be given to the accessibility of the site at all seasons of the year and to the availability of facilities for the maintenance and

operation of the transmitting equipment.

(e) The transmitting antenna should be located as near as is practical to the transmitter to avoid the use of long transmission lines and the associated power losses.

(f) Consideration should be given to the existence of strong radio frequency fields from other transmitters at the site of the transmitting equipment and the possibility that such fields may result in the retransmissions of signals originating on frequencies other than that of the primary station being rebroadcast.

[47 FR 21500, May 18, 1982, as amended at 52 FR 31404, Aug. 20, 1987]

§ 74.750 Transmission system facilities.

(a) A low power TV, TV translator, or TV booster station shall operate with a transmitter that is either certificated for licensing under the provisions of this subpart or type notified for use under part 73 of this chapter.

(b) Transmitting antennas, antennas used to receive the signals to be rebroadcast, and transmission lines are not certificated by the FCC. External preamplifiers also may be used provided that they do not cause improper operation of the transmitting equipment, and use of such preamplifiers is not necessary to meet the provisions of paragraph (c) of this section.

(c) The following requirements must be met before low power TV and TV translator transmitters will be certificated by the FCC:

(1) The equipment shall be so designed that the electrical characteristics of a standard television signal introduced into the input terminals will be maintained at the output. The overall response of the apparatus within its assigned channel, when operating at its rated power output and measured at the output terminals, shall provide a smooth curve, varying within limits separated by no more than 4 dB: *Provided, however*, That means may be provided to reduce the amplitude of the aural carrier below those limits, if necessary to prevent intermodulation which would mar the quality of the retransmitted picture or result in emissions outside of the assigned channel.

(2) Radio frequency harmonics of the visual and aural carriers, measured at the output terminals of the transmitter, shall be attenuated no less than 60 dB below the peak visual output power within the assigned channel. All other emissions appearing on frequencies more than 3 megacycles above or below the upper and lower edges, respectively, of the assigned channel shall be attenuated no less than:

(i) 30 dB for transmitters rated at no more than 1 watt power output.

(ii) 50 dB for transmitters rated at more than 1 watt power output.

(iii) 60 dB for transmitters rated at more than 100 watts power output.

(3) When subjected to variations in ambient temperature between minus 30 degrees and plus 50 degrees Centigrade and variations in power main voltage between 85 percent and 115 percent of rated power supply voltage, the local oscillator frequency stability shall maintain the operating frequency within:

(i) 0.02 percent of its rated frequency for transmitters rated at no more than 100 watts peak visual power.

(ii) 0.002 percent of the rated frequency for transmitters rated at more than 100 watts peak visual power.

(iii) Plus or minus 1 kHz of its rated frequency for transmitters to be used at stations employing offset carrier frequency operation.

(4) The apparatus shall contain automatic circuits which will maintain the peak visual power output constant within 2 dB when the strength of the input signal is varied over a range of 30 dB and which will not permit the peak visual power output to exceed the maximum rated power output under any condition. If a manual adjustment is provided to compensate for different average signal strengths, provision shall be made for determining the proper setting for the control, and if improper adjustment of the control could result in improper operation, a label shall be affixed at the adjustment control bearing a suitable warning.

(5) The apparatus must be equipped with automatic controls that will place it in a non-radiating condition when no signal is being received on the input channel, either due to absence of a

transmitted signal or failure of the receiving portion of the facilities used for rebroadcasting the signal of another station. The automatic control may include a time delay feature to prevent interruptions caused by fading or other momentary failures of the incoming signal.

(6) The tube or tubes employed in the final radio frequency amplifier shall be of the appropriate power rating to provide the rated power output of the translator. The normal operating constants for operation at the rated power output shall be specified. The apparatus shall be equipped with suitable meters or meter jacks so that appropriate voltage and current measurements may be made while the apparatus is in operation.

(7) The transmitters of over 0.001 kW peak visual power (0.002 kW when circularly polarized antennas are used) shall be equipped with an automatic keying device that will transmit the call sign of the station, in International Morse Code, at least once each hour during the time the station is in operation when operating in the translator mode retransmitting the programming of a TV broadcast station. However, the identification by Morse Code is not required if the licensee of the low power TV or TV translator station has an agreement with the TV broadcast station being rebroadcast to transmit aurally or visually the low power TV or TV translator station call as provided for in §74.783. Transmission of the call sign can be accomplished by:

(i) Frequency shift keying; the aural and visual carrier shift shall not be less than 5 kHz or greater than 25 kHz.

(ii) Amplitude modulation of the aural carrier of at least 30% modulation. The audio frequency tone used shall not be within 200 hertz of the Emergency Broadcast System Attention Signal alerting frequencies.

(8) Wiring, shielding, and construction shall be in accordance with accepted principles of good engineering practice.

(d) Low power TV, TV translator and transmitting equipment using a modulation process for either program origination or rebroadcasting TV booster transmitting equipment using a modulation process must meet the following requirements:

(1) The equipment shall meet the requirements of paragraphs (a)(1) and (b)(3) of §73.687.

(2) The stability of the equipment shall be sufficient to maintain the operating frequency of the aural carrier to 4.5 MHz ±1kHz above the visual carrier when subjected to variations in ambient temperature between 30° and + 50° centigrade and variations in power main voltage between 85 and 115 percent of rated power supply voltage.

(e) Certification will be granted only upon a satisfactory showing that the apparatus is capable of meeting the requirements of paragraphs (c) and (d) of this section. The following procedures shall apply:

(1) Any manufacturer of apparatus intended for use at low power TV, TV translator, or TV booster stations may request certification by following the procedures set forth in part 2, subpart J, of this chapter.

(2) Low power TV, TV translator, and TV booster transmitting apparatus that has been certificated by the FCC will normally be authorized without additional measurements from the applicant or licensee.

(3) Applications for certification of modulators to be used with existing certificated TV translator apparatus must include the specifications electrical and mechanical interconnecting requirements for the apparatus with which it is designed to be used.

(4) Other rules concerning certification, including information regarding withdrawal of type acceptance, modification of certificated equipment and limitations on the findings upon which certification is based, are set forth in part 2, subpart J, of this chapter.

(f) The transmitting antenna system may be designed to produce horizontal, vertical, or circular polarization.

(g) Low power TV, TV translator, or TV booster stations installing new certificated transmitting apparatus incorporating modulating equipment need not make equipment performance measurements and shall so indicate on the station license application. Stations adding new or replacing modulating equipment in existing low power

TV, TV translator, or TV booster station transmitting apparatus must have a qualified person examine the transmitting system after installation. This person must certify in the application for the station license that the transmitting equipment meets the requirements of paragraph (d)(1) of this section. A report of the methods, measurements, and results must be kept in the station records. However, stations installing modulating equipment solely for the limited local origination of signals permitted by § 74.731 need not comply with the requirements of this paragraph.

[28 FR 13722, Dec. 14, 1963, as amended at 33 FR 8677, June 13, 1968; 36 FR 19592, Oct. 8, 1971; 37 FR 25844, Dec. 5, 1972; 41 FR 17552, Apr. 27, 1976; 43 FR 1951, Jan. 13, 1978; 46 FR 35465, July 8, 1981; 47 FR 21500, May 18, 1982; 47 FR 30496, July 14, 1982; 52 FR 31404, Aug. 20, 1987; 60 FR 55483, Nov. 1, 1995; 62 FR 26722, May 14, 1997; 63 FR 36605, July 7, 1998]

§ 74.751 Modification of transmission systems.

(a) No change, either mechanical or electrical, may be made in apparatus which has been certificated by the Commission without prior authority of the Commission. If such prior authority has been given to the manufacturer of certificated equipment, the manufacturer may issue instructions for such changes citing its authority. In such cases, individual licensees are not required to secure prior Commission approval but shall notify the Commission when such changes are completed.

(b) Formal application (FCC Form 346) is required for any of the following changes:

(1) Replacement of the transmitter as a whole, except replacement with a transmitter of identical power rating which has been certificated by the FCC for use by low power TV, TV translator, and TV booster stations, or any change which could result in a change in the electrical characteristics or performance of the station.

(2) Any change in the transmitting antenna system, including the direction of radiation, directive antenna pattern, antenna gain, transmission line loss characteristics, or height of antenna center of radiation.

(3) Any change in the overall height of the antenna structure, except where notice to the Federal Aviation Administration is specifically not required under § 17.14(b) of this chapter.

(4) Any horizontal change of the location of the antenna structure which would (i) be in excess of 152.4 meters (500 feet), or (ii) require notice to the Federal Aviation Administration pursuant to § 17.7 of the FCC's Rules.

(5) A change in frequency assignment.

(6) Any changes in the location of the transmitter except within the same building or upon the same pole or tower.

(7) A change of authorized operating power.

(c) Other equipment changes not specifically referred to in paragraphs (a) and (b) of this section may be made at the discretion of the licensee, provided that the FCC in Washington, DC, Attention: Video Division, Media Bureau, is notified in writing upon the completion of such changes.

(d) Upon installation of new or replacement transmitting equipment for which prior FCC authority is not required under the provisions of this section, the licensee must place in the station records a certification that the new installation complies in all respects with the technical requirements of this part and the station authorization.

[28 FR 13722, Dec. 14, 1963, as amended at 38 FR 6827, Mar. 13, 1973; 39 FR 38652, Nov. 1, 1974; 45 FR 26067, Apr. 17, 1980; 47 FR 21501, May 18, 1982; 48 FR 41423, Sept. 15, 1983; 50 FR 23710, June 5, 1985; 52 FR 31405, Aug. 20, 1987; 63 FR 33879, June 22, 1998; 63 FR 36605, July 7, 1998; 67 FR 13233, Mar. 21, 2002]

§ 74.761 Frequency tolerance.

The licensee of a low power TV, TV translator, or TV booster station shall maintain the transmitter output frequencies as set forth below. The frequency tolerance of stations using direct frequency conversion of a received signal and not engaging in offset carrier operation as set forth in paragraph (d) of this section will be referenced to the authorized plus or minus 10 kHz offset, if any, of the primary station.

(a) The visual carrier shall be maintained to within 0.02 percent of the assigned visual carrier frequency for

transmitters rated at not more than 100 watts peak visual power.

(b) The visual carrier shall be maintained to within 0.002 percent of the assigned visual carrier frequency for transmitters rated at more than 100 watts peak visual power.

(c) The aural carrier of stations employing modulating equipment shall be maintained at 4.5 MHz ±1 kHz above the visual carrier frequency.

(d) The visual carrier shall be maintained to within 1 kHz of the assigned channel carrier frequency if the low power TV, TV translator, or TV booster station is authorized with a specified offset designation in order to provide protection under the provisions of §74.705 or §74.707.

[43 FR 1952, Jan. 13, 1978, as amended at 52 FR 31405, Aug. 20, 1987]

§74.762 Frequency measurements.

(a) The licensee of a low power TV station, a TV translator, or a TV booster station must measure the carrier frequencies of its output channel as often as necessary to ensure operation within the specified tolerances, and at least once each calendar year at intervals not exceeding 14 months.

(b) In the event that a low power TV, TV translator, or TV booster station is found to be operating beyond the frequency tolerance prescribed in §74.761, the licensee promptly shall suspend operation of the transmitter and shall not resume operation until transmitter has been restored to its assigned frequencies. Adjustment of the frequency determining circuits of the transmitter shall be made only by a qualified person in accordance with §74.750(g).

[52 FR 31405, Aug. 20, 1987]

§74.763 Time of operation.

(a) A low power TV, TV translator, or TV booster station is not required to adhere to any regular schedule of operation. However, the licensee of a TV translator or TV booster station is expected to provide service to the extent that such is within its control and to avoid unwarranted interruptions in the service provided.

(b) In the event that causes beyond the control of the low power TV or TV translator station licensee make it impossible to continue operating, the licensee may 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, DC, Attention: Video Division, Media Bureau, not later than the 10th day of 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 FCC in Washington, DC, Attention: Video Division, Media Bureau, shall be notified in writing of the date normal operations resumed. If causes beyond the control of the licensee make it impossible to comply within the allowed period, a request for Special Temporary Authority (see §73.1635 of this chapter) shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary.

(c) Failure of a low power TV, TV translator, or TV booster station to operate for a period of 30 days or more, except for causes beyond the control of the licensee, shall be deemed evidence of discontinuation of operation and the license of the station may be cancelled at the discretion of the FCC. Furthermore, the station's license will expire as a matter of law, without regard to any causes beyond control of the licensee, if the station fails to transmit broadcast signals for any consecutive 12-month period, notwithstanding any provision, term, or condition of the license to the contrary.

(d) A television broadcast translator station shall not be permitted to radiate during extended periods when signals of the primary station are not being retransmitted.

[28 FR 13722, Dec. 14, 1963, as amended at 52 FR 7423, Mar. 11, 1987; 52 FR 31405, Aug. 20, 1987; 61 FR 28768, June 6, 1996; 63 FR 33879, June 22, 1998; 67 FR 13233, Mar. 21, 2002]

§74.765 Posting of station and operator licenses.

(a) The station license and any other instrument of authorization or individual order concerning the construction of the station or manner of operation shall be kept in the station

record file so as to be available for inspection upon request of authorized representatives of the FCC.

(b) The call sign of the station, together with the name, address, and telephone number of the licensee or local representative of the licensee, if the licensee does not reside in the community served by the station, and the name and address of the person and place where the station records are maintained, shall be displayed at the transmitter site on the structure supporting the transmitting antenna, so as to be visible to a person standing on the ground. The display shall be maintained in legible condition by the licensee.

[47 FR 21502, May 18, 1982, as amended at 52 FR 7423, Mar. 11, 1987; 60 FR 55483, Nov. 1, 1995]

§ 74.769 Copies of rules.

The licensee or permittee of a station authorized under this subpart shall have a current copy of Volume I and Volume III of the Commission's Rules. Each such licensee or permittee shall be familiar with those rules relating to stations authorized under this subpart. Copies of the Commission's rules may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC 20402.

[60 FR 55483, Nov. 1, 1995]

§ 74.780 Broadcast regulations applicable to translators, low power, and booster stations.

The following rules are applicable to TV translator, low power TV, and TV booster stations:

Part 5—Experimental authorizations.
Section 73.653—Operation of TV aural and visual transmitters.
Section 73.658—Affiliation agreements and network program practices; territorial exclusivity in non-network program arrangements.
Part 73, Subpart G—Emergency Broadcast System (for low power TV stations locally originating programming as defined by §74.701(h)).
Section 73.1201—Station identification (for low power TV stations locally originating programming as defined by §74.701(h)).
Section 73.1206—Broadcast of telephone conversations.
Section 73.1207—Rebroadcasts.
Section 73.1208—Broadcast of taped, filmed or recorded material.
Section 73.1211—Broadcast of lottery information.
Section 73.1212—Sponsorship identifications; list retention, related requirements.
Section 73.1216—Licensee conducted contests.
Section 73.1515—Special field test authorizations.
Section 73.1615—Operation during modifications of facilities.
Section 73.1635—Special temporary authorizations (STA).
Section 73.1650—International broadcasting agreements.
Section 73.1680—Emergency antennas.
Section 73.1692—Construction near or installations on an AM broadcast tower.
Section 73.1940—Broadcasts by candidates for public office.
Section 73.2080—Equal employment opportunities (for low power TV stations only).
Section 73.3500—Application and report forms.
Section 73.3511—Applications required.
Section 73.3512—Where to file; number of copies.
Section 73.3513—Signing of applications.
Section 73.3514—Content of applications.
Section 73.3516—Specification of facilities.
Section 73.3517—Contingent applications.
Section 73.3518—Inconsistent or conflicting applications.
Section 73.3519—Repetitious applications.
Section 73.3521—Mutually exclusive applications for low power TV and TV translator stations.
Section 73.3522—Amendment of applications.
Section 73.3525—Agreements for removing application conflicts.
Section 73.3533—Application for construction permit or modification of construction permit.
Section 73.3534—Application for extension of construction permit or for construction permit to replace expired construction permit.
Section 73.3536—Application for license to cover construction permit.
Section 73.3538 (a)(1)(3)(4), (b)(2)—Application to make changes in existing station.
Section 73.3539—Application for renewal of license.
Section 73.3540—Application for voluntary assignment of transfer of control.
Section 73.3541—Application for involuntary assignment or transfer of control.
Section 73.3542—Application for emergency authorization.
Section 73.3544—Application to obtain a modified station license.
Section 73.3545—Application for permit to deliver programs to foreign stations.
Section 73.3550—Requests for new or modified call sign assignments.

Section 73.3561—Staff consideration of applications requiring Commission action.
Section 73.3562—Staff consideration of applications not requiring action by the Commission.
Section 73.3564—Acceptance of applications.
Section 73.3566—Defective applications.
Section 73.3568—Dismissal of applications.
Section 73.3572—Processing of TV broadcast, low power TV, and TV translator station applications.
Section 73.3580—Local public notice of filing of broadcast applications.
Section 73.3584—Petitions to deny.
Section 73.3587—Informal objections.
Section 73.3591—Grants without hearing.
Section 73.3593—Designation for hearing.
Section 73.3594—Local public notice of designation for hearing.
Section 73.3597—Procedures on transfer and assignment applications.
Section 73.3598—Period of construction.
Section 73.3599—Forfeiture of construction permit.
Section 73.3601—Simultaneous modification and renewal of license.
Section 73.3603—Special waiver procedure relative to applications.
Section 73.3612—Annual employment report (for low power TV stations only).
Section 73.3613—Filing of contracts (network affiliation contracts for low power TV stations only).

[52 FR 7423, Mar. 11, 1987, as amended at 52 FR 25867, July 9, 1987; 52 FR 31405, Aug. 20, 1987; 56 FR 28099, June 19, 1991; 59 FR 31557, June 20, 1994; 62 FR 51063, Sept. 30, 1997; 78 FR 25175, Apr. 29, 2013]

§ 74.781 Station records.

(a) The licensee of a low power TV, TV translator, or TV booster station shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, contracts, permission for rebroadcasts, and other pertinent documents.

(b) Entries required by §17.49 of this Chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light:

(1) The nature of such extinguishment or improper functioning.

(2) The date and time the extinguishment or improper operation was observed or otherwise noted.

(3) The date, time and nature of adjustments, repairs or replacements made.

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with §74.765(c) of the rules. The station records shall be made available upon request to any authorized representative of the Commission.

(d) Station logs and records shall be retained for a period of two years.

[48 FR 44806, Sept. 30, 1983, as amended at 52 FR 31405, Aug. 20, 1987]

§ 74.783 Station identification.

(a) Each low power TV and TV translator station not originating local programming as defined by §74.701(h) operating over 0.001 kw peak visual power (0.002 kw when using circularly polarized antennas) must transmit its station identification as follows:

(1) By transmitting the call sign in International Morse Code at least once each hour. This transmission may be accomplished by means of an automatic device as required by §74.750(c)(7). Call sign transmission shall be made at a code speed not in excess of 20 words per minute; or

(2) By arranging for the primary station, whose signal is being rebroadcast, to identify the translator station by transmitting an easily readable visual presentation or a clearly understandable aural presentation of the translator station's call letters and location. Two such identifications shall be made between 7 a.m. and 9 a.m. and 3 p.m. and 5 p.m. each broadcast day at approximately one hour intervals during each time period. Television stations which do not begin their broadcast day before 9 a.m. shall make these identifications in the hours closest to these time periods at the specified intervals.

(b) Licensees of television translators whose station identification is made by the television station whose signals are being rebroadcast by the translator, must secure agreement with this television station licensee to keep in its file, and available to FCC personnel,

the translator's call letters and location, giving the name, address and telephone number of the licensee or his service representative to be contacted in the event of malfunction of the translator. It shall be the responsibility of the translator licensee to furnish current information to the television station licensee for this purpose.

(c) A low power TV station shall comply with the station identification procedures given in § 73.1201 when locally originating programming, as defined by § 74.701(h). The identification procedures given in paragraphs (a) and (b) are to be used at all other times.

(d) Call signs for low power TV and TV translator stations will be made up of the initial letter K or W followed by the channel number assigned to the station and two additional letters. The use of the initial letter generally will follow the pattern used in the broadcast service, *i.e.*, stations west of the Mississippi River will be assigned an initial letter K and those east, the letter W. The two letter combinations following the channel number will be assigned in order and requests for the assignment of the particular combinations of letters will not be considered. The channel number designator for Channels 2 through 9 will be incorporated in the call sign as a 2-digit number, *i.e.*, 02, 03, ..., so as to avoid similarities with call signs assigned to amateur radio stations.

(e) Low power TV permittees or licensees may request that they be assigned four-letter call signs in lieu of the five-character alpha-numeric call signs described in paragraph (d) of this section. Parties requesting four-letter call signs are to follow the procedures delineated in § 73.3550 of this chapter. Such four-letter call signs shall begin with K or W; stations west of the Mississippi River will be assigned an initial letter K and stations east of the Mississippi River will be assigned an initial letter W. The four-letter call sign will be followed by the suffix ''-LP.''

(f) TV broadcast booster station shall be identified by their primary stations by broadcasting of the primary station's call letters and location in accordance with the provisions of § 73.1201 of this chapter.

[41 FR 17552, Apr. 27, 1976, as amended at 47 FR 21502, May 18, 1982; 52 FR 7424, Mar. 11, 1987; 52 FR 31405, Aug. 20, 1987; 59 FR 31557, June 20, 1994; 63 FR 71604, Dec. 29, 1998]

§ 74.784 Rebroadcasts.

(a) The term *rebroadcast* means the reception by radio of the programs or other signals of a radio or television station and the simultaneous or subsequent retransmission of such programs or signals for direct reception by the general public.

(b) The licensee of a low power TV or TV translator station shall not rebroadcast the programs of any other TV broadcast station or other station authorized under the provisions of this Subpart without obtaining prior consent of the station whose signals or programs are proposed to be retransmitted. The FCC, Attention: Video Division, Media Bureau, shall be notified of the call letters of each station rebroadcast, and the licensee of the low power TV or TV broadcast translator station shall certify it has obtained written consent from the licensee of the station whose programs are being retransmitted.

(c) A TV translator station may rebroadcast only programs and signals that are simultaneously transmitted by a TV broadcast station.

(d) A TV booster station may rebroadcast only programs and signals that are simultaneously transmitted by the primary station to which it is authorized.

(e) The provisions of § 73.1207 of part 73 of this chapter apply to low power TV stations in transmitting any material during periods of program origination obtained from the transmissions of any other type of station.

(Sec. 325, 48 Stat. 1091; 47 U.S.C. 325)

[28 FR 13722, Dec. 14, 1963, as amended at 47 FR 21502, May 18, 1982; 52 FR 31405, Aug. 20, 1987; 63 FR 33879, June 22, 1998; 67 FR 13234, Mar. 21, 2002]

§ 74.785 Low power TV digital data service pilot project.

Low power TV stations authorized pursuant to the LPTV Digital Data Services Act (Public Law 106–554, 114

Stat. 4577, December 1, 2000) to participate in a digital data service pilot project shall be subject to the provisions of the Commission *Order* implementing that Act. FCC 01–137, adopted April 19, 2001, as modified by the Commission *Order on Reconsideration,* FCC 02–40, adopted February 12, 2002.

[67 FR 9621, Mar. 4, 2002]

§ 74.786 Digital channel assignments.

(a) An applicant for a new low power television or television translator digital station or for changes in the facilities of an authorized digital station shall endeavor to select a channel on which its operation is not likely to cause interference. The applications must be specific with regard to the channel requested. Only one channel will be assigned each station.

(b) Any one of the 12 standard VHF Channels (2 to 13 inclusive) may be assigned to a VHF digital low power television or television translator station. Channels 5 and 6 assigned in Alaska shall not cause harmful interference to and must accept interference from non-Government fixed operation authorized prior to January 1, 1982.

(c) UHF channels 14 to 36 and 38 to 51 may be assigned to a UHF digital low power television or television translator station. In accordance with §73.603(c) of this chapter, Channel 37 will not be assigned to such stations.

(d) UHF Channels 52–59 may be assigned to a digital low power television or television translator station for use as *a digital conversion channel.* These channels may also be assigned as a *companion digital channel* if the applicant is able to demonstrate that a *suitable in core channel* is not available. Stations proposing use of such channels shall notify all potentially affected 700 MHz wireless licensees not later than 30 days prior to the submission of their application (FCC Form 346). Applicants shall notify wireless licensees of the 700 MHz spectrum comprising the same TV channel and the adjacent channel within whose licensed geographic boundaries the digital LPTV or translator station is proposed to be located, and also notify licensees of co-channel and adjacent channel spectrum whose service boundaries lie within 75 miles and 50 miles, respectively, of their proposed station location. Specific information for this purpose can be obtained from the Commission's auction Web site at *http://www.fcc.gov/auctions.*

(e) UHF Channels 60–69 may be assigned to a digital low power television or television translator station for use as a *digital conversion channel* only. Stations proposing use of such channels shall notify all potentially affect 700 MHz commercial licensees not later than 30 days prior to the submission of their application (FCC Form 346) in the manner provided in paragraph of this section. Stations proposing use of channels 63, 64, 68 and 69 must secure a coordinated spectrum use agreement with the pertinent 700 MHz public safety regional planning committee and state administrator prior to the submission of their application (FCC Form 346). Coordination shall be undertaken with regional planning committee and state administrator of the region and state within which the digital LPTV or translator station is proposed to be located, and those of adjoining regions and states with boundaries within 75 miles of the proposed station location. Stations proposing use of channels 62, 65, and 67 must notify the pertinent regional planning committee and state administrator not later than 30 days prior to the submission of their application (FCC Form 346). Notification shall be made to the regional and state administrators of region and state within which the digital LPTV or translator station is proposed to be located, and those of adjoining regions and states with boundaries within 50 miles of the proposed station location. Information for this purpose is available at the above web site and also at the following internet sites: *http://wireless.fcc.gov/publicsafety700MHzregional.html*, *http://wireless.fcc.gov/publicsafety/700MHz/state.html*, and *http://wireless.fcc.gov/publicsafety/700MHz/interop-contacts.html.*

(f) Application for new analog low power television or television translator stations specifying operation above Channel 51 will not be accepted for filing. Applications for displacement relief on channels above 51 will continue to be accepted.

(g) After 11:59 pm local time on December 31, 2011, low power television and TV translator stations may no longer operate any analog (NTSC) or digital facilities above Channel 51.

[69 FR 69332, Nov. 29, 2004, as amended at 76 FR 44828, July 27, 2011]

§ 74.787 Digital licensing.

(a) *Applications for digital low power television and television translator stations*—(1) *Applications for digital conversion.* Applications for *digital conversion channels* may be filed at any time. Such applications shall be filed on FCC Form 346 and will be treated as a minor change application. There will be no application fee.

(2) *Applications for companion digital channel.* (i) A public notice will specify a time period or ''window'' for filing applications for companion digital channels. During this window, only existing low power television or television translator stations or licensees and permittees of Class A TV stations may submit applications for companion digital channels. Applications submitted prior to the initial window identified in the public notice will be returned as premature. At a subsequent time, a public notice will announcement the commencement of a filing procedure in which applications will accepted on a first-come, first-served basis not restricted to existing station licensees and permittees;

(ii) Applications for companion digital channels filed during the initial window shall be filed in accordance with the provisions of §§1.2105 and 73.5002 of this chapter regarding the submission of the short-form application, FCC Form 175, and all appropriate certifications, information and exhibits contained therein. To determine which applicants are mutually exclusive, applicants must submit the engineering data contained in FCC Form 346 as a supplement to its short-form application. Such engineering data will not be studied for technical acceptability, but will be protected from subsequently filed applications as of the close of the initial window period. Determinations as to the acceptability or grantability of an applicant's proposal will not be made prior to an auction;

(iii) After the close of the initial window, a public notice will identify the short-form applications received during the window filing period which are found to be mutually exclusive. Such short-form applications will be resolved via the Commission's Part 1 and broadcast competitive bidding rules, §§1.2100 *et seq.*, and §§73.5000 *et seq.* of this chapter. Such applicants shall be afforded an opportunity to submit settlements and engineering solutions to resolve mutual exclusivity pursuant to §73.5002(d) of this chapter;

(iv) After the close of the window, a public notice will identify short-form applications received that are found to be non-mutually exclusive. All non-mutually exclusive applicants will be required to submit an FCC Form 346 pursuant to §73.5005 of this chapter. Such applications shall be processed pursuant to §73.5006 of this chapter; and

(v) With regard to fees, an application (FCC Form 346) for companion digital channels shall be treated as a minor change application and there will be no application fee.

(3) *Construction permit applications for new stations, major changes to existing stations in the low power television service.* A public notice will specify the date upon which interested parties may begin to file applications for new stations and major facilities changes to existing stations in the low power television service. It will specify parameters for any applications that may be filed. Applications submitted prior to date announced by the public notice will be returned as premature. Such applications shall be accepted on a first-come, first-served basis, and shall be filed on FCC Form 346. Applications for new or major change shall be subject to the appropriate application fee. Mutually exclusive applications shall be resolved via the Commission's part 1 and broadcast competitive bidding rules, §1.2100 *et seq.*, and §73.5000 *et seq.* of this chapter. Such applicants shall be afforded an opportunity to submit settlements and engineering solutions to resolve mutual exclusivity pursuant to §73.5002(d) of this chapter.

(4) *Displacement applications.* A digital low power television or television translator station which is causing or

receiving interference or is predicted to cause or receive interference to or from an authorized TV broadcast station, DTV station or allotment or other protected station or service, may at any time file a displacement relief application for change in channel, together with technical modifications that are necessary to avoid interference or continue serving the station's protected service area, provided the proposed transmitter site is not located more than 30 miles from the reference coordinates of the existing station's community of license. *See* §76.53 of this chapter. A displacement relief application shall be filed on FCC Form 346 and will be considered a minor change and will be placed on public notice for a period of not less than 30 days to permit the filing of petitions to deny. These applications will not be subject to the filing of competing applications. Where a displacement relief application for a digital low power television or television translator station becomes mutually exclusive the application(s) for new analog or digital low power television or television translator stations, with a displacement relief application for an analog low power television or television translator station, or with other non-displacement relief applications for facilities modifications of analog or digital low power television or television translator stations, priority will be afforded to the displacement application for the digital low power television or television translator station to the exclusion of other applications. Mutually exclusive displacement relief applications for digital low power television and television translator stations shall be resolved via the Commission's part 1 and broadcast competitive bidding rules, §1.2100 *et seq.*, and §73.5000 *et seq.* of this chapter. Such applicants shall be afforded an opportunity to submit settlements and engineering solutions to resolve mutual exclusivity pursuant to §73.5002(d) of this chapter.

(5) *Applications for analog-to-digital and digital-to-digital replacement television translators.* (i) Applications for new analog-to-digital replacement translators will not be accepted. Displacement applications for analog-to-digital replacement translators will continue to be accepted. An application for a new digital-to-digital replacement translator may be filed beginning the first day of the low power television and TV translator displacement window set forth in §73.3700(g)(1) of this part to one year after the completion of the 39-month post-auction transition period as defined in §27.4 of this chapter. Applications for digital-to-digital replacement translators filed during the displacement window will be considered filed on the last day of the window. Following the completion of the displacement window, applications for digital-to-digital replacement translators will be accepted on a first-come, first-served basis.

(ii) Each original construction permit for the construction of a displacement analog-to-digital or new or displacement digital-to-digital replacement television translator station shall specify a period of three years from the date of issuance of the original construction permit within which construction shall be completed and application for license filed. The provisions of §74.788(c) of this chapter shall apply for stations seeking additional time to complete construction of their displacement analog-to-digital or new or displacement digital-to-digital replacement television translator station.

(iii) Displacement applications for analog-to-digital replacement television translators shall be given processing priority over all other low power television and TV translator new, minor change, or displacement applications except applications for digital-to-digital replacement television translators with which they shall have co-equal priority. Applications for digital-to-digital replacement television translators shall be given processing priority over all low power television and TV translator new, minor change, or displacement applications, except displacement applications for analog-to-digital replacement translators with which they shall have co-equal priority.

(iv) Applications for new digital-to-digital replacement television translators and displacement applications for analog-to-digital and digital-to-digital replacement television translators

shall be treated as an application for minor change. Mutually exclusive applications shall be resolved via the Commission's part 1 and broadcast competitive bidding rules, §1.2100 *et seq*. and §73.5000 *et seq*. of this chapter.

(v) A license for a digital-to-digital replacement television translator will be issued only to a full-power television broadcast station licensee that demonstrates in its application a loss in the station's pre-auction digital service area as a result of the broadcast television spectrum incentive auction, including the repacking process, conducted under section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96). ''Pre-auction digital service area'' is defined as the geographic area within the full power station's noise-limited contour (as set forth in Public Notice, DA 15–1296, released November 12, 2015). The service area of the digital-to-digital replacement translator shall be limited to only the demonstrated loss area within the full power station's pre-auction digital service area, provided that an applicant for a digital-to-digital replacement television translator may propose a *de minimis* expansion of its full power pre-auction digital service area upon demonstrating that the expansion is necessary to replace a loss in its pre-auction digital service area.

(vi) The license for the analog-to-digital and digital-to-digital replacement television translator will be associated with the full power station's main license, will be assigned the same call sign, may not be separately assigned or transferred, and will be renewed with the full power station's main license.

(vii) Analog-to-digital and digital-to-digital replacement television translators may operate only on those television channels designated for broadcast television use following completion of the broadcast television spectrum incentive auction conducted under section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96).

(viii) The following sections are applicable to analog-to-digital and digital-to-digital replacement television translator stations:

Applicable Rule Sections	
§73.1030	Notifications concerning interference to radio astronomy, research and receiving installations.
§74.703	Interference.
§74.709	Land mobile station protection.
§74.734	Attended and unattended operation.
§74.735	Power Limitations.
§74. 751	Modification of transmission systems.
§74.763	Time of Operation.
§74.765	Posting of station and operator licenses.
§74.769	Copies of rules.
§74.780	Broadcast regulations applicable to translators, low power, and booster stations (except §73.653—Operation of TV aural and visual transmitters and §73.1201—Station identification).
§74.781	Station records.
§74.784	Rebroadcasts.

(b) *Definitions of ''major'' and ''minor'' changes to digital low power television and television translator stations.* (1) Applications for major changes in digital low power television and television translator stations include:

(i) Any change in the frequency (output channel) not related to displacement relief;

(ii) Any change in transmitting antenna location where the protected contour resulting from the change does not overlap some portion of the protected contour of the authorized facilities of the existing station; or

(iii) Any change in transmitting antenna location of greater than 30 miles (48 kilometers) from the reference coordinates of the existing station's antenna location.

(2) Other facilities changes will be considered minor including changes made to implement a channel sharing arrangement provided they comply with the other provisions of this section.

(c) Not later than 11:59 pm local time on September 1, 2011, low power television or TV translator stations operating analog (NTSC) or digital facilities above Channel 51, that have not already done so, must file a digital displacement application for a channel below Channel 52 pursuant to the procedures in subsection (a)(4) of this rule. Low power television and TV translator stations operating analog (NTSC) or digital facilities above Channel 51 that have not submitted a digital displacement application by 11:59 pm local

time on September 1, 2011 will be required to cease operations altogether by December 31, 2011. These stations' authorization for facilities above Channel 51 shall be cancelled. Any digital displacement application submitted by a low power television or TV translator station operating analog (NTSC) or digital facilities above Channel 51 that is submitted after 11:59 pm local time on September 1, 2011 will be dismissed. In addition, any outstanding construction permit (analog or digital) for an channel above Channel 51 will be rescinded on December 31, 2011, and any pending application (analog or digital) for a channel above Channel 51 will be dismissed on December 31, 2011, if the permittee has not submitted a digital displacement application by 11:59 pm local on September 1, 2011.

[69 FR 69333, Nov. 29, 2004, as amended at 74 FR 23655, May 20, 2009; 76 FR 44828, July 27, 2011; 81 FR 5053, Feb. 1, 2016]

§ 74.788 Digital construction period.

(a) Except as indicated below, each original construction permit for the construction of a new digital low power television or television translator station shall specify a period of three years from the date of issuance of the original construction permit within which construction shall be completed and application for license filed. Construction permits for the construction of a new digital low power television or television translator station granted after the release of the LPTV DTV Third Report and Order, MB Docket No. 03–185 (FCC 15–175) shall specify the later of either the digital transition deadline or three years from the date of issuance of the original construction permit within which construction shall be completed and application for license filed.

(b) Any construction permit for which construction has not been completed and for which an application for license or extension of time has not been filed, shall be automatically forfeited upon expiration without any further affirmative cancellation by the Commission.

(c) *Authority delegated.* (1) For the September 1, 2015 Class A television digital construction deadline, authority is delegated to the Chief, Media Bureau to grant an extension of time of up to six months beyond September 1, 2015 upon demonstration by the Class A station that failure to meet the construction deadline is due to circumstances that are either unforeseeable or beyond the licensee's control where the licensee has taken all reasonable steps to resolve the problem expeditiously. For the low power television and TV translator station digital transition deadline set forth in §74.731(l) of this subpart, authority is delegated to the Chief, Media Bureau to grant an extension of time of up to six months beyond the digital transition deadline set forth in §74.731(l) upon demonstration that failure to meet the construction deadline is due to circumstances that are either unforeseeable or beyond the station's control where the station has taken all reasonable steps to resolve the problem expeditiously.

(2) Such circumstances shall include, but shall not be limited to:

(i) Inability to construct and place in operation a facility necessary for transmitting digital television, such as a tower, because of delays in obtaining zoning or FAA approvals, or similar constraints;

(ii) The lack of equipment necessary to obtain a digital television signal; or

(iii) Where the cost of construction exceeds the station's financial resources.

(3) Applications for extension of time filed by Class A television stations shall be filed not later than May 1, 2015 absent a showing of sufficient reasons for late filing. Applications for extension of time filed by low power television and TV translator stations shall be filed not later than four months before the digital transition deadline set forth in §74.731(l) of this subpart absent a showing of sufficient reasons for late filing.

(d) For Class A television digital construction deadlines occurring after September 1, 2015, the tolling provisions of §73.3598 shall apply. For low power television and TV translator digital construction deadlines occurring after the digital transition deadline set forth in §74.731(l) of this subpart, the tolling provisions of §73.3598 shall apply.

(e) A low power television, TV translator or Class A television station that holds a construction permit for an unbuilt analog and corresponding unbuilt digital station and fails to complete construction of the analog station by the expiration date on the analog construction permit shall forfeit both the analog and digital construction permits notwithstanding a later expiration date on the digital construction permit.

(f) A low power television, TV translator or Class A television station that holds a construction permit for an unbuilt analog and corresponding unbuilt digital station and completes construction of the digital station by the expiration date on the analog construction permit, begins operating and files a license application for the digital station may forego construction of the unbuilt analog station.

[69 FR 69334, Nov. 29, 2004, as amended at 76 FR 44828, July 27, 2011; 81 FR 5053, Feb. 1, 2016]

§ 74.789 Broadcast regulations applicable to digital low power television and television translator stations.

The following sections are applicable to digital low power television and television translator stations:

§ 73.1030 Notifications concerning interference to radio astronomy, research and receiving installations.
§ 74.600 Eligibility for license.
§ 74.703 Interference.
§ 74.709 Land mobile station protection.
§ 74.732 Eligibility and licensing requirements.
§ 74.734 Attended and unattended operation.
§ 74.735 Power limitations.
§ 74.751 Modification of transmission systems.
§ 74.763 Time of operation.
§ 74.765 Posting of station and operator licenses.
§ 74.769 Copies of rules.
§ 74.780 Broadcast regulations applicable to translators, low power, and booster stations (except § 73.653—Operation of TV aural and visual transmitters and § 73.1201—Station identification).
§ 74.781 Station records.
§ 74.784 Rebroadcasts.

[69 FR 69334, Nov. 29, 2004]

§ 74.790 Permissible service of digital TV translator and LPTV stations.

(a) Digital TV translator stations provide a means whereby the signals of DTV broadcast stations may be retransmitted to areas in which direct reception of such DTV stations is unsatisfactory due to distance or intervening terrain barriers.

(b) Except as provided in paragraph (f) of this section, a digital TV translator station may be used only to receive the signals of a TV broadcast or DTV broadcast station, another digital TV translator station, a TV translator relay station, a television intercity relay station, a television STL station, or other suitable sources such as a CARS or common carrier microwave station, for the simultaneous retransmission of the programs and signals of a TV or DTV broadcast station. Such retransmissions may be accomplished by any of the following means:

(1) Reception of TV broadcast or DTV broadcast station programs and signals directly through space and conversion to a different channel by one of the following transmission modes:

(i) Heterodyne frequency conversion and suitable amplification, subject to a digital output power limit of 30 watts for transmitters operating on channels 14–69 and 3 watts for transmitters operating on channels 2–13; or

(ii) Digital signal regeneration (*i.e.*, DTV signal demodulation, decoding, error processing, encoding, remodulation, and frequency upconversion) and suitable amplification; or,

(2) Demodulation, remodulation and amplification of TV broadcast or DTV broadcast station programs and signals received through a microwave transport.

(c) The transmissions of each digital TV translator station shall be intended for direct reception by the general public, and any other use shall be incidental thereto. A digital TV translator station shall not be operated solely for the purpose of relaying signals to one or more fixed receiving points for retransmission, distribution, or further relaying.

(d) Except as provided in (e) and (f) of this section, the technical characteristics of the retransmitted signals shall not be deliberately altered so as to hinder reception on consumer DTV broadcast receiving equipment.

(e) A digital TV translator station shall not retransmit the programs and signals of any TV broadcast or DTV broadcast station(s) without the prior written consent of such station(s). A digital TV translator may multiplex on its output channel the video program services of two or more TV broadcast and/or DTV broadcast stations, pursuant to arrangements with all affected stations, and for this limited purpose, is permitted to alter a TV broadcast and/or DTV broadcast signal.

(f) A digital TV translator station may transmit locally originated visual and/or aural messages limited to emergency warnings of imminent danger, to local public service announcements (PSAs) and to seeking or acknowledging financial support deemed necessary to the continued operation of the station. Acknowledgments of financial support may include identification of the contributors, the size and nature of the contribution and the advertising messages of the contributors. The originations concerning financial support and PSAs are limited to 30 seconds each, no more than once per hour. Emergency transmissions shall be no longer or more frequent than necessary to protect life and property. Such originations may be accomplished by any technical means agreed upon between the TV translator and DTV station whose signal is being retransmitted, but must be capable of being received on consumer DTV broadcast reception equipment. A digital TV translator shall modify, as necessary to avoid DTV reception tuning conflicts, the Program System and Information Protocol (PSIP) information in the DTV broadcast signal being retransmitted.

(g) A digital LPTV station may operate under the following modes of service:

(1) For the retransmission of programming of a TV broadcast or DTV broadcast station, subject to the prior written consent of the station whose signal is being retransmitted;

(2) For the origination of programming and commercial matter as defined in §74.701(l).

(3) Whenever operating, a digital LPTV station must transmit an over-the-air video program signal at no direct charge to viewers at least comparable in resolution to that of its associated analog (NTSC) LPTV station or, in the case of an on-channel digital conversion, that of its former analog LPTV station.

(4) A digital LPTV station may dynamically alter the bit stream of its signal to transmit one or more video program services in any established DTV video format.

(h) A digital LPTV station is not subject to minimum required hours of operation and may operate in either of the two modes described in paragraph (g) of this section for any number of hours.

(i) Upon transmitting a signal that meets the requirements of paragraph (g)(3) of this section, a digital LPTV station may offer services of any nature, consistent with the public interest, convenience, and necessity, on an ancillary or supplementary basis in accordance with the provisions of §73.624(c) and (g) of this chapter.

(j) A digital LPTV station may not be operated solely for the purpose of relaying signals to one or more fixed receiving points for retransmission, distribution or relaying.

(k) A digital LPTV station may receive input signals for transmission or retransmission by any technical means, including those specified in paragraph (b) of this section.

[69 FR 69334, Nov. 29, 2004]

§74.791 Digital call signs.

(a) *Digital low power stations.* Call signs for digital low power stations will be made up of a prefix consisting of the initial letter K or W followed by the channel number assigned to the station and two additional letters and a suffix consisting of the letters −D.

(b) *Digital television translator stations.* Call signs for digital television translator stations will be made up of a prefix consisting of the initial letter K or

W followed by the channel number assigned to the station and two additional letters and a suffix consisting of the letter −D.

(c) *Digital low power television stations* and *Class A television stations*. Digital low power television and Class A television stations may be assigned a call sign with a four-letter prefix pursuant to §73.3550 of the Commission's rules. Digital low power stations with four-letter prefixes will be assigned the suffix −LD and digital Class A stations with four-letter prefixes will be assigned the suffix −CD.

[69 FR 69335, Nov. 29, 2004]

§ 74.792 Digital low power TV and TV translator station protected contour.

(a) A digital low power TV or TV translator will be protected from interference from other low power TV, TV translator, Class A TV or TV booster stations or digital low power TV, TV translator or Class A TV stations within the following predicted contours:

(1) 43 dBu for stations on Channels 2 through 6;

(2) 48 dBu for stations on Channels 7 through 13; and

(3) 51 dBu for stations on Channels 14 through 69.

(b) The digital low power TV or TV translator protected contour is calculated from the authorized effective radiated power and antenna height above average terrain, using the F(50,90) signal propagation method specified in §73.625(b)(1) of this chapter.

[69 FR 69335, Nov. 29, 2004]

§ 74.793 Digital low power TV and TV translator station protection of broadcast stations.

(a) An application to construct a new digital low power TV or TV translator station or change the facilities of an existing station will not be accepted if it fails to meet the interference protection requirements in this section.

(b) Except as provided in this section, interference prediction analysis is based on the interference thresholds (D/U signal strength ratios) and other criteria and methods specified in §73.623(c)(2) through (c)(4) of this chapter. Predictions of interference to co-channel DTV broadcast, digital Class A TV, digital LPTV and digital TV translator stations will be based on the interference thresholds specified therein for ''DTV-into-DTV.'' Predictions of interference to co-channel TV broadcast, Class A TV, LPTV and TV translator stations will be based on the interference threshold specified for ''DTV-into-analog TV.'' Predictions of interference to TV broadcast, Class A TV, LPTV and TV translator stations with the following channel relationships to a digital channel will be based on the threshold values specified for ''Other Adjacent Channels (Channels 14–69 only),'' where N is the analog channel: N–2, N + 2, N–3, N + 3, N–4, N + 4, N–7 , N + 7, N–8, N + 8, N + 14, and N + 15.

(c) The following D/U signal strength ratio (db) shall apply to the protection of stations on the first adjacent channel. The D/U ratios for ''Digital TV-into-analog TV'' shall apply to the protection of Class A TV, LPTV and TV translator stations. The D/U ratios for ''Digital TV-into-digital TV'' shall apply to the protection of DTV, digital Class A TV, digital LPTV and digital TV translator stations. The D/U ratios correspond to the digital LPTV or TV translator station's specified out-of-channel emission mask.

	Simple mask	Stringent mask	Full service mask
Digital TV-into-analog TV	10	0	Lower (−14)/Upper (−17)
Digital TV-into-digital TV	−7	−12	Lower (−28)/Upper (−26)

(d) For analysis of predicted interference from digital low power TV and TV translator stations, the relative field strength values of the antenna vertical radiation pattern if provided by the applicant will be used instead of the doubled values in Table 8 in OET Bulletin 69 up to a value of 1.0.

(e) Protection to the authorized facilities of DTV broadcast stations shall

be based on not causing predicted interference to the population within the service area defined and described in § 73.622(e) of this chapter, except that a digital low power TV or TV translator station must not cause a loss of service to 0.5 percent or more of the population predicted to receive service from the authorized DTV facilities.

(f) Protection to the authorized facilities of TV broadcast stations shall be based on not causing predicted interference to the population within the Grade B field strength contours defined and described in § 73.683 of this chapter, except that a digital low power TV or TV translator station must not cause a loss of service to 0.5 percent or more of the population predicted to receive service from the authorized TV broadcast facilities.

(g) Protection to the authorized facilities of Class A and digital Class A TV stations shall be based on not causing predicted interference to the population within the service area defined and described in § 73.6010 (a) through (d) of this chapter, respectively, except that a digital low power TV or TV translator station must not cause a loss of service to 0.5 percent or more of the population predicted to receive service from the authorized Class A TV or digital Class A TV facilities.

(h) Protection to the authorized facilities of low power TV and TV translator stations and digital low power TV and TV translator stations shall be based on not causing predicted interference to the population within the service area defined and described in §§ 74.707(a) and 74.792, respectively, except that a digital low power TV or TV translator station must not cause a loss of service to 2.0 percent or more of the population predicted to receive service from the authorized low power TV, TV translator, digital low power TV or digital TV translator station.

[69 FR 69335, Nov. 29, 2004, as amended at 76 FR 44828, July 27, 2011]

§ 74.794 Digital emissions.

(a)(1) An applicant for a digital LPTV or TV translator station construction permit shall specify that the station will be constructed to confine out-of-channel emissions within one of the following emission masks: Simple, stringent or full service.

(2) The power level of emissions on frequencies outside the authorized channel of operation must be attenuated no less than following amounts below the average transmitted power within the authorized 6 MHz channel. In the mask specifications listed in § 74.794(a)(2) and (a)(3), A is the attenuation in dB and Δf is the frequency difference in MHz from the edge of the channel.

(i) *Simple mask.* At the channel edges, emissions must be attenuated no less than 46 dB. More than 6 MHz from the channel edges, emissions must be attenuated no less than 71 dB. At any frequency between 0 and 6 MHz from the channel edges, emissions must be attenuated no less than the value determined by the following formula:

$$A\ (dB) = 46 + (\Delta f^2 / 1.44)$$

(ii) *Stringent mask.* In the first 500 kHz from the channel edges, emissions must be attenuated no less than 47 dB. More than 3 MHz from the channel edges, emissions must be attenuated no less than 76 dB. At any frequency between 0.5 and 3 MHz from the channel edges, emissions must be attenuated no less than the value determined by the following formula:

$$A(dB) = 47 + 11.5\ (\Delta f – 0.5)$$

(iii) *Full service mask:* (A) The power level of emissions on frequencies outside the authorized channel of operation must be attenuated no less than the following amounts below the average transmitted power within the authorized channel. In the first 500 kHz from the channel edge the emissions must be attenuated no less than 47 dB. More than 6 MHz from the channel edge, emissions must be attenuated no less than 110 dB. At any frequency between 0.5 and 6 MHz from the channel edge, emissions must be attenuated no less than the value determined by the following formula:

Attenuation in dB = −11.5([Delta]f + 3.6);

Where:

[Delta] f = frequency difference in MHz from the edge of the channel.

(B) This attenuation is based on a measurement bandwidth of 500 kHz.

Other measurement bandwidths may be used as long as appropriate correction factors are applied. Measurements need not be made any closer to the band edge than one half of the resolution bandwidth of the measuring instrument. Emissions include sidebands, spurious emissions and radio frequency harmonics. Attenuation is to be measured at the output terminals of the transmitter (including any filters that may be employed). In the event of interference caused to any service, greater attenuation may be required.

(3) The attenuation values for the simple and stringent emission masks are based on a measurement bandwidth of 500 kHz. Other measurement bandwidths may be used and converted to the reference 500 kHz value by the following formula:

$$A(dB) = A_{alternate} + 10 \log (BW_{alternate} / 500)$$

where A(dB) is the measured or calculated attenuation value for the reference 500 kHz bandwidth, and $A_{alternate}$ is the measured or calculated attenuation for a bandwidth $BW_{alternate}$. Emissions include sidebands, spurious emissions and radio harmonics. Attenuation is to be measured at the output terminals of the transmitter (including any filters that may be employed). In the event of interference caused to any service by out-of-channel emissions, greater attenuation may be required.

(b) In addition to meeting the emission attenuation requirements of the simple or stringent mask (including attenuation of radio frequency harmonics), digital low power TV and TV translator stations authorized to operate on TV channels 22–24, (518–536 MHz), 32–36 (578–608 MHz), 38 (614–620 MHz), and 65–69 (776–806 MHz) must provide specific ''out of band'' protection to Radio Navigation Satellite Services in the bands: L5 (1164–1215 MHz); L2 (1215–1240 MHz) and L1 (1559–1610 MHz).

(1) An FCC-certificated transmitter specifically certified for use on one or more of the above channels must include filtering with an attenuation of not less than 85 dB in the GPS bands, which will have the effect of reducing harmonics in the GPS bands from what is produced by the digital transmitter, and this attenuation must be demonstrated as part of the certification application to the Commission.

(2) For an installation on one of the above channels with a digital transmitter not specifically FCC-certificated for the channel, a low pass filter or equivalent device rated by its manufacturer to have an attenuation of at least 85 dB in the GPS bands, which will have the effect of reducing harmonics in the GPS bands from what is produced by the digital transmitter, and must be installed in a manner that will prevent the harmonic emission content from reaching the antenna. A description of the low pass filter or equivalent device with the manufacturer's rating or a report of measurements by a qualified individual shall be retained with the station license. Field measurements of the second or third harmonic output of a transmitter so equipped are not required.

[69 FR 69336, Nov. 29, 2004, as amended at 76 FR 44828, July 27, 2011]

§ 74.795 Digital low power TV and TV translator transmission system facilities.

(a) A digital low power TV or TV translator station shall operate with a transmitter that is either certificated for licensing based on the following provisions or has been modified for digital operation pursuant to § 74.796.

(b) The following requirements must be met before digital low power TV and TV translator transmitter will be certificated by the FCC:

(1) The transmitter shall be designed to produce digital television signals that can be satisfactorily viewed on consumer receiving equipment based on the digital broadcast television transmission standard in § 73.682(d) of this chapter;

(2) Emissions on frequencies outside the authorized channel, measured at the output terminals of the transmitter (including any filters that may be employed), shall meet the requirements of § 74.794, as applicable;

(3) The transmitter shall be equipped to display the digital power output (*i.e.*, average power over a 6 MHz channel) and shall be designed to prevent the power output from exceeding the maximum rated power output under any condition;

(4) When subjected to variations in ambient temperature between 0 and 40 degrees Centigrade and variations in power main voltage between 85% and 115% of the rated power supply voltage, the frequency stability of the local oscillator in the RF channel upconverter shall be maintained within 10 kHz of the nominal value; and

(5) The transmitter shall be equipped with suitable meters and jacks so that appropriate voltage and current measurements may be made while the transmitter is in operation.

(c) The following additional requirements apply to digital heterodyne translators:

(1) The maximum rated power output (digital average power over a 6 MHz channel) shall not exceed 30 watts for transmitters operating on channels 14–69 and 3 watts for transmitters operating on channels 2–13; and

(2) The transmitter shall contain circuits which will maintain the digital average power output constant within 1 dB when the strength of the input signal is varied over a range of 30 dB.

(d) Certification will be granted only upon a satisfactory showing that the transmitter is capable of meeting the requirements of paragraph (b) of this section, pursuant to the procedures described in §74.750(e).

[69 FR 69336, Nov. 29, 2004]

§74.796 Modification of digital transmission systems and analog transmission systems for digital operation.

(a) The provisions of §74.751 shall apply to the modification of digital low power TV and TV translator transmission systems and the modification of existing analog transmission systems for digital operation.

(b) The following additional provisions shall apply to the modification of existing analog transmissions systems for digital operation, including installation of manufacturers' certificated equipment (''field modification kits'') and custom modifications.

(1) The modifications and related performance-testing shall be undertaken by a person or persons qualified to perform such work.

(2) The final amplifier stage of an analog transmitter modified for digital operation shall not have an ''average digital power'' output greater than 25 percent of its previous NTSC peak sync power output, unless the amplifier has been specifically refitted or replaced to operate at a higher power.

(3) Analog heterodyne translators, when modified for digital operation, will produce a power output (digital average power over the 6 MHz channel) not exceeding 30 watts for transmitters operating on channels 14–69 and 3 watts for transmitters operating on channels 2–13.

(4) After completion of the modification, suitable tests and measurements shall be made to demonstrate compliance with the applicable requirements in this section including those in §74.795. Upon installation of a field modification kit, the transmitter shall be performance-tested in accordance with the manufacturer's instructions.

(5) The station licensee shall notify the Commission upon completion of the transmitter modifications. In the case of custom modifications (those not related to installation of manufacturer-supplied and FCC-certificated equipment), the licensee shall certify compliance with all applicable transmission system requirements.

(6) The licensee shall maintain with the station's records for a period of not less than two years the following information and make this information to the Commission upon request:

(i) A description of the modifications performed and performance tests or, in the case of installation of a manufacturer-supplied modification kit, a description of the nature of the modifications, installation and test instructions and other material provided by the manufacturer;

(ii) Results of performance-tests and measurements on the modified transmitter; and

(iii) Copies of related correspondence with the Commission.

(c) In connection with the on-channel conversion of existing analog transmitters for digital operation, a limited allowance is made for transmitters with final amplifiers that do not meet the attenuation of the Simple emission

mask at the channel edges. Station licensees may obtain equivalent compliance with this attenuation requirement in the following manner:

(1) Measure the level of attenuation of emissions below the average digital power output at the channel edges in a 500 kHz bandwidth; measurements made over a different measurement bandwidth should be corrected to the equivalent attenuation level for a 500 kHz bandwidth using the formula given in § 74.794;

(2) Calculate the difference in dB between the 46 dB channel-edge attenuation requirement of the Simple mask;

(3) Subtract the value determined in the previous step from the authorized effective radiated power (''ERP'') of the analog station being converted to digital operation. Then subtract an additional 6 dB to account for the approximate difference between analog peak and digital average power. For this purpose, the ERP must be expressed in decibels above one kilowatt: ERP(dBk) = 10 log ERP(kW);

(4) Convert the ERP calculated in the previous step to units of kilowatts; and

(5) The ERP value determined through the above procedure will produce equivalent compliance with the attenuation requirement of the simple emission mask at the channel edges and should be specified as the digital ERP in the minor change application for an on-channel digital conversion. The transmitter may not be operated to produce a higher digital ERP than this value.

[69 FR 69336, Nov. 29, 2004]

§ 74.797 Biennial Ownership Reports.

The Ownership Report for Commercial Broadcast Stations (FCC Form 2100, Schedule 323) must be electronically filed by December 1 in all odd-numbered years by each licensee of a low power television station or other Respondent (as defined in § 73.3615(a) of this chapter). A licensee or other Respondent with a current and unamended biennial ownership report (*i.e.*, a report that was filed pursuant to this subsection) on file with the Commission that is still accurate and which was filed using the version of FCC Form 2100, Schedule 323 that is current on October 1 of the year in which its biennial ownership report is due may electronically validate and resubmit its previously filed biennial ownership report. The information provided on each ownership report shall be current as of October 1 of the year in which the ownership report is filed. For information on filing requirements, filers should refer to § 73.3615(a) of this chapter.

[81 FR 19460, Apr. 4, 2016]

EFFECTIVE DATE NOTE: At 81 FR 19460, Apr. 4, 2016, § 74.797 was revised. This section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 74.798 Digital television transition notices by broadcasters.

(a) Each low power television, TV translator and Class A television station licensee or permittee must air an educational campaign about the transition from analog broadcasting to digital television (DTV).

(b) Stations that have already terminated analog service and begun operating in digital prior to effective date of this rule shall not be subject to this requirement.

(c) Stations with the technical ability to locally-originate programming must air viewer notifications at a time when the highest number of viewers is watching. Stations have the discretion as to the form of these notifications.

(d) Stations that lack the technical ability to locally-originate programming, or find that airing of viewer notifications would pose some sort of a hardship, may notify their viewers by some other reasonable means, e.g. publication of a notification in a local newspaper. Stations have discretion as to the format and time-frame of such local notification.

[76 FR 44829, July 27, 2011]

Subpart H—Low Power Auxiliary Stations

§ 74.799 Low power television and TV translator channel sharing.

(a) *Channel sharing generally.* (1) Subject to the provisions of this section, low power television and TV translator

stations may voluntarily seek Commission approval to share a single six megahertz channel with other low power television and TV translator stations, Class A television stations, and full power television stations.

(2) Each station sharing a single channel pursuant to this section shall continue to be licensed and operated separately, have its own call sign and be separately subject to all of the Commission's obligations, rules, and policies.

(b) *Licensing of channel sharing stations.* The low power television or TV translator channel sharing station relinquishing its channel must file an application for the initial channel sharing construction permit, include a copy of the channel sharing agreement as an exhibit, and cross reference the other sharing station(s). Any engineering changes necessitated by the channel sharing arrangement may be included in the station's application. Upon initiation of shared operations, the station relinquishing its channel must notify the Commission that it has terminated operation pursuant to §73.1750 of this part and each sharing station must file an application for license.

(c) *Deadline for implementing channel sharing arrangements.* Channel sharing arrangements submitted pursuant to this section must be implemented within three years of the grant of the initial channel sharing construction permit.

(d) *Channel sharing agreements.* (1) Channel sharing agreements (CSAs) submitted under this section must contain provisions outlining each licensee's rights and responsibilities regarding:

(i) Access to facilities, including whether each licensee will have unrestrained access to the shared transmission facilities;

(ii) Allocation of bandwidth within the shared channel;

(iii) Operation, maintenance, repair, and modification of facilities, including a list of all relevant equipment, a description of each party's financial obligations, and any relevant notice provisions;

(iv) Transfer/assignment of a shared license, including the ability of a new licensee to assume the existing CSA; and

(v) Termination of the license of a party to the CSA, including reversion of spectrum usage rights to the remaining parties to the CSA.

(2) CSAs must include provisions:

(i) Affirming compliance with the channel sharing requirements in paragraph (d)(1) of this section and all relevant Commission rules and policies; and

(ii) Requiring that each channel sharing licensee shall retain spectrum usage rights adequate to ensure a sufficient amount of the shared channel capacity to allow it to provide at least one Standard Definition program stream at all times.

(e) Upon termination of the license of a party to a CSA, the spectrum usage rights covered by that license may revert to the remaining parties to the CSA. Such reversion shall be governed by the terms of the CSA in accordance with paragraph (d)(1)(v) of this section. If upon termination of the license of a party to a CSA only one party to the CSA remains, the remaining licensee may file an application to change its license to non-shared status using FCC Form 2100, Schedule D.

(f) If the rights under a CSA are transferred or assigned, the assignee or the transferee must comply with the terms of the CSA in accordance with paragraph (d)(1)(iv) of this section. If the transferee or assignee and the licensees of the remaining channel sharing station or stations agree to amend the terms of the existing CSA, the agreement may be amended, subject to Commission approval.

(g) *Channel sharing between low power television or TV translator stations and Class A television stations or full power television stations.* (1) A low power television or TV translator sharee station (defined as a station relinquishing a channel in order to share) that is a party to a CSA with a full power television sharer station (defined as the station hosting a sharee pursuant to a CSA) must comply with the rules of part 73 of this chapter governing power levels and interference, and must comply in all other respects with the rules and policies applicable to low power

television or TV translator stations set forth in this part.

(2) A low power television or TV translator sharee station that is a party to a CSA with a Class A television sharer station must comply with the rules governing power levels and interference that are applicable to Class A television stations, and must comply in all other respects with the rules and policies applicable to low power television or TV translator stations set forth in this part.

(h) *Notice to cable systems.* (1) Stations participating in channel sharing agreements must provide notice to cable systems that:

(i) No longer will be required to carry the station because of the relocation of the station;

(ii) Currently carry and will continue to be obligated to carry a station that will change channels; or

(iii) Will become obligated to carry the station due to a channel sharing relocation.

(2) The notice required by this section must contain the following information:

(i) Date and time of any channel changes;

(ii) The channel occupied by the station before and after implementation of the CSA;

(iii) Modification, if any, to antenna position, location, or power levels;

(iv) Stream identification information; and

(v) Engineering staff contact information.

(3) Should any of the information in paragraph (h)(2) of this section change, an amended notification must be sent.

(4) Sharee stations must provide notice as required by this section at least 90 days prior to terminating operations on the sharee's channel. Sharer stations and sharee stations must provide notice as required by this section at least 90 days prior to initiation of operations on the sharer channel. Should the anticipated date to either cease operations or commence channel sharing operations change, the stations must send a further notice to affected cable systems informing them of the new anticipated date(s).

(5) Notifications provided to cable systems pursuant to this section must be either mailed to the system's official address of record provided in the cable system's most recent filing in the FCC's Cable Operations and Licensing System (COALS) Form 322, or emailed to the system if the system has provided an email address.

[81 FR 5053, Feb. 1, 2016. Redesignated and amended at 82 FR 18251, Apr. 18, 2017]

§ 74.801 Definitions.

600 MHz duplex gap. An 11 megahertz guard band that separates part 27 600 MHz service uplink and downlink frequencies, in accordance with the terms and conditions established in GN Docket No. 12–268, pursuant to section 6403 of the Spectrum Act.

600 MHz guard bands. Designated frequency bands that prevent interference between licensed services in the 600 MHz service band and either the television bands or channel 37, in accordance with the terms and conditions established in GN Docket No. 12–268, pursuant to section 6403 of the Spectrum Act.

600 MHz service band. Frequencies that will be reallocated and reassigned for 600 MHz band services as determined by the outcome of the auction conducted pursuant to part 27, in accordance with the terms and conditions established in GN Docket No. 12–268, pursuant to section 6403 of the Spectrum Act

NOTE TO DEFINITIONS OF *600 MHz duplex gap, 600 MHz guard bands,* AND *600 MHz service band:* The specific frequencies will be determined in light of further proceedings pursuant to GN Docket No. 12–268 and the rules will be updated accordingly pursuant to a future public notice.

Cable television system operator. A cable television operator is defined in § 76.5(cc) of the rules.

Large venue owner or operator. Large venue owner or operator refers to a person or organization that owns or operates a venue that routinely uses 50 or more low power auxiliary station devices, where the use of such devices is an integral part of major events or productions. Routinely using 50 or more low power auxiliary station devices means that the venue owner or operator uses 50 or more such devices for most events or productions.

Low power auxiliary station. An auxiliary station authorized and operated pursuant to the provisions set forth in this subpart. Devices authorized as low power auxiliary stations are intended to transmit over distances of approximately 100 meters for uses such as wireless microphones, cue and control communications, and synchronization of TV camera signals.

Motion picture producer. Motion picture producer refers to a person or organization engaged in the production or filming of motion pictures.

Professional sound company. Professional sound company refers to a person or organization that provides audio services that routinely use 50 or more low power auxiliary station devices, where the use of such devices is an integral part of major events or productions. Routinely using 50 or more low power auxiliary station devices means that the professional sound company uses 50 or more such devices for most events or productions.

Spectrum Act. Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96).

Television program producer. Television program producer refers to a person or organization engaged in the production of television programs.

Wireless assist video device. An auxiliary station authorized and operated by motion picture and television program producers pursuant to the provisions of this subpart. These stations are intended to transmit over distances of approximately 300 meters for use as an aid in composing camera shots on motion picture and television sets.

(Sec. 5, 48 Stat. 1068; 47 U.S.C. 155)

[42 FR 14729, Mar. 16, 1977, as amended at 43 FR 14662, Apr. 7, 1978; 51 FR 4603, Feb. 6, 1986; 51 FR 9966, Mar. 24, 1986; 54 FR 41842, Oct. 12, 1989; 68 FR 12772, Mar. 17, 2003; 79 FR 40689, July 14, 2014; 80 FR 71728, Nov. 17, 2015]

EFFECTIVE DATE NOTE: At 82 FR 41559, Sept. 1, 2017, §74.801 was amended by removing the ''Note to Definitions of 600 MHz Duplex Gap, 600 MHz Guard Bands, and 600 MHz Service Band,'' and by revising the definitions of ''600 MHz duplex gap,'' ''600 MHz guard bands,'' and ''600 MHz service band,'' effective Oct. 2, 2017. For the convenience of the user, the revised text is set forth as follows:

§ 74.801 Definitions.

600 MHz duplex gap. An 11 megahertz guard band at 652–663 MHz that separates part 27 600 MHz service uplink and downlink frequencies.

600 MHz guard band. Designated frequency band at 614–617 MHz that prevents interference between licensed services in the 600 MHz service band and channel 37.

600 MHz service band. Frequencies in the 617–652 MHz and 663–698 MHz bands that are reallocated and reassigned for 600 MHz band services under part 27.

* * * * *

§ 74.802 Frequency assignment.

(a)(1) Frequencies within the following bands may be assigned for use by low power auxiliary stations:

26.100–26.480 MHz
54.000–72.000 MHz
76.000–88.000 MHz
161.625–161.775 MHz (except in Puerto Rico or the Virgin Islands)
174.000–216.000 MHz
450.000–451.000 MHz
455.000–456.000 MHz
470.000–488.000 MHz
488.000–494.000 MHz (except Hawaii)
494.000–608.000 MHz
614.000–698.000 MHz
941.500–952.000 MHz
952.850–956.250 MHz
956.45–959.85 MHz
1435–1525 MHz
6875.000–6900.000 MHz
7100.000–7125.000 MHz

(2) The four megahertz segment from one to five megahertz above the lower edge of the 600 MHz duplex gap may be assigned for use by low power auxiliary stations.

NOTE TO PARAGRAPH (A)(2): The specific frequencies for the 600 MHz duplex gap will be determined in light of further proceedings pursuant to GN Docket No. 12–268 and the rule will be updated accordingly pursuant to a future public notice.

(b)(1) Operations in the bands allocated for TV broadcasting are limited to locations at least 4 kilometers outside the protected contours of co-channel TV stations shown in the following table. These contours are calculated using the methodology in §73.684 of this chapter and the R–6602 curves contained in §73.699 of this chapter.

Type of station	Protected contour		
	Channel	Contour (dBu)	Propagation curve
Analog: Class A TV, LPTV, translator and booster	Low VHF (2–6)	47	F(50,50)
	High VHF (7–13)	56	F(50,50)
	UHF (14–51)	64	F(50,50)
Digital: Full service TV, Class A TV, LPTV, translator and booster.	Low VHF (2–6)	28	F(50,90)
	High VHF (7–13)	36	F(50,90)
	UHF (14–51)	41	F(50,90)

(2) Low power auxiliary stations may operate closer to co-channel TV broadcast stations than the distances specified in paragraph (b)(1) of this section provided that such operations either—

(i) Are coordinated with TV broadcast stations that could be affected by the low power auxiliary station operation, and coordination is completed prior to operation of the low power auxiliary station; or

(ii) Are limited to an indoor location that is not being used for over-the-air television viewing, and the following conditions are met with respect to the TV channel used: The TV signal falls below a threshold of −84 dBm over the entire channel; the signal is scanned across the full 6 megahertz channel where the wireless microphones would be operated; and to the extent that directional antennas are used, they are rotated to the place of maximum signal.

(c) Specific frequency operation is required when operating within the 600 MHz duplex gap or the bands allocated for TV broadcasting.

(1) The frequency selection shall be offset from the upper or lower band limits by 25 kHz or an integral multiple thereof.

(2) One or more adjacent 25 kHz segments within the assignable frequencies may be combined to form a channel whose maximum bandwidth shall not exceed 200 kHz.

(d) Low power auxiliary licensees will not be granted exclusive frequency assignments.

(e) *Clearing mechanisms for the 700 MHz Band.* This section sets forth provisions relating to the transition of low power auxiliary stations operating at 698–806 MHz (700 MHz band).

(1) Any low power auxiliary station that operates at frequencies in the 700 MHz band while transitioning its operations out of that band must not cause harmful interference and must accept interference from any commercial or public safety wireless licensees in the 700 MHz band.

(2) Any low power auxiliary station that operates at frequencies in the 700 MHz band will have until no later than June 12, 2010 to transition its operations completely out of the 700 MHz band, subject to the following. During this transition period, any commercial or public safety licensee in the 700 MHz band may choose one or both of the following voluntary methods to notify low power auxiliary stations:

(i) Any commercial or public safety licensee in the 700 MHz band may notify the Commission that it has initiated or will be initiating operations on specified frequencies in a particular market(s) in the 700 MHz band. The wireless operations initiated by the commercial or public safety 700 MHz licensees may include system testing or trials. Following receipt of the notification, the Commission will issue a public notice providing that operators of low power auxiliary stations, including wireless microphones, in the 700 MHz band in those market(s) will be required to cease operations within 60 days after the Commission's notice is released.

(ii) Any commercial or public safety licensee in the 700 MHz band may notify any low power auxiliary station users operating in the 700 MHz band that it has initiated or will be initiating operations on specified frequencies in the market in which the low power auxiliary station is operating. The wireless operations initiated by the commercial or public safety 700 MHz licensees may include system testing or trials. Upon receipt of such

notice, the low power auxiliary station in the affected market area must cease operation within 60 days.

(iii) In the event that both of these notice provisions in paragraphs (e)(2)(i) and (ii) of this section are used with respect to a particular low power auxiliary station, the low power auxiliary station will have to cease operations in the market(s) in accordance with whichever notice provides for earlier termination of its operations.

(3) Notwithstanding this 60 day notice requirement, any low power auxiliary station that causes harmful interference to any commercial or public safety 700 MHz licensee must cease operations immediately, consistent with the rules for secondary use.

(f) *Operations in 600 MHz band assigned to wireless licensees under part 27 of this chapter.* Alow power auxiliary station that operates on frequencies in the 600 MHz band assigned to wireless licensees under part 27 of this chapter must cease operations on those frequencies no later than the end of the post-auction transition period, as defined in §27.4 of this chapter. During the post-auction transition period, low power auxiliary stations will operate on a secondary basis to licensees of part 27 of this chapter, *i.e.*, they must not cause to and must accept harmful interference from these licensees, and must comply with the distance separations in §15.236(e)(2) of this chapter from the areas specified in §15.713(j)(10) of this chapter in which a licensee has commenced operations, as defined in §27.4 of this chapter.

[52 FR 2535, Jan. 23, 1987, as amended at 68 FR 12772, Mar. 17, 2003; 75 FR 3638, Jan. 22, 2010; 79 FR 48545, Aug. 15, 2014; 80 FR 71728, Nov. 17, 2015; 80 FR 73085, Nov. 23, 2015; 81 FR 4975, Jan. 29, 2016]

EFFECTIVE DATE NOTE: At 82 FR 41560, Sept. 1, 2017, §74.802 was amended by revising paragraph (a)(1), adding a Note to paragraph (a)(1), and revising paragraph (a)(2), effective Oct. 2, 2017. For the convenience of the user, the added and revised text is set forth as follows:

§ 74.802 Frequency assignment.

(a)(1) Frequencies within the following bands may be assigned for use by low power auxiliary stations:

26.100–26.480 MHz
54.000–72.000 MHz
76.000–88.000 MHz
161.625–161.775 MHz (except in Puerto Rico or the Virgin Islands)
174.000–216.000 MHz
450.000–451.000 MHz
455.000–456.000 MHz
470.000–488.000 MHz
488.000–494.000 MHz (except Hawaii)
494.000–608.000 MHz
614.000–698.000 MHz
941.500–944.000 MHz
944.000–952.000 MHz
952.850–956.250 MHz
956.45–959.85 MHz
1435–1525 MHz
6875.000–6900.000 MHz
7100.000–7125.000 MHz

NOTE TO PARAGRAPH (a)(1): Frequency assignments in the 614.000–698.000 MHz band are subject to conditions established in proceedings pursuant to GN Docket No. 12–268. This band is being transitioned to the 600 MHz service band, the 600 MHz guard band, and the 600 MHz duplex gap during the post-incentive auction transition period (as defined in §27.4 of this chapter), which began on April 13, 2017. Low power auxiliary stations must comply with the applicable conditions with respect to any assignment to operate on frequencies repurposed for the 600 MHz service band, the 600 MHz guard band, and the 600 MHz duplex gap, respectively. This rule will be further updated, pursuant to public notice or subsequent Commission action, to reflect additional changes that implement the determinations made in these proceedings.

(2) The 653.000–657.000 MHz segment of the 600 MHz duplex gap may be assigned for use by low power auxiliary service.

* * * * *

§ 74.803 Frequency selection to avoid interference.

(a) Where two or more low power auxiliary licensees need to operate in the same area, the licensees shall endeavor to select frequencies or schedule operation in such manner as to avoid mutual interference. If a mutually satisfactory arrangement cannot be reached, the Commission shall be notified and it will specify the frequency or frequencies to be employed by each licensee.

(b) The selection of frequencies in the bands allocated for TV broadcasting for use in any area shall be guided by the need to avoid interference to TV broadcast reception. In these bands, low power auxiliary station usage is secondary to TV broadcasting and land mobile stations operating in the UHF-

TV spectrum and must not cause harmful interference. If such interference occurs, low power auxiliary station operation must immediately cease and may not be resumed until the interference problem has been resolved.

(c) In the 941.500–952.000 MHz, 952.850–956.250 MHz, 956.45–959.85 MHz, 6875.000–6900.000 MHz, and 7100.000–7125.000 MHz bands low power auxiliary station usage is secondary to other uses (e.g., Aural Broadcast Auxiliary, Television Broadcast Auxiliary, Cable Relay Service, Fixed Point to Point Microwave) and must not cause harmful interference. Applicants are responsible for selecting the frequency assignments that are least likely to result in mutual interference with other licensees in the same area. Applicants must consult local frequency coordination committees, where they exist, for information on frequencies available in the area. In selecting frequencies, consideration should be given to the relative location of receive points, normal transmission paths, and the nature of the contemplated operation.

(d) In the 1435–1525 MHz band, low power auxiliary stations (LPAS) are limited to operations at specific fixed locations that have been coordinated with the frequency coordinator for aeronautical mobile telemetry, the Aerospace and Flight Test Radio Coordinating Committee. LPAS devices must complete authentication and location verification before operation begins, employ software-based controls or similar functionality to prevent devices in the band from operating except in the specific channels, locations, and time periods that have been coordinated, and be capable of being tuned to any frequency in the band. Use is limited to situations where there is a need to deploy large numbers of LPAS for specified time periods, and use of other available spectrum resources is insufficient to meet the LPAS licensee's needs at the specific location. All LPAS devices operating in a particular area in the band may have access to no more than 30 megahertz of spectrum in the band at a given time.

[42 FR 14729, Mar. 16, 1977, as amended at 52 FR 2535, Jan. 23, 1987; 80 FR 71728, Nov. 17, 2015]

EFFECTIVE DATE NOTE: At 82 FR 41560, Sept. 1, 2017, §74.803 was amended by revising paragraphs (c) and (d), effective Oct. 2, 2017. For the convenience of the user, the revised text is set forth as follows:

§ 74.803 Frequency selection to avoid interference.

* * * * *

(c) In the 941.5–944 MHz, 944–952 MHz, 952.850–956.250 MHz, 956.45–959.85 MHz, 6875.000–6900.000 MHz, and 7100.000–7125.000 MHz bands low power auxiliary station usage is secondary to other uses (e.g. Aural Broadcast Auxiliary, Television Broadcast Auxiliary, Cable Relay Service, Fixed Point to Point Microwave) and must not cause harmful interference. In the 941.5–944 MHz band, low power auxiliary station usage also is secondary to Federal operations in the band. In each of these bands, applicants are responsible for selecting the frequency assignments that are least likely to result in mutual interference with other licensees in the same area. Applicants must consult local frequency coordination committees, where they exist, for information on frequencies available in the area. In selecting frequencies, consideration should be given to the relative location of receive points, normal transmission paths, and the nature of the contemplated operation.

(d) In the 1435–1525 MHz band, low power auxiliary station (LPAS) authorizations are limited to operations at fixed locations, and only to the extent that applicable requirements have been met for the proposed operations at those specified locations.

(1) Each authorization is limited to specific events or situations for which there is a need to deploy large numbers of LPAS for specified time periods, and use of other available spectrum resources at that particular location is insufficient to meet the LPAS licensee's needs.

(2) The access to spectrum in the band must be coordinated with the frequency coordinator for aeronautical mobile telemetry, the Aerospace and Flight Test Radio Coordinating Committee (AFTRCC) prior to operations at the specified location and period of time, with AFTRCC indicating whether any specific frequencies in the band are unavailable for use. LPAS devices must complete authentication and location verification before operations begin, employ software-based controls or similar functionality to prevent devices in the band from operating except in the specific channels, locations, and time periods that have been coordinated, and be capable of being tuned to any frequency in the band.

(3) LPAS users may have access to no more than 30 megahertz of spectrum (one third of the 1435–1525 MHz band) for their operations

at the specified locations. Different users in the same general area each can access up to 30 megahertz of spectrum for their respective operations. All licensees that have successfully coordinated with AFTRCC for access to the 1435–1525 MHz band for operations at their specified locations in the same general area must, to the extent necessary, coordinate their particular access to and use of spectrum with other licensees to minimize the potential for interference between and among the different operations.

§ 74.831 Scope of service and permissible transmissions.

The license for a low power auxiliary station authorizes the transmission of cues and orders to production personnel and participants in broadcast programs, motion pictures, and major events or productions and in the preparation therefor, the transmission of program material by means of a wireless microphone worn by a performer and other participants in a program, motion picture, or major event or production during rehearsal and during the actual broadcast, filming, recording, or event or production, or the transmission of comments, interviews, and reports from the scene of a remote broadcast. Low power auxiliary stations operating in the 941.5–952 MHz, 952.850–956.250 MHz, 956.45–959.85 MHz, 6875–6900 MHz, and 7100–7125 MHz bands may, in addition, transmit synchronizing signals and various control signals to portable or hand-carried TV cameras which employ low power radio signals in lieu of cable to deliver picture signals to the control point at the scene of a remote broadcast.

[80 FR 71729, Nov. 17, 2015]

EFFECTIVE DATE NOTE: At 82 FR 41560, Sept. 1, 2017, §74.831 was revised, effective Oct. 2, 2017. For the convenience of the user, the revised text is set forth as follows:

§ 74.831 Scope of service and permissible transmissions.

The license for a low power auxiliary station authorizes the transmission of cues and orders to production personnel and participants in broadcast programs, motion pictures, and major events or productions and in the preparation therefor, the transmission of program material by means of a wireless microphone worn by a performer and other participants in a program, motion picture, or major event or production during rehearsal and during the actual broadcast, filming, recording, or event or production, or the transmission of comments, interviews, and reports from the scene of a remote broadcast. Low power auxiliary stations operating in the 941.5–944 MHz, 944–952 MHz, 952.850–956.250 MHz, 956.45–959.85 MHz, 6875–6900 MHz, and 7100–7125 MHz bands may, in addition, transmit synchronizing signals and various control signals to portable or hand-carried TV cameras which employ low power radio signals in lieu of cable to deliver picture signals to the control point at the scene of a remote broadcast.

§ 74.832 Licensing requirements and procedures.

(a) A license authorizing operation of one or more low power auxiliary stations will be issued only to the following:

(1) A licensee of an AM, FM, TV, or International broadcast station or low power TV station. Low power auxiliary stations will be licensed for used with a specific broadcast or low power TV station or combination of stations licensed to the same licensee within the same community.

(2) A broadcast network entity.

(3) A cable television system operator who operates a cable system that produces program material for origination or access cablecasting, as defined in §76.5(r).

(4) Motion picture producers as defined in §74.801.

(5) Television program producers as defined in §74.801.

(6) Licensees and conditional licensees of stations in the Broadband Radio Service as defined in section 27.1200 of this chapter, or entities that hold an executed lease agreement with a Broadband Radio Service or Educational Broadband Service licensee.

(7) Large venue owners or operators as defined in §74.801.

(8) Professional sound companies as defined in §74.801.

(b) An application for a new or renewal of low power auxiliary license shall specify the frequency band or bands desired. Only those frequency bands necessary for satisfactory operation shall be requested.

(c) Licensees of AM, FM, TV, and International broadcast stations; low power TV stations; and broadcast network entities may be authorized to operate low power auxiliary stations in the frequency bands set forth in §74.802(a).

(d) Cable television operations, motion picture and television program producers, large venue owners or operators, and professional sound companies may be authorized to operate low power auxiliary stations in the bands allocated for TV broadcasting, the 941.500–952.000 MHz band, the 952.850–956.250 MHz band, the 956.45–959.85 MHz band, the 1435–1525 MHz band, the 6875–6900 MHz band, and the 7100–7125 MHz band. In the 6875–6900 MHz and 7100–7125 MHz bands, entities eligible to hold licenses for cable television relay service stations (see section 78.13 of this chapter) shall also be eligible to hold licenses for low power auxiliary stations.

(e) An application for low power auxiliary stations or for a change in an existing authorization shall specify the broadcast station, or the network with which the low power broadcast auxiliary facilities are to be principally used as given in paragraph (h) of this section; or it shall specify the motion picture or television production company, the cable television operator, the professional sound company, or, if applicable, the venue with which the low power broadcast auxiliary facilities are to be solely used. A single application, filed on FCC Form 601 may be used in applying for the authority to operate one or more low power auxiliary units. The application must specify the frequency bands which will be used. Motion picture producers, television program producers, cable television operators, large venue owners or operators, and professional sound companies are required to attach a single sheet to their application form explaining in detail the manner in which the eligibility requirements given in paragraph (a) of this section are met. In addition, large venue owners or operators and professional sound companies shall include on the attachment the following certification and shall sign and date the certification: ''The applicant hereby certifies that it routinely uses 50 or more low power auxiliary station devices, where the use of such devices is an integral part of major events or productions.''

(f) Applications for the use of the bands allocated for TV broadcasting must specify the usual area of operation within which the low power auxiliary station will be used. This area of operation may, for example, be specified as the metropolitan area in which the broadcast licensee serves, the usual area within which motion picture and television producers are operating, or the location of the venue. Licenses issued to large venue owners or operators are specific to a single venue and authorize operation only at that venue. Because low power auxiliary stations operating in these bands will only be permitted in areas removed from existing co-channel TV broadcast stations, licensees have full responsibility to ensure that operation of their stations does not occur at distances less than those specified in § 74.802(b).

(g) Low power auxiliary licensees shall specify the maximum number of units that will be operated.

(h) For broadcast licensees, low power auxiliary stations will be licensed for use with a specific broadcast station or combination of broadcast stations licensed to the same licensee and to the same community. Licensing of low power auxiliary stations for use with a specific broadcast station or combination of such stations does not preclude their use with other broadcast stations of the same or a different licensee at any location. Operation of low power auxiliary stations outside the area of operation specified in the authorization, or in other bands is permitted without further authority of the Commission. However, operation of low power auxiliary stations shall, at all times, be in accordance with the requirements of § 74.882 of this subpart. Also, a low power auxiliary station that is being used with a broadcast station or network other than one with which it is licensed, must, in addition to meeting the requirements of § 74.861 of this subpart, not cause harmful interference to another low power auxiliary station which is being used with the broadcast station(s) or network with which it is licensed.

(i) In case of permanent discontinuance of operations of a station licensed under this subpart, the licensee shall cancel the station license using FCC Form 601. For purposes of this section, a station which is not operated for a period of one year is considered to have been permanently discontinued.

(j) The license shall be retained in the licensee's files at the address shown on the authorization, posted at the transmitter, or posted at the control point of the station.

[42 FR 14729, Mar. 16, 1977, as amended at 47 FR 9221, Mar. 4, 1982; 47 FR 21503, May 18, 1982; 47 FR 55938, Dec. 14, 1982; 51 FR 4603, Feb. 6, 1986; 51 FR 9966, Mar. 24, 1986; 52 FR 2535, Jan. 23, 1987; 55 FR 46012, Oct. 31, 1990; 58 FR 19776, Apr. 16, 1993; 68 FR 12772, Mar. 17, 2003; 69 FR 72045, Dec. 10, 2004; 79 FR 40689, July 14, 2014; 80 FR 71729, Nov. 17, 2015]

EFFECTIVE DATE NOTE: At 82 FR 41560, Sept. 1, 2017, §74.832 was amended by revising paragraph (d), effective Oct. 2, 2017. For the convenience of the user, the revised text is set forth as follows:

§ 74.832 Licensing requirements and procedures.

* * * * *

(d) Cable television operations, motion picture and television program producers, large venue owners or operators, and professional sound companies may be authorized to operate low power auxiliary stations in the bands allocated for TV broadcasting, the 653–657 MHz band, the 941.5–944 MHz band, the 944–952 MHz band, the 952.850–956.250 MHz band, the 956.45–959.85 MHz band, the 1435–1525 MHz band, the 6875–6900 MHz band, and the 7100–7125 MHz band. In the 6875–6900 MHz and 7100–7125 MHz bands, entities eligible to hold licenses for cable television relay service stations (see §78.13 of this chapter) shall also be eligible to hold licenses for low power auxiliary stations.

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§ 74.833 Temporary authorizations.

(a) Special temporary authority may be granted for low power auxiliary station operation which cannot be conducted in accordance with §74.24. Such authority will normally be granted only for operations of a temporary nature. Where operation is seen as likely on a continuing annual basis, an application for a regular authorization should be submitted.

(b) A request for special temporary authority for the operation of a remote pickup broadcast station must be made in accordance with the procedures of §1.931(b) of this chapter.

(c) All requests for special temporary authority of a low power auxiliary station must include full particulars including: licensees name and address, statement of eligibility, facility identification number of the associated broadcast station (if any), type and manufacturer of equipment, power output, emission, frequency or frequencies proposed to be used, commencement and termination date, location of proposed operation, and purpose for which request is made including any particular justification.

(d) A request for special temporary authority shall specify a frequency band consistent with the provisions of §74.802: *Provided*, That, in the case of events of wide-spread interest and importance which cannot be transmitted successfully on these frequencies, frequencies assigned to other services may be requested upon a showing that operation thereon will not cause interference to established stations: *And provided further*, In no case will operation of a low power auxiliary broadcast station be authorized on frequencies employed for the safety of life and property.

(e) The user shall have full control over the transmitting equipment during the period it is operated.

(f) Special temporary authority to permit operation of low power auxiliary stations pending Commission action on an application for regular authority will not normally be granted.

[42 FR 14729, Mar. 16, 1977, as amended at 47 FR 9221, Mar. 4, 1982; 47 FR 55939, Dec. 14, 1982; 58 FR 19776, Apr. 16, 1993; 68 FR 12772, Mar. 17, 2003]

§ 74.851 Certification of equipment; prohibition on manufacture, import, sale, lease, offer for sale or lease, or shipment of devices that operate in the 700 MHz Band or the 600 MHz Band; labeling for 700 MHz or 600 MHz band equipment destined for non-U.S. markets; disclosures.

(a) Applications for new low power auxiliary stations will not be accepted unless the transmitting equipment specified therein has been certificated for use pursuant to provisions of this subpart.

(b) Any manufacturer of a transmitter to be used in this service may

apply for certification for such transmitter following the certification procedure set forth in part 2 of the Commission's Rules and Regulations. Attention is also directed to part 1 of the Commission's Rules and Regulations which specifies the fees required when filing an application for certification.

(c) An applicant for a low power auxiliary station may also apply for certification for an individual transmitter by following the certification procedure set forth in part 2 of the Commission's Rules and Regulations. The application for certification must be accompanied by the proper fees as prescribed in part 1 of the Commission's Rules and Regulations.

(d) Low power auxiliary station equipment authorized to be used pursuant to an application accepted for filing prior to December 1, 1977 may continue to be used by the licensee or its successors or assignees: *Provided, however*, If operation of such equipment causes harmful interference due to its failure to comply with the technical standards set forth in this subpart, the Commission may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

(e) Each instrument of authority which permits operation of a low power auxiliary station using equipment which has not been certificated will specify the particular transmitting equipment which the licensee is authorized to use.

(f) All transmitters marketed for use under this subpart shall be certificated by the Federal Communications Commission for this purpose. (Refer to subpart I of part 2 of the Commission's rules and regulations.)

(g) No person shall manufacture, import, sell, lease, offer for sale or lease, or ship low power auxiliary stations that are capable of operating in the 700 MHz band (698–806 MHz). This prohibition does not apply to devices manufactured solely for export.

(h) Any person who manufactures, sells, leases, or offers for sale or lease low power auxiliary stations, including wireless microphones, that are destined for non-U.S. markets and that are capable of operating in the 700 MHz band shall include labeling and make clear in all sales, marketing, and packaging materials, including online materials, relating to such devices that the devices cannot be operated in the U.S.

(i) Nine months after the release of the Commission's Channel Reassignment Public Notice issued pursuant to Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, Report and Order, GN Docket No. 12–268, 29 FCC Rcd 6567 (2014), applications for certification shall no longer be accepted for low power auxiliary stations or wireless video assist devices that are capable of operating in the 600 MHz service band or the 600 MHz guard bands, or for low power auxiliary stations that are capable of operating in the 600 MHz duplex gap unless the operations are limited to the four megahertz segment from one to five megahertz above the lower edge of the 600 MHz duplex gap.

(j) Eighteen months after the release of the Commission's Channel Reassignment Public Notice issued pursuant to Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, Report and Order, GN Docket No. 12–268, 29 FCC Rcd 6567 (2014), no person shall manufacture, import, sell, lease, offer for sale or lease, or ship low power auxiliary stations or wireless video assist devices that are capable of operating in the 600 MHz service band or the 600 MHz guard bands, or low power auxiliary stations that are capable of operating in the 600 MHz duplex gap unless the operations are limited to the four megahertz segment from one to five megahertz above the lower edge of the 600 MHz duplex gap. This prohibition does not apply to devices manufactured solely for export.

(k) Eighteen months after the release of the Commission's Channel Reassignment Public Notice issued pursuant to Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, Report and Order, GN Docket No. 12–268, 29 FCC Rcd 6567 (2014), any person who manufactures, sells, leases, or offers for sale or lease low power auxiliary stations or wireless video assist devices that are destined for non-U.S. markets and that are capable of operating in

the 600 MHz service band or the 600 MHz guard bands, or low power auxiliary stations that are capable of operating in the 600 MHz duplex gap unless such operations are limited to the four megahertz segment from one to five megahertz above the lower edge of the 600 MHz duplex gap, shall include labeling and make clear in all sales, marketing, and packaging materials, including online materials, relating to such devices that the devices cannot be operated in the United States.

(l) *Disclosure requirements for low power auxiliary station and wireless video assist devices capable of operating in the 600 MHz service band.* Any person who manufactures, sells, leases, or offers for sale or lease low power auxiliary stations or wireless video assist devices that are capable of operating in the 600 MHz service band three months following issuance of the Channel Reassignment Public Notice, as defined in section 73.3700(a)(2) of this chapter, is subject to the following disclosure requirements:

(1) Such persons must display the consumer disclosure text, as specified by the Consumer and Governmental Affairs Bureau, at the point of sale or lease of each such low power auxiliary station or wireless video assist device. The text must be displayed in a clear, conspicuous, and readily legible manner. One way to fulfill the requirement in this section is to display the consumer disclosure text in a prominent manner on the product box by using a label (either printed onto the box or otherwise affixed to the box), a sticker, or other means. Another way to fulfill this requirement is to display the text immediately adjacent to each low power auxiliary station or wireless video assist device offered for sale or lease and clearly associated with the model to which it pertains.

(2) If such persons offer such low power auxiliary stations or wireless video assist device via direct mail, catalog, or electronic means, they shall prominently display the consumer disclosure text in close proximity to the images and descriptions of each such low power auxiliary station or wireless video assist device. The text should be in a size large enough to be clear, conspicuous, and readily legible, consistent with the dimensions of the advertisement or description.

(3) If such persons have Web sites pertaining to these low power auxiliary stations or wireless video assist devices, the consumer disclosure text must be displayed there in a clear, conspicuous, and readily legible manner (even in the event such persons do not sell low power auxiliary stations or wireless video assist devices directly to the public).

(4) The consumer disclosure text described in paragraph (l)(1) of this section is set forth as an appendix to this section.

(Sec. 5, 48 Stat. 1068; 47 U.S.C. 155)

[42 FR 14729, Mar. 16, 1977, as amended at 42 FR 43637, Aug. 22, 1977; 43 FR 13576, Mar. 31, 1978; 63 FR 36605, July 7, 1998; 75 FR 3639, Jan. 22, 2010; 80 FR 71729, Nov. 17, 2015]

EFFECTIVE DATE NOTES: 1. At 80 FR 71729, Nov. 17, 2015, in §74.851, (l) was added. This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

2. At 82 FR 41561, Sept. 1, 2017, §74.851 was amended by revising paragraphs (i) through (k), and paragraph (l) introductory text, effective Oct. 2, 2017. For the convenience of the user, the revised text is set forth as follows:

§ 74.851 Certification of equipment, prohibition on manufacture, import, sale, lease, offer for sale or lease, or shipment of devices that operate in the 700 MHz or the 600 MHz Band; labeling for 700 MHz or 600 MHz band equipment destined for non-U.S. markets; disclosures.

* * * * *

(i) As of January 13, 2018, applications for certification shall no longer be accepted for low power auxiliary stations or wireless video assist devices that are capable of operating in the 600 MHz service band or the 600 MHz guard band, or for low power auxiliary stations that are capable of operating in the 600 MHz duplex gap unless the operations are limited to the 653–657 MHz segment.

(j) As of October 13, 2018, no person shall manufacture, import, sell, lease, offer for sale or lease, or ship low power auxiliary stations or wireless video assist devices that are capable of operating in the 600 MHz service band or the 600 MHz guard bands, or low power auxiliary stations that are capable of operating in the 600 MHz duplex gap unless the operations are limited to the 653–657 MHz

segment. This prohibition does not apply to devices manufactured solely for export.

(k) As of October 13, 2018, any person who manufacturers, sells, leases, or offer for sale or lease low power auxiliary stations or wireless video assist devices that are destined for non-U.S. markets and that are capable of operating in the 600 MHz service band or the 600 MHz guard bands, or low power auxiliary stations that are capable of operating in the 600 MHz duplex gap unless such operations are limited to the 653–657 MHz segment, shall include labeling and make clear in all sales, marketing, and packaging materials, including online materials, relating to such devices that the devices cannot be operated in the United States.

(l) Disclosure requirements for low power auxiliary stations and wireless video assist devices capable of operating in the 600 MHz service band. Any person who manufactures, sells, leases, or offers for sale or lease low power auxiliary stations or wireless video devices that are capable of operating in the 600 MHz service band on or after July 13, 2017, is subject to the following disclosure requirements:

* * * * *

§ 74.852 Equipment changes.

(a) The licensee of a low power auxiliary station may make any changes in the equipment that are deemed desirable or necessary, including replacement with certificated equipment, without prior Commission approval: *Provided*, The proposed changes will not depart from any of the terms of the station authorization or the Commission's technical rules governing this service: *And provided further*, That any changes made to certificated transmitted equipment shall be in compliance with the provisions of part 2 of the Commission's rules and regulations concerning modification of certificated equipment.

(b) Any equipment changes made pursuant to paragraph (a) of this section shall be set forth in the next application for renewal of license.

(Sec. 5, 48 Stat. 1068; 47 U.S.C. 155)

[42 FR 14729, Mar. 16, 1977, as amended at 43 FR 13576, Mar. 31, 1978; 63 FR 36605, July 7, 1998]

§ 74.861 Technical requirements.

(a) Except as specified in paragraph (e) of this section, transmitter power is the power at the transmitter output terminals and delivered to the antenna, antenna transmission line, or any other impedance-matched, radio frequency load. For the purpose of this subpart, the transmitter power is the carrier power.

(b) Each authorization for a new low power auxiliary station shall require the use of certificated equipment. Such equipment shall be operated in accordance with the emission specifications included in the certification grant and as prescribed in paragraphs (c) through (e) of this section.

(c) Low power auxiliary transmitters not required to operate on specific carrier frequencies shall operate sufficiently within the authorized frequency band edges to insure the emission bandwidth falls entirely within the authorized band.

(d) For low power auxiliary stations operating in the bands other than those allocated for TV broadcasting, the following technical requirements are imposed.

(1) For all bands except the 1435–1525 MHz band, the maximum transmitter power which will be authorized is 1 watt. In the 1435–1525 MHz band, the maximum transmitter power which will be authorized is 250 milliwatts. Licensees may accept the manufacturer's power rating; however, it is the licensee's responsibility to observe specified power limits.

(2) If a low power auxiliary station employs amplitude modulation, modulation shall not exceed 100 percent on positive or negative peaks.

(3) For the 26.1–26.480 MHz, 161.625–161.775 MHz, 450–451 MHz, and 455–456 MHz bands, the occupied bandwidth shall not be greater than that necessary for satisfactory transmission and, in any event, an emission appearing on any discrete frequency outside the authorized band shall be attenuated, at least, $43+10\log^{10}$ (mean output power, in watts) dB below the mean output power of the transmitting unit. The requirements of this paragraph shall also apply to the applications for certification of equipment for the 944–952 MHz band until nine months after release of the Commission's Channel Reassignment Public Notice, as defined in section 73.3700(a)(2) of this chapter.

(4)(i) For the 941.5–952 MHz, 952.850–956.250 MHz, 956.45–959.85 MHz, 1435–1525 MHz, 6875–6900 MHz and 7100–7125 MHz bands, analog emissions within the band from one megahertz below to one megahertz above the carrier frequency shall comply with the emission mask in *Section 8.3.1.2 of the European Telecommunications Institute Standard ETSI EN 300 422–1 v1.4.2 (2011–08),*. Beyond one megahertz below and above the carrier frequency, emissions shall be attenuated 90 dB below the level of the unmodulated carrier.

(ii) For the 941.5–952 MHz, 952.850–956.250 MHz, 956.45–959.85 MHz, and 1435–1525 MHz bands, digital emissions within the band from one megahertz below to one megahertz above the carrier frequency shall comply with the emission mask in *Section 8.3.2.2 (Figure 4) of the European Telecommunications Institute Standard ETSI EN 300 422–1 v1.4.2 (2011–08*. Beyond one megahertz below and above the carrier frequency, emissions shall be attenuated 90 dB below the level of the unmodulated carrier.

(iii) In the 6875–6900 MHz and 7100–7125 MHz bands, digital emissions within the band from one megahertz below to one megahertz above the carrier frequency shall comply with the emission mask in *Section 8.3.2.2 (Figure 5) of the European Telecommunications Institute Standard ETSI EN 300 422–1 v1.4.2 (2011–08)*. Beyond one megahertz below and above the carrier frequency, emissions shall be attenuated 90 dB below the level of the unmodulated carrier.

(iv) For the 944–952 MHz band, the requirements of this paragraph (d)(4) shall not apply to the applications for certification of equipment for that band until nine months after release of the Commission's Channel Reassignment Public Notice, as defined in section 73.3700(a)(2) of this chapter.

(e) For low power auxiliary stations operating in the 600 MHz duplex gap and the bands allocated for TV broadcasting, the following technical requirements apply:

(1) The power may not exceed the following values.

(i) 54–72, 76–88, and 174–216 MHz bands: 50 mW EIRP

(ii) 470–608 and 614–698: 250 mW conducted power

(iii) 600 MHz duplex gap: 20 mW EIRP

(2) Transmitters may be either crystal controlled or frequency synthesized.

(3) Any form of modulation may be used. A maximum deviation of ±75 kHz is permitted when frequency modulation is employed.

(4) The frequency tolerance of the transmitter shall be 0.005 percent.

(5) The operating bandwidth shall not exceed 200 kHz.

(6) The mean power of emissions shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(i) On any frequency removed from the operating frequency by more than 50 percent up to and including 100 percent of the authorized bandwidth: at least 25 dB;

(ii) On any frequency removed from the operating frequency by more than 100 percent up to and including 250 percent of the authorized bandwidth: at least 35 dB;

(iii) On any frequency removed from the operating frequency by more than 250 percent of the authorized bandwidth: at least $43 + 10\log_{10}$ (mean output power in watts) dB.

(7) Analog emissions within the band from one megahertz below to one megahertz above the carrier frequency shall comply with the emission mask in *Section 8.3.1.2 of the European Telecommunications Institute Standard ETSI EN 300 422–1 v1.4.2 (2011–08)*. Digital emissions within the band from one megahertz below to one megahertz above the carrier frequency shall comply with the emission mask in *Section 8.3.2.2 (Figure 4) of the European Telecommunications Institute Standard ETSI EN 300 422–1 v1.4.2 (2011–08)*. Beyond one megahertz below and above the carrier frequency, emissions shall be attenuated 90 dB below the level of the unmodulated carrier. The requirements of this paragraph (e)(7) shall not apply to applications for certification of equipment in these bands until nine months after release of the Commission's Channel Reassignment Public Notice, as defined in §73.3700(a)(2) of this chapter.

(f) Unusual transmitting antennas or antenna elevations shall not be used to deliberately extend the range of low

power auxiliary stations beyond the limited areas defined in § 74.831.

(g) Low power auxiliary stations shall be operated so that no harmful interference is caused to any other class of station operating in accordance with Commission's rules and regulations and with the Table of Frequency Allocations in part 2 thereof.

(h) In the event a station's emissions outside its authorized frequency band causes harmful interference, the Commission may, at its discretion, require the licensee to take such further steps as may be necessary to eliminate the interference.

(i) The materials listed in this section are incorporated by reference in this part. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the FEDERAL REGISTER. All approved material is available for inspection at the Federal Communications Commission, 445 12th St. SW., Reference Information Center, Room CY–A257, Washington, DC 20554, (202) 418–0270 and is available from the sources below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(1) European Telecommunications Standards Institute, 650 Route des Lucioles, 06921 Sophia Antipolis Cedex, France. A copy of the standard is also available at *http://www.etsi.org/deliver/etsi_en/300400_300499/30042201/01.03.02_60/en_30042201v010302p.pdf*.

(i) ETSI EN 300 422–1 V1.4.2 (2011–08): ''*Electromagnetic compatibility and Radio spectrum Matters (ERM); Wireless microphones in the 25 MHz to 3 GHz frequency range; Part 1: Technical characteristics and methods of measurement*,'' Copyright 2011, IBR approved for section 15.236(g).

(ii) [Reserved]

(2) [Reserved].

(Sec. 5, 48 Stat. 1068; 47 U.S.C. 155)

[43 FR 13576, Mar. 31, 1978, as amended at 52 FR 2535, Jan. 23, 1987; 63 FR 36605, July 7, 1998; 75 FR 3639, Jan. 22, 2010; 80 FR 71730, Nov. 17, 2015; 80 FR 73085, Nov. 23, 2015]

EFFECTIVE DATE NOTE: At 82 FR 41561, Sept. 1, 2017, § 74.861 was amended by revising paragraphs (d)(3), (d)(4)(i) through (iii), and (e)(7), effective Oct. 2, 2017. For the convenience of the user, the revised text is set forth as follows:

§ 74.861 Technical requirements.

* * * * *

(d) * * *

(3) For the 26.1–26.480 MHz, 161.625–161.775 MHz, 450–451 MHz, and 455–456 MHz bands, the occupied bandwidth shall not be greater than that necessary for satisfactory transmission and, in any event, an emission appearing on any discrete frequency outside the authorized band shall be attenuated, at least, $43+10\log^{10}$ (mean output power, in watts) dB below the mean output power of the transmitting unit. The requirements of this paragraph shall also apply to the applications for certification of equipment for the 944–952 MHz band until January 13, 2018.

(4)(i) For the 653–657 MHz, 941.5–944 MHz, 944–952 MHz, 952.850–956.250 MHz, 956.45–959.85 MHz, 1435–1525 MHz, 6875–6900 MHz and 7100–7125 MHz bands, analog emissions within the band from one megahertz below to one megahertz above the carrier frequency shall comply with the emission mask in section 8.3.1.2 of the European Telecommunications Institute Standard ETSI EN 300 422–1 v1.4.2 (2011–08), Electromagnetic compatibility and Radio spectrum Matters (ERM); Wireless microphones in the 25 MHz to 3 GHz frequency range; Part 1: Technical characteristics and methods of measurement. Beyond one megahertz below and above the carrier frequency, emissions shall comply with the limits specified in section 8.4 of ETSI EN 300 422–1 v1.4.2 (2011–08).

(ii) For the 653–657 MHz, 941.5–944 MHz, 944–952 MHz, 952.850–956.250 MHz, 956.45–959.85 MHz, and 1435–1525 MHz bands, digital emissions within the band from one megahertz below to one megahertz above the carrier frequency shall comply with the emission mask in section 8.3.2.2 (Figure 4) of the European Telecommunications Institute Standard ETSI EN 300 422–1 v1.4.2 (2011–08), Electromagnetic compatibility and Radio spectrum Matters (ERM); Wireless microphones in the 25 MHz to 3 GHz frequency range; part 1: Technical characteristics and methods of measurement. Beyond one megahertz below and above the carrier frequency, emissions

shall comply with the limits specified in section 8.4 of ETSI EN 300 422–1 v1.4.2 (2011–08).

(iii) In the 6875–6900 MHz and 7100–7125 MHz bands, digital emissions within the band from one megahertz below to one megahertz above the carrier frequency shall comply with the emission mask in section 8.3.2.2 (Figure 5) of the European Telecommunications Institute Standard ETSI EN 300 422–1 v1.4.2 (2011–08), Electromagnetic compatibility and Radio spectrum Matters (ERM); Wireless microphones in the 25 MHz to 3 GHz frequency range; part 1: Technical characteristics and methods of measurement. Beyond one megahertz below and above the carrier frequency, emissions shall comply with the limits specified in section 8.4 of ETSI EN 300 422–1 v1.4.2 (2011–08).

* * * * *

(e) * * *

(7) Analog emissions within the band from one megahertz below to one megahertz above the carrier frequency shall comply with the emission mask in section 8.3.1.2 of the European Telecommunications Institute Standard ETSI EN 300 422–1 v1.4.2 (2011–08), Electromagnetic compatibility and Radio spectrum Matters (ERM); Wireless microphones in the 25 MHz to 3 GHz frequency range; part 1: Technical characteristics and methods of measurement. Digital emissions within the band from one megahertz below to one megahertz above the carrier frequency shall comply with the emission mask in section 8.3.2.2 (Figure 4) of the European Telecommunications Institute Standard ETSI EN 300 422–1 v1.4.2 (2011–08), Electromagnetic compatibility and Radio spectrum Matters (ERM); Wireless microphones in the 25 MHz to 3 GHz frequency range; part 1: Technical characteristics and methods of measurement. Beyond one megahertz below and above the carrier frequency, emissions shall comply with the limits specified in section 8.4 of ETSI EN 300 422–1 v1.4.2 (2011–08). The requirements of this paragraph (e)(7) shall not apply to applications for certification of equipment in these bands until nine months after release of the Commission's Channel Reassignment Public Notice, as defined in § 73.3700(a)(2) of this chapter.

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§ 74.870 Wireless video assist devices.

Television broadcast auxiliary licensees and motion picture and television producers, as defined in § 74.801 may operate wireless video assist devices on a non-interference basis on VHF and UHF television channels to assist with production activities.

(a) The use of wireless video assist devices must comply with all provisions of this subpart, except as indicated in paragraphs (b) through (i) of this section.

(b) Wireless video assist devices may only be used for scheduled productions. They may not be used to produce live events and may not be used for electronic news gathering purposes.

(c) Wireless video assist devices may operate with a bandwidth not to exceed 6 MHz on frequencies in the bands 180–210 MHz (TV channels 8–12) and 470–698 MHz (TV channels 14–51) subject to the following restrictions:

(1) The bandwidth may only occupy a single TV channel.

(2) Operation is prohibited within the 608–614 MHz (TV channel 37) band.

(3) Operation is prohibited within 129 km of a television broadcasting station, including Class A television stations, low power television stations and translator stations.

(4) For the area and frequency combinations listed in the table below, operation is prohibited within the distances indicated from the listed geographic coordinates.

NOTE TO THE FOLLOWING TABLE: All coordinates are referenced to the North American Datum of 1983.

Area	North latitude	West longitude	Excluded frequencies (MHz)	Excluded channels		
				200 km	128 km	52 km
Boston, MA	42°21′24.4″	71°03′23.2″	470–476	14	.....	.....
			476–482	.....	15	.....
			482–488	16	.....	.....
			488–494	.....	17	.....
Chicago, IL	41°52′28.1″	87°38′22.2″	470–476	14	.....	.....
			476–482	15	.....	.....
			482–488	.....	16	.....
Cleveland, OH[1]	41°29′51.2″	81°41′49.5″	470–476	14	.....	.....
			476–482	.....	15	.....
			482–488	16	.....	.....
			488–494	.....	17	.....

Area	North latitude	West longitude	Excluded frequencies (MHz)	Excluded channels		
				200 km	128 km	52 km
Dallas/Fort Worth, TX	32°47′09.5″	96°47′38.0″	476–482	.....	15	.....
			482–488	16	.....	.....
			488–494	.....	17	.....
Detroit, MI [1]	42°19′48.1″	83°02′56.7″	470–476	.....	14	.....
			476–482	15	.....	.....
			482–488	.....	16	.....
			488–494	17	.....	.....
Gulf of Mexico			476–494	.....	.....	15, 16, 17
Hawaii			488–494	.....	.....	17
Houston, TX	29°45′26.8″	95°21′37.8″	482–488	.....	16	.....
			488–494	17	.....	.....
			494–500	.....	18	.....
Los Angeles, CA	34°03′15.0″	118°14′31.3″	470–476	14	.....	.....
			476–482	.....	15	.....
			482–488	16	.....	.....
			488–494	.....	17	.....
			500–506	.....	19	.....
			506–512	20	.....	.....
			512–518	.....	21	.....
Miami, Fl	25°46′38.4″	80°11′31.2″	470–476	14	.....	
			476–482	.....	15	.....
New York/NE New Jersey	40°45′	73°59′37.5″	470–476	14	.....	.....
			476–482	15	.....	.....
			482–488	16	.....	.....
			488–494	.....	17	.....
			494–500	.....	18	.....
			500–506	19	.....	.....
			506–512	.....	20	.....
Philadelphia, PA	39°56′58.4″	75°09′19.6″	494–500	.....	18	.....
			500–506	19	.....	.....
			506–512	20	.....	.....
			512–518	.....	21	.....
Pittsburgh, PA	40°26′19.2″	79°59′59.2″	470–476	14	.....	.....
			476–482	.....	15	.....
			488–494	.....	17	.....
			494–500	18	.....	.....
			500–506	.....	19	.....
San Francisco/Oakland, CA	37°46′38.7″	122°24′43.9″	476–482	.....	15	.....
			482–488	16	.....	.....
			488–494	17	.....	.....
			494–500	.....	18	.....
Washington D.C./MD/VA	38°53′51.4″	77°00′31.9″	482–488	.....	16	.....
			488–494	17	.....	.....
			494–500	18	.....	.....
			500–506	.....	19	.....

[1] The distance separation requirements are not applicable in these cities until further order from the Commission.

(d) Wireless video assist devices are limited to a maximum of 250 milliwatts ERP and must limit power to that necessary to reliably receive a signal at a distance of 300 meters. Wireless video assist devices must comply with the emission limitations of § 74.637.

(e) The antenna of a wireless video assist device must be attached to the transmitter either permanently, or by means of a unique connector designed to allow replacement of authorized antennas but prevent the use of unauthorized antennas. When transmitting, the antenna must not be more that 10 meters above ground level.

(f)(1) A license for a wireless video assist device will authorize the license holder to use all frequencies available for wireless video assist devices, subject to the limitations specified in this section.

(2) Licensees may operate as many wireless video assist devices as necessary, subject to the notification procedures of this section.

(g) *Notification procedure.* Prior to the commencement of transmitting, licensees must notify the local broadcasting coordinator of their intent to transmit. If there is no local coordinator in the intended area of operation, licensees must notify all adjacent channel TV

stations within 161 km (100 mi) of the proposed operating area.

(1) Notification must be made at least 10 working days prior to the date of intended transmission.

(2) Notifications must include:

(i) Frequency or frequencies.

(ii) Location.

(iii) Antenna height.

(iv) Emission type(s).

(v) Effective radiated power.

(vi) Intended dates of operation.

(vii) Licensee contact information.

(3)(i) Failure of a local coordinator to respond to a notification request prior to the intended dates of operation indicated on the request will be considered as having the approval of the coordinator. In this case, licensees must in addition notify all co-channel and adjacent channel TV stations within 161 km (100 mi) of the proposed operating area. This notification is for information purposes only and will not enable TV stations to prevent a WAVD from operating, but is intended to help identify the source of interference if any is experienced after a WAVD begins operation.

(ii) If there is no local coordinator in the intended area of operation, failure of any adjacent channel TV station to respond to a notification request prior to the intended dates of operation indicated on the request will be considered as having the approval of the TV station.

(4) Licensees must operate in a manner consistent with the response of the local coordinator, or, if there is no local coordinator in the intended area of operation, the responses of the adjacent channel TV stations. Disagreements may be appealed to the Commission. However, in those instances, the licensee will bear the burden of proof and proceeding to overturn the recommendation of the local coordinator or the co-channel or adjacent channel TV station.

(h) Licenses for wireless video assist devices may not be transferred or assigned.

(i) *Operations in 600 MHz band assigned to wireless licensees under part 27 of this chapter.* A wireless video assist device that operates on frequencies in the 600 MHz band assigned to wireless licensees under part 27of this chapter must cease operations on those frequencies no later than the end of the post-auction transition period as defined in §27.4 of this chapter. During the post-auction transition period, wireless video assist devices will operate on a secondary basis to licensees of part 27 of this chapter, *i.e.*, they must not cause to and must accept harmful interference from these licensees.

[68 FR 12772, Mar. 17, 2003, as amended at 68 FR 69331, Dec. 12, 2003; 79 FR 48545, Aug. 15, 2014]

§ 74.882 Station identification.

(a) For transmitters used for voice transmissions and having a transmitter output power exceeding 50 mW, an announcement shall be made at the beginning and end of each period of operation at a single location, over the transmitting unit being operated, identifying the transmitting unit's call sign or designator, its location, and the call sign of the broadcasting station or name of the licensee with which it is being used. A period of operation may consist of a continuous transmission or intermittent transmissions pertaining to a single event.

(b) Each wireless video assist device, when transmitting, must transmit station identification at the beginning and end of each period of operation. Identification may be made by transmitting the station call sign by visual or aural means or by automatic transmission in international Morse telegraphy.

(1) A period of operation is defined as a single uninterrupted transmission or a series of intermittent transmissions from a single location.

(2) Station identification shall be performed in a manner conducive to prompt association of the signal source with the responsible licensee. In exercising the discretion provide by this rule, licensees are expected too act in a responsible manner to assure that result.

[68 FR 12774, Mar. 17, 2003]

Subparts I–K [Reserved]

Subpart L—FM Broadcast Translator Stations and FM Broadcast Booster Stations

SOURCE: 35 FR 15388, Oct. 2, 1970, unless otherwise noted.

§ 74.1201 Definitions.

(a) *FM translator.* A station in the broadcasting service operated for the purpose of retransmitting the signals of an AM or FM radio broadcast station or another FM broadcast translator station without significantly altering any characteristics of the incoming signal other than its frequency and amplitude, in order to provide radio broadcast service to the general public.

(b) *Commercial FM translator.* An FM broadcast translator station which rebroadcasts the signals of a commercial AM or FM radio broadcast station.

(c) *Noncommercial FM translator.* An FM broadcast translator station which rebroadcasts the signals of a noncommercial educational AM or FM radio broadcast station.

(d) *Primary station.* The AM or FM radio broadcast station radiating the signals which are retransmitted by an FM broadcast translator station or an FM broadcast booster station.

(e) *AM or FM radio broadcast station.* When used in this Subpart L, the term AM broadcast station or AM radio broadcast station or FM broadcast station or FM radio broadcast station refers to commercial and noncommercial educational AM or FM radio broadcast stations as defined in §2.1 of this chapter, unless the context indicates otherwise.

(f) *FM broadcast booster station.* A station in the broadcasting service operated for the sole purpose of retransmitting the signals of an FM radio broadcast station, by amplifying and reradiating such signals, without significantly altering any characteristic of the incoming signal other than its amplitude.

(g) *Translator coverage contour.* For a fill-in FM translator rebroadcasting an FM radio broadcast station as its primary station, the FM translator's coverage contour must be contained within the primary station's coverage contour. For purposes of this rule section, the coverage contour of the FM translator has the same field strength value as the protected contour of the primary FM station (*i.e.*, for a commercial Class B FM station it is the predicted 0.5 mV/m field strength contour, for a commercial Class B1 FM station it is the predicted 0.7 mV/m field strength contour, and for all other classes of FM stations it is the predicted 1 mV/m field strength contour). The coverage contour of an FM translator rebroadcasting an AM radio broadcast station as its primary station must be contained within the greater of either the 2 mV/m daytime contour of the AM station or a 25-mile (40 km) radius centered at the AM transmitter site. The protected contour for an FM translator station is its predicted 1 mV/m contour.

(h) *Fill-in area.* The area where the coverage contour of an FM translator or booster station is within the protected contour of the associated primary station (*i.e.*, predicted 0.5 mV/m contour for commercial Class B stations, predicted 0.7 mV/m contour for commercial Class B1 stations, and predicted 1 mV/m contour for all other classes of stations).

(i) *Other area.* The area where the coverage contour of an FM translator station extends beyond the protected contour of the primary station (*i.e.*, predicted 0.5 mV/m contour for commercial Class B stations, predicted 0.7 mV/m contour for commercial Class B1 stations, and predicted 1 mV/m contour for all other classes of stations).

(j) *AM Fill-in area.* The area within the lesser of the 2 mV/m daytime contour of the AM radio broadcast station being rebroadcast and a 25-mile (40 km) radius centered at the AM transmitter site.

[35 FR 15388, Oct. 2, 1970, as amended at 45 FR 37842, June 5, 1980; 52 FR 31405, Aug. 20, 1987; 55 FR 50693, Dec. 10, 1990; 74 FR 45129, Sept. 1, 2009; 82 FR 13072, Mar. 9, 2017]

EFFECTIVE DATE NOTE: At 82 FR 13072, Mar. 9, 2017, §74.1201 was amended by revising the last two sentences of paragraph (g), effective Apr. 10, 2017. At 82 FR 13069, Mar. 9, 2017, the effective date was delayed indefinitely pending OMB approval of a non-substantive change in the rule as originally proposed.

§ 74.1202 Frequency assignment.

(a) An applicant for a new FM broadcast translator station or for changes in the facilities of an authorized translator station shall endeavor to select a channel on which its operation is not likely to cause interference to the reception of other stations. The application must be specific with regard to the frequency requested. Only one output channel will be assigned to each translator station.

(b) Subject to compliance with all the requirements of this subpart, FM broadcast translators may be authorized to operate on the following FM channels, regardless of whether they are assigned for local use in the FM Table of Allotments (§ 73.202(b) of this chapter):

(1) *Commercial FM translators:* Channels 221–300 as identified in § 73.201 of this chapter.

(2) *Noncommercial FM translators:* Channels 201–300 as identified in § 73.201 of this chapter. Use of reserved channels 201–220 is subject to the restrictions specified in § 73.501 of this chapter.

(3) In Alaska, FM translators operating on Channels 201–260 (88.1–99.9 MHz) shall not cause harmful interference to and must accept interference from non-Government fixed operations authorized prior to January 1, 1982.

(c) An FM broadcast booster station will be assigned the channel assigned to its primary station.

[35 FR 15388, Oct. 2, 1970, as amended at 39 FR 12990, Apr. 10, 1974; 47 FR 30068, July 12, 1982; 52 FR 8260, Mar. 17, 1987; 55 FR 50693, Dec. 10, 1990]

§ 74.1203 Interference.

(a) An authorized FM translator or booster station will not be permitted to continue to operate if it causes any actual interference to:

(1) The transmission of any authorized broadcast station; or

(2) The reception of the input signal of any TV translator, TV booster, FM translator or FM booster station; or

(3) The direct reception by the public of the off-the-air signals of any authorized broadcast station including TV Channel 6 stations, Class D (secondary) noncommercial educational FM stations, and previously authorized and operating FM translators and FM booster stations. Interference will be considered to occur whenever reception of a regularly used signal is impaired by the signals radiated by the FM translator or booster station, regardless of the quality of such reception, the strength of the signal so used, or the channel on which the protected signal is transmitted.

(b) If interference cannot be properly eliminated by the application of suitable techniques, operation of the offending FM translator or booster station shall be suspended and shall not be resumed until the interference has been eliminated. Short test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures. If a complainant refuses to permit the FM translator or booster licensee to apply remedial techniques which demonstrably will eliminate the interference without impairment to the original reception, the licensee of the FM translator or booster station is absolved of further responsibility for that complaint.

(c) An FM booster station will be exempted from the provisions of paragraphs (a) and (b) of this section to the extent that it may cause limited interference to its primary station's signal, *provided* it does not disrupt the existing service of its primary station or cause such interference within the boundaries of the principal community of its primary station.

(d) A fill-in FM translator operating on the first, second or third adjacent channel to its primary station's channel will be exempt from the provisions of paragraphs (a) and (b) of this section to the extent that it may cause limited interference to its primary station's signal, *provided* it does not disrupt the existing service of its primary station or cause such interference within the boundaries of the principal community of its primary station.

(e) It shall be the responsibility of the licensee of an FM translator or FM booster station to correct any condition of interference which results from the radiation of radio frequency energy by its equipment on any frequency outside the assigned channel. Upon notice

by the Commission to the station licensee that such interference is being caused, the operation of the FM translator or FM booster station shall be suspended within three minutes and shall not be resumed until the interference has been eliminated or it can be demonstrated that the interference is not due to spurious emissions by the FM translator or FM booster station; *provided, however,* that short test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures.

[55 FR 50693, Dec. 10, 1990, as amended at 60 FR 55484, Nov. 1, 1995]

§ 74.1204 Protection of FM broadcast, FM Translator and LP100 stations.

(a) An application for an FM translator station will not be accepted for filing if the proposed operation would involve overlap of predicted field contours with any other authorized commercial or noncommercial educational FM broadcast stations, FM translators, and Class D (secondary) noncommercial educational FM stations; or if it would result in new or increased overlap with an LP100 station, as set forth:

(1) Commercial Class B FM Stations (Protected Contour: 0.5 mV/m)

Frequency separation	Interference contour of proposed translator station	Protected contour of commercial Class B station
Co-channel.	0.05 mV/m (34 dBu)	0.5 mV/m (54 dBu)
200 kHz	0.25 mV/m (48 dBu)	0.5 mV/m (54 dBu)
400 kHz/600 kHz.	50.0 mV/m (94 dBu)	0.5 mV/m (54 dBu)

(2) Commercial Class B1 FM Stations (Protected Contour: 0.7 mV/m)

Frequency separation	Interference contour of proposed translator station	Protected contour of commercial Class B1 station
Co-channel.	0.07 mV/m (37 dBu)	0.7 mV/m (57 dBu)
200 kHz	0.35 mV/m (51 dBu)	0.5 mV/m (57 dBu)
400 kHz/600 kHz.	70.0 mV/m (97 dBu)	0.7 mV/m (57 dBu)

(3) All Other Classes of FM Stations (Protected Contour: 1 mV/m)

Frequency separation	Interference contour of proposed translator	Protected contour of any other station
Co-channel.	0.1 mV/m (40 dBu)	1 mV/m (60 dBu)
200 kHz	0.5 mV/m (54 dBu)	1 mV/m (60 dBu)
400 kHz/600 kHz.	100 mV/m (100 dBu)	1 mV/m (60 dBu)

(4) LP100 stations (Protected Contour: 1 mV/m)

Frequency separation	Interference contour of proposed translator station	Protected contour of LP100 LPFM station
Co-channel.	0.1 mV/m (40 dBu)	1 mV/m (60 dBu)
200 kHz	0.5 mV/m (54 dBu)	1 mV/m (60 dBu)

NOTE TO PARAGRAPH (a)(4): LP100 stations, to the purposes of determining overlap pursuant to this paragraph, LPFM applications and permits that have not yet been licensed must be considered as operating with the maximum permitted facilities. All LPFM TIS stations must be protected on the basis of a nondirectional antenna.

(b) The following standards must be used to compute the distances to the pertinent contours:

(1) The distances to the protected contours are computed using Figure 1 of § 73.333 [F(50,50) curves] of this chapter.

(2) The distances to the interference contours are computed using Figure 1a of § 73.333 [F(50,10) curves] of this chapter. In the event that the distance to the contour is below 16 kilometers (approximately 10 miles), and therefore not covered by Figure 1a, curves in Figure 1 must be used.

(3) The effective radiated power (ERP) to be used is the maximum ERP of the main radiated lobe in the pertinent azimuthal direction. If the transmitting antenna is not horizontally polarized only, either the vertical component or the horizontal component of the ERP should be used, whichever is greater in the pertinent azimuthal direction.

(4) The antenna height to be used is the height of the radiation center above the average terrain along each pertinent radial, determined in accordance with § 73.313(d) of this chapter.

(c) An application for a change (other than a change in channel) in the authorized facilities of an FM translator station will be accepted even though overlap of field strength contours would occur with another station in an area where such overlap does not already exist, if:

(1) The total area of overlap with that station would not be increased:

(2) The area of overlap with any other station would not increase;

(3) The area of overlap does not move significantly closer to the station receiving the overlap; and,

(4) No area of overlap would be created with any station with which the overlap does not now exist.

(d) The provisions of this section concerning prohibited overlap will not apply where the area of such overlap lies entirely over water. In addition, an application otherwise precluded by this section will be accepted if it can be demonstrated that no actual interference will occur due to intervening terrain, lack of population or such other factors as may be applicable.

(e) The provisions of this section will not apply to overlap between a proposed fill-in FM translator station and its primary station operating on a first, second or third adjacent channel, *provided* That such operation may not result in interference to the primary station within its principal community.

(f) An application for an FM translator station will not be accepted for filing even though the proposed operation would not involve overlap of field strength contours with any other station, as set forth in paragraph (a) of this section, if the predicted 1 mV/m field strength contour of the FM translator station will overlap a populated area already receiving a regularly used, off-the-air signal of any authorized co-channel, first, second or third adjacent channel broadcast station, including Class D (secondary) noncommercial educational FM stations and grant of the authorization will result in interference to the reception of such signal.

(g) An application for an FM translator or an FM booster station that is 53 or 54 channels removed from an FM radio broadcast station will not be accepted for filing if it fails to meet the required separation distances set out in §73.207 of this chapter. For purposes of determining compliance with §73.207 of this chapter, translator stations will be treated as Class A stations and booster stations will be treated the same as their FM radio broadcast station equivalents. FM radio broadcast station equivalents will be determined in accordance with §§73.210 and 73.211 of this chapter, based on the booster station's ERP and HAAT. Provided, however, that FM translator stations and booster stations operating with less than 100 watts ERP will be treated as class D stations and will not be subject to intermediate frequency separation requirements.

(h) An application for an FM translator station will not be accepted for filing if it specifies a location within 320 kilometers (approximately 199 miles) of either the Canadian or Mexican borders and it does not comply with §74.1235(d) of this part.

(i) FM booster stations shall be subject to the requirement that the signal of any first adjacent channel station must exceed the signal of the booster station by 6 dB at all points within the protected contour of any first adjacent channel station, except that in the case of FM stations on adjacent channels at spacings that do not meet the minimum distance separations specified in §73.207 of this chapter, the signal of any first adjacent channel station must exceed the signal of the booster by 6 dB at any point within the predicted interference free contour of the adjacent channel station.

(j) FM translator stations authorized prior to June 1, 1991 with facilities that do not comply with the predicted interference protection provisions of this section, may continue to operate, provided that operation is in conformance with §74.1203 regarding actual interference. Applications for major changes in FM translator stations must specify facilities that comply with provisions of this section.

[55 FR 50694, Dec. 10, 1990, as amended at 56 FR 56170, Nov. 1, 1991; 58 FR 42025, Aug. 6, 1993; 65 FR 7649, Feb. 15, 2000; 65 FR 67304, Nov. 9, 2000; 65 FR 79780, Dec. 20, 2000]

§ 74.1205 Protection of channel 6 TV broadcast stations.

The provisions of this section apply to all applications for construction permits for new or modified facilities for a noncommercial educational FM translator station on Channels 201–220, unless the application is accompanied by a written agreement between the NCE-FM translator applicant and each affected TV Channel 6 broadcast station licensee or permittee concurring with the proposed NCE-FM translator facility.

(a) An application for a construction permit for new or modified facilities for a noncommercial educational FM translator station operating on Channels 201–220 must include a showing that demonstrates compliance with paragraph (b), (c) or (d) of this section if it is within the following distances of a TV broadcast station which is authorized to operate on Channel 6.

FM Channel	Distance (kilometers)
201	148
202	146
203	143
204	141
205	140
206	137
207	135
208	135
209	135
210	135
211	135
212	135
213	135
214	134
215	134
216	133
217	133
218	132
219	132
220	131

(b) *Collocated stations.* An application for a noncommercial educational FM translator station operating on Channels 201–220 and located at 0.4 kilometer (approximately 0.25 mile) or less from a TV Channel 6 station will be accepted if it includes a certification that the applicant has coordinated its antenna with the affected TV station.

(c) *Contour overlap.* Except as provided in paragraph (b) of this section, an application for a noncommercial educational FM translator station operating on Channels 201–220 will not be accepted if the proposed operation would involve overlap of its interference field strength contour with any TV Channel 6 station's Grade B contour, as set forth below.

(1) The distances to the TV Channel 6 station Grade B (47 dBu) field strength contour will be predicted according to the procedures specified in § 73.684 of this chapter, using the F(50,50) curves in § 73.699, Figure 9 of this chapter.

(2) The distances to the applicable noncommercial educational FM translator interference contour will be predicted according to the procedures specified in § 74.1204(b) of this part.

(3) The applicable noncommercial educational FM translator interference contours are as follows:

FM channel	Interference Contour F(50,10) curves (dBu)
201	54
202	56
203	59
204	62
205	64
206	69
207	73
208	73
209	73
210	73
211	73
212	74
213	75
214	77
215	78
216	80
217	81
218	85
219	88
220	90

(d) FM translator stations authorized prior to June 1, 1991 with facilities that do not comply with the predicted interference protection provisions of this section, may continue to operate, provided that operation is in conformance with § 74.1203 regarding actual interference. Applications for major changes in FM translator stations must specify facilities that comply with the provisions of this section.

[55 FR 50695, Dec. 10, 1990, as amended at 58 FR 42025, Aug. 6, 1993]

§ 74.1231 Purpose and permissible service.

(a) FM translators provide a means whereby the signals of AM or FM

broadcast stations may be retransmitted to areas in which direct reception of such AM or FM broadcast stations is unsatisfactory due to distance or intervening terrain barriers, and a means for AM Class D stations to continue operating at night.

(b) An FM translator may be used for the purpose of retransmitting the signals of a primary AM or FM radio broadcast station or another translator station the signal of which is received directly through space, converted, and suitably amplified, and originating programming to the extent authorized in paragraphs (f), (g), and (h) of this section. However, an FM translator providing fill-in service may use any terrestrial facilities to receive the signal that is being rebroadcast. An FM booster station or a noncommercial educational FM translator station that is operating on a reserved channel (Channels 201–220) and is owned and operated by the licensee of the primary noncommercial educational station it rebroadcasts may use alternative signal delivery means, including, but not limited to, satellite and terrestrial microwave facilities. Provided, however, that an applicant for a noncommercial educational translator operating on a reserved channel (Channel 201–220) and owned and operated by the licensee of the primary noncommercial educational AM or FM station it rebroadcasts complies with either paragraph (b)(1) or (b)(2) of this section:

(1) The applicant demonstrates that:

(i) The transmitter site of the proposed FM translator station is within 80 kilometers of the predicted 1 mV/m contour of the primary station to be rebroadcast; or,

(ii) The transmitter site of the proposed FM translator station is more than 160 kilometers from the transmitter site of any authorized full service noncommercial educational FM station; or,

(iii) The application is mutually exclusive with an application containing the showing as required by paragraph 74.1231(b)(2) (i) or (ii) of this section; or,

(iv) The application is filed after October 1, 1992.

(2) If the transmitter site of the proposed FM translator station is more than 80 kilometers from the predicted 1 mV/m contour of the primary station to be rebroadcast or is within 160 kilometers of the transmitter site of any authorized full service noncommercial educational FM station, the applicant must show that:

(i) An alternative frequency can be used at the same site as the proposed FM translator's transmitter location and can provide signal coverage to the same area encompassed by the applicant's proposed 1 mV/m contour; or,

(ii) An alternative frequency can be used at a different site and can provide signal coverage to the same area encompassed by the applicant's proposed 1 mV/m contour.

NOTE: For paragraphs 74.1231(b) and 74.1231(i) of this section, auxiliary intercity relay station frequencies may be used to deliver signals to FM translator and booster stations on a secondary basis only. Such use shall not interfere with or otherwise preclude use of these frequencies for transmitting aural programming between the studio and transmitter location of a broadcast station, or between broadcast stations, as provided in paragraphs 74.531 (a) and (b) of this part. Prior to filing an application for an auxiliary intercity relay microwave frequency, the applicant shall notify the local frequency coordination committee, or, in the absence of a local frequency coordination committee, any licensees assigned the use of the proposed operating frequency in the intended location or area of operation.

(c) The transmissions of each FM translator or booster station shall be intended only for direct reception by the general public. An FM translator or booster shall not be operated solely for the purpose of relaying signals to one or more fixed received points for retransmission, distribution, or further relaying in order to establish a point-to-point FM radio relay system.

(d) The technical characteristics of the retransmitted signals shall not be deliberately altered so as to hinder reception on conventional FM broadcast receivers.

(e) An FM translator shall not deliberately retransmit the signals of any station other than the station it is authorized to retransmit. Precautions shall be taken to avoid unintentional retransmission of such other signals.

(f) A locally generated radio frequency signal similar to that of an FM broadcast station and modulated with

aural information may be connected to the input terminals of an FM translator for the purpose of transmitting voice announcements. The radio frequency signals shall be on the same channel as the normally used off-the-air signal being rebroadcast. Connection of the locally generated signals shall be made by any automatic means when transmitting originations concerning financial support. The connections for emergency transmissions may be made manually. The apparatus used to generate the local signal that is used to modulate the FM translator must be capable of producing an aural signal which will provide acceptable reception on FM receivers designed for the transmission standards employed by FM broadcast stations.

(g) The aural material transmitted as permitted in paragraph (f) of this section shall be limited to emergency warnings of imminent danger and to seeking or acknowledging financial support deemed necessary to the continued operation of the translator. Originations concerning financial support are limited to a total of 30 seconds an hour. Within this limitation the length of any particular announcement will be left to the discretion of the translator station licensee. Solicitations of contributions shall be limited to the defrayal of the costs of installation, operation and maintenance of the translator or acknowledgements of financial support for those purposes. Such acknowledgements may include identification of the contributors, the size or nature of the contributions and advertising messages of contributors. Emergency transmissions shall be no longer or more frequent than necessary to protect life and property.

(h) An FM translator station that rebroadcasts a Class D AM radio broadcast station as its primary station may originate programming during the hours the primary station is not operating, subject to the provisions of §74.1263(b) of this part.

(i) FM broadcast booster stations provide a means whereby the licensee of an FM broadcast station may provide service to areas in any region within the primary station's predicted, authorized service contours. An FM broadcast booster station is authorized to retransmit only the signals of its primary station which have been received directly through space and suitably amplified, or received by alternative signal delivery means including, but not limited to, satellite and terrestrial microwave facilities. The FM booster station shall not retransmit the signals of any other station nor make independent transmissions, except that locally generated signals may be used to excite the booster apparatus for the purpose of conducting tests and measurements essential to the proper installation and maintenance of the apparatus.

NOTE: In the case of an FM broadcast station authorized with facilities in excess of those specified by §73.211 of this chapter, an FM booster station will only be authorized within the protected contour of the class of station being rebroadcast as predicted on the basis of the maximum powers and heights set forth in that section for the applicable class of FM broadcast station concerned.

[35 FR 15388, Oct. 2, 1970, as amended at 45 FR 37842, June 5, 1980; 52 FR 31406, Aug. 20, 1987; 53 FR 14803, Apr. 26, 1988; 54 FR 35342, Aug. 25, 1989; 55 FR 50695, Dec. 10, 1990; 57 FR 41111, Sept. 9, 1992; 58 FR 42026, Aug. 6, 1993; 63 FR 33879, June 22, 1998; 74 FR 45130, Sept. 1, 2009]

§ 74.1232 Eligibility and licensing requirements.

(a) Subject to the restrictions set forth in paragraph (d) of this section, a license for an FM broadcast translator station may be issued to any qualified individual, organized group of individuals, broadcast station licensee, or local civil governmental body, upon an appropriate showing that plans for financing the installation and operation of the translator are sufficiently sound to assure prompt construction of the translator and dependable service.

(b) More than one FM translator may be licensed to the same applicant, whether or not such translators serve substantially the same area, upon an appropriate showing of technical need for such additional stations. FM translators are not counted as FM stations for the purpose of §73.3555 of this chapter concerning multiple ownership.

NOTE: As used in this section need refers to the quality of the signal received and not to the programming content, format, or transmission needs of an area.

(c) Only one input and one output channel will be assigned to each FM translator. Additional FM translators may be authorized to provide additional reception. A separate application is required for each FM translator and each application shall be complete in all respects.

(d) An authorization for an FM translator whose coverage contour extends beyond the protected contour of the commercial primary station will not be granted to the licensee or permittee of a commercial FM radio broadcast station. Similarly, such authorization will not be granted to any person or entity having any interest whatsoever, or any connection with a primary FM station. Interested and connected parties extend to group owners, corporate parents, shareholders, officers, directors, employees, general and limited partners, family members and business associates. For the purposes of this paragraph, the protected contour of the primary station shall be defined as follows: the predicted 0.5mV/m contour for commercial Class B stations, the predicted 0.7 mV/m contour for commercial Class B1 stations and the predicted 1 mV/m field strength contour for all other FM radio broadcast stations. The contours shall be as predicted in accordance with §73.313(a) through (d) of this chapter. In the case of an FM radio broadcast station authorized with facilities in excess of those specified by §73.211 of this chapter, a co-owned commercial FM translator will only be authorized within the protected contour of the class of station being rebroadcast, as predicted on the basis of the maximum powers and heights set forth in that section for the applicable class of FM broadcast station concerned. An FM translator station in operation prior to March 1, 1991, which is owned by a commercial FM (primary) station and whose coverage contour extends beyond the protected contour of the primary station, may continue to be owned by such primary station until March 1, 1994. Thereafter, any such FM translator station must be owned by independent parties. An FM translator station in operation prior to June 1, 1991, which is owned by a commercial FM radio broadcast station and whose coverage contour extends beyond the protected contour of the primary station, may continue to be owned by a commercial FM radio broadcast station until June 1, 1994. Thereafter, any such FM translator station must be owned by independent parties. An FM translator providing service to an AM fill-in area will be authorized only to the permittee or licensee of the AM radio broadcast station being rebroadcast, or, in the case of an FM translator authorized to operate on an unreserved channel, to a party with a valid rebroadcast consent agreement with such a permittee or licensee to rebroadcast that station as the translator's primary station. In addition, any FM translator providing service to an AM fill-in area must have been authorized by a license or construction permit in effect as of May 1, 2009, or pursuant to an application that was pending as of May 1, 2009. A subsequent modification of any such FM translator will not affect its eligibility to rebroadcast an AM signal.

(e) An FM translator station whose coverage contour goes beyond the protected contour of the commercial primary station shall not receive any support, before or after construction, either directly or indirectly, from the commercial primary FM radio broadcast station. Such support also may not be received from any person or entity having any interest whatsoever, or any connection with the primary FM station. Interested and connected parties extend to group owners, corporate parents, shareholders, officers, directors, employees, general and limited partners, family members and business associates. Such an FM translator station may, however, receive technical assistance from the primary station to the extent of installing or repairing equipment or making adjustments to equipment to assure compliance with the terms of the translator station's construction permit and license. FM translator stations in operation prior to March 1, 1991 may continue to receive contributions or support from the commercial primary station for the operation and maintenance of the translator station until March, 1, 1994. Thereafter, any such FM translator

station shall be subject to the prohibitions on support contained in this section. Such an FM translator station may, however, receive technical assistance from the primary station to the extent of installing or repairing equipment or making adjustments to equipment to assure compliance with the terms of the translator station's construction permit and license. FM translator stations in operation prior to June 1, 1991 may continue to receive contributions or support from a commercial FM radio broadcast station for the operation and maintenance of the translator station until June 1, 1994. Thereafter, any such FM translator station shall be subject to the prohibitions on support contained in this section.

NOTE: ''Technical assistance'' refers to actual services provided by the primary station's technical staff or compensation for the time and services provided by independent engineering personnel. Conversely, such support must not include the supply of equipment or direct funding for the translator's discretionary use. ''Technical assistance'' must occur after the issuance of the translator's construction permit or license in order to meet expenses incurred by installing, repairing, or making adjustments to equipment.

(f) An FM broadcast booster station will be authorized only to the licensee or permittee of the FM radio broadcast station whose signals the booster station will retransmit, to serve areas within the protected contour of the primary station, subject to Note, § 74.1231(h) of this part.

(g) No numerical limit is placed upon the number of FM booster stations which may be licensed to a single licensee. A separate application is required for each FM booster station. FM broadcast booster stations are not counted as FM broadcast stations for the purposes of § 73.5555 of this chapter concerning multiple ownership.

(h) Any authorization for an FM translator station issued to an applicant described in paragraphs (d) and (e) of this section will be issued subject to the condition that it may be terminated at any time, upon not less than sixty (60) days written notice, where the circumstances in the community or area served are so altered as to have prohibited grant of the application had such circumstances existed at the time of its filing.

[35 FR 15388, Oct. 2, 1970, as amended at 43 FR 14660, Apr. 7, 1978; 52 FR 10571, Apr. 2, 1987; 52 FR 31406, Aug. 20, 1987; 55 FR 50696, Dec. 10, 1990; 58 FR 42026, Aug. 6, 1993; 74 FR 45130, Sept. 1, 2009; 77 FR 21015, Apr. 9, 2012]

§ 74.1233 Processing FM translator and booster station applications.

(a) Applications for FM translator and booster stations are divided into two groups:

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations. For FM translator stations, a major change is any change in frequency (output channel) except changes to first, second or third adjacent channels, or intermediate frequency channels, and any change in antenna location where the station would not continue to provide 1 mV/m service to some portion of its previously authorized 1 mV/m service area. In addition, any change in frequency relocating an unbuilt station from the non-reserved band to the reserved band, or from the reserved band to the non-reserved band, will be considered major. All other changes will be considered minor. All major changes are subject to the provisions of §§ 73.3580 and 1.1104 of this chapter pertaining to major changes.

(2) In the second group are applications for licenses and all other changes in the facilities of the authorized station.

(b) Processing booster and reserved band FM translator applications.

(1) Applications for minor modifications for reserved band FM translator stations, as defined in paragraph (a)(2) of this section, may be filed at any time, unless restricted by the FCC, and will be processed on a ''first come/first served'' basis, with the first acceptable application cutting off the filing rights of subsequent, conflicting applicants. The FCC will periodically release a Public Notice listing those applications accepted for filing. Conflicting applications received on the same day will be treated as simultaneously filed and mutually exclusive. Conflicting applications received after the filing of a first acceptable application will be

grouped, according to filing date, behind the lead application in a queue. The priority rights of the lead applicant, against all other applicants, are determined by the date of filing, but the filing date for subsequent, conflicting applicants only reserves a place in the queue. The rights of an applicant in a queue ripen only upon a final determination that the lead applicant is unacceptable and if the queue member is reached and found acceptable. The queue will remain behind the lead applicant until a construction permit is finally granted, at which time the queue dissolves.

(2) All other applications for booster stations and reserved band FM translator stations will be processed as nearly as possible in the order in which they are filed. Such applications will be placed in the processing line in numerical sequence, and will be drawn by the staff for study, the lowest file number first. In order that those applications which are entitled to be grouped for processing may be fixed prior to the time processing of the earliest filed application is begun, the FCC will periodically release a Public Notice listing reserved band applications that have been accepted for filing and announcing a date (not less than 30 days after publication) on which the listed applications will be considered available and ready for processing and by which all mutually exclusive applications and/or petitions to deny the listed applications must be filed.

(3) Applications for reserved band FM translator stations will be processed using filing window procedures. The FCC will specify by Public Notice, a period for filing reserved band FM translator applications for a new station or for major modifications in the facilities of an authorized station. FM translator applications for new facilities or for major modifications will be accepted only during these specified periods. Applications submitted prior to the window opening date identified in the Public Notice will be returned as premature. Applications submitted after the specified deadline will be dismissed with prejudice as untimely.

(4) Timely filed applications for new facilities or for major modifications for reserved band FM Translators will be processed pursuant to the procedures set forth in subpart K of part 73 (§ 73.7000 *et seq.*) Subsequently, the FCC will release Public Notices identifying: mutually exclusive groups of applications; applications received during the window filing period which are found to be non-mutually exclusive; tentative selectees determined pursuant to the point system procedures set forth in § 73.7003 of this chapter; and acceptable applications. The Public Notices will also announce: additional procedures to be followed for certain groups of applications; deadlines for filing additional information; and dates by which petitions to deny must be filed in accordance with the provisions of § 73.7004 of this chapter. If the applicant is duly qualified, and upon examination, the FCC finds that the public interest, convenience and necessity will be served by the granting of the application, it will be granted. If an application is found not to be acceptable for filing, the application will be returned, and subject to the amendment requirements of § 73.3522 of this chapter.

(c) In the case of an application for an instrument of authorization, other than a license pursuant to a construction permit, grant will be based on the application, the pleadings filed, and such other matters that may be officially noticed. Before a grant can be made it must be determined that:

(1) There is not pending a mutually exclusive application.

(2) The applicant is legally, technically, financially and otherwise qualified;

(3) The applicant is not in violation of any provisions of law, the FCC rules, or established policies of the FCC; and

(4) A grant of the application would otherwise serve the public interest, convenience and necessity.

(d) Processing non-reserved band FM translator applications.

(1) Applications for minor modifications for non-reserved band FM translator stations, as defined in paragraph (a)(2) of this section, may be filed at any time, unless restricted by the FCC, and will be processed on a ''first come/first served'' basis, with the first acceptable application cutting off the filing rights of subsequent, conflicting applicants. The FCC will periodically

release a Public Notice listing those applications accepted for filing. Applications received on the same day will be treated as simultaneously filed and, if they are found to be mutually exclusive, must be resolved through settlement or technical amendment. Conflicting applications received after the filing of a first acceptable application will be grouped, according to filing date, behind the lead application in a queue. The priority rights of the lead applicant, against all other applicants, are determined by the date of filing, but the filing date for subsequent, conflicting applicants only reserves a place in the queue. The rights of an applicant in a queue ripen only upon a final determination that the lead applicant is unacceptable and if the queue member is reached and found acceptable. The queue will remain behind the lead applicant until a construction permit is finally granted, at which time the queue dissolves.

(2)(i) The FCC will specify by Public Notice, pursuant to §73.5002(a) of this chapter, a period for filing non-reserved band FM translator applications for a new station or for major modifications in the facilities of an authorized station. FM translator applications for new facilities or for major modifications, whether for commercial broadcast stations or noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6), will be accepted only during these specified periods. Applications submitted prior to the window opening date identified in the Public Notice will be returned as premature. Applications submitted after the specified deadline will be dismissed with prejudice as untimely.

(ii) Such FM translator applicants will be subject to the provisions of §§1.2105 and 73.5002(a) regarding the submission of the short-form application, FCC Form 175, and all appropriate certifications, information and exhibits contained therein. To determine which FM translator applications are mutually exclusive, FM translator applicants must submit the engineering data contained in FCC Form 349 as a supplement to the short-form application. Such engineering data will not be studied for technical acceptability, but will be protected from subsequently filed applications as of the close of the window filing period. Determinations as to the acceptability or grantability of an applicant's proposal will not be made prior to an auction.

(iii) FM translator applicants will be subject to the provisions of §1.2105 regarding the modification and dismissal of their short-form applications.

(iv) Consistent with §1.2105(a), beginning January 1, 1999, all short-form applications must be filed electronically.

(3) Subsequently, the FCC will release Public Notices:

(i) Identifying the short-form applications received during the appropriate filing period or ''window'' which are found to be mutually exclusive, including any applications for noncommercial educational broadcast stations, as defined in 47 U.S.C. 397(6), as well as the procedures the FCC will use to resolve the mutually exclusive applications;

(ii) Establishing a date, time and place for an auction;

(iii) Providing information regarding the methodology of competitive bidding to be used in the upcoming auction, bid submission and payment procedures, upfront payment procedures, upfront payment deadlines, minimum opening bid requirements and applicable reserve prices in accordance with the provisions of §73.5002;

(iv) Identifying applicants who have submitted timely upfront payments and, thus, are qualified to bid in the auction.

(4) After the close of the filing window, the FCC will also release a Public Notice identifying any short-form applications which are found to be non-mutually exclusive, including any applications for noncommercial educational broadcast stations, as described in 47 U.S.C. 397(6). These non-mutually exclusive applicants will be required to submit the appropriate long form application within 30 days of the Public Notice and, for applicants for commercial broadcast stations, pursuant to the provisions of §73.5005 of this chapter. Non-mutually exclusive applications for commercial broadcast stations will be processed and the FCC

will periodically release a Public Notice listing such non-mutually exclusive applications determined to be acceptable for filing and announcing a date by which petitions to deny must be filed in accordance with the provisions of §§ 73.5006 and 73.3584 of this chapter. Non-mutually exclusive applications for noncommercial educational broadcast stations, as described by 47 U.S.C. 397(6), will be processed and the FCC will periodically release a Public Notice listing such non-mutually exclusive applications determined to be acceptable for filing and announcing a date by which petitions to deny must be filed in accordance with the provisions of §§ 73.7004 and 73.3584 of this chapter. If the applicants are duly qualified, and upon examination, the FCC finds that the public interest, convenience and necessity will be served by the granting of the non-mutually exclusive long-form application, the same will be granted.

(5)(i) Pursuant to § 1.2107 of this chapter, a winning bidder that meets its down payment obligations in a timely manner must, within 30 days of the release of the public notice announcing the close of the auction, submit the appropriate long-form application for each construction permit for which it was the winning bidder. Long-form applications filed by winning bidders shall include the exhibits identified in § 73.5005 of this chapter.

(ii) Winning bidders are required to pay the balance of their winning bids in a lump sum prior to the deadline established by the Commission pursuant to § 1.2109(a) of this chapter. Long-form construction permit applications will be processed and the FCC will periodically release a Public Notice listing such applications that have been accepted for filing and announcing a date by which petitions to deny must be filed in accordance with the provisions of §§ 73.5006 and 73.3584. Construction permits will be granted by the Commission only after full and timely payment of winning bids and any applicable late fees, and if the applicant is duly qualified, and upon examination, the FCC finds that the public interest, convenience and necessity will be served. 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 in accordance with § 1.2109(a) of this chapter. Construction of the FM translator station shall not commence until the grant of such permit to the winning bidder and only after full and timely payment of winning bids and any applicable late fees.

(iii) All long-form applications will be cut-off as of the date of filing with the FCC and will be protected from subsequently filed long-form translator applications. Applications will be required to protect all previously filed applications. Winning bidders filing long-form applications may change the technical proposals specified in their previously submitted short-form applications, but such change may not constitute a major change. If the submitted long-form application would constitute a major change from the proposal submitted in the short-form application or the allotment, the long-form application will be returned pursuant to paragraph (d)(2)(i) of this section.

(e) Selection of mutually exclusive reserved band FM translator applications.

(1) Applications for FM translator stations proposing to provide fill-in service (within the primary station's protected contour) of the commonly owned primary station will be given priority over all other applications.

(2) Where applications for FM translator stations are mutually exclusive and do not involve a proposal to provide fill-in service of commonly owned primary stations, the FCC may stipulate different frequencies as necessary for the applicants.

(3) Where there are no available frequencies to substitute for a mutually exclusive application, the FCC will apply the same point system identified for full service reserved band FM stations in § 73.7003(b) of this chapter. In the event of a tie, the FCC will consider:

(i) *Existing authorizations.* Each applicant's number of existing radio authorizations (licenses and construction permits for AM, FM, and FM-translators but excluding fill-in translators) as of the time of application shall be compared, and the applicant with the fewest authorizations will be chosen as tentative selectee. If each applicant is applying for a fill-in translator only, and consideration of its other radio stations is not dispositive, its number of existing fill-in translator authorizations will also be considered, and the fill-in applicant with the fewest fill-in authorizations will be chosen as tentative selectee.

(ii) *Existing applications.* If a tie remains, after the tie breaker in paragraph (e)(3)(i) of this section, the remaining applicant with the fewest pending radio new and major change applications (AM, FM, and non fill-in FM translators) will be chosen as tentative selectee. If each applicant is applying for a fill-in translator only, and consideration of its other radio stations is not dispositive, its number of existing fill-in translator applications will also be considered, and the fill-in applicant with the fewest fill-in authorizations will be chosen as tentative selectee.

(iii) Where the procedures in paragraphs (e)(1), (e)(2) and (e)(3)(i) and (e)(3)(ii) of this section fail to resolve the mutual exclusivity, the applications will be processed on a first-come-first-served basis.

[63 FR 48632, Sept. 11, 1998, as amended at 64 FR 19502, Apr. 21, 1999; 65 FR 36382, June 8, 2000; 66 FR 15357, Mar. 19, 2001; 67 FR 45375, July 9, 2002; 68 FR 26229, May 15, 2003; 71 FR 6229, Feb. 7, 2006; 76 FR 18953, Apr. 6, 2011]

§ 74.1234 Unattended operation.

(a) A station authorized under this subpart may be operated without a designated person in attendance if the following requirements are met:

(1) If the transmitter site cannot be reached promptly at all hours and in all seasons, means shall be provided so that the transmitting apparatus can be turned on and off at will from a point which is readily accessible at all hours and in all seasons.

(2) The transmitter shall also be equipped with suitable automatic circuits which will place it in a nonradiating condition in the absence of a signal on the input channel.

(3) The on-and-off control (if at a location other than the transmitter site) and the transmitting apparatus, shall be adequately protected against tampering by unauthorized persons.

(4) The FCC in Washington, DC, Attention: Audio Division, Media Bureau, shall be supplied by letter with the name, address, and telephone number of a person or persons who may be contacted to secure suspension of operation of the translator promptly should such action be deemed necessary by the Commission. Such information shall be kept current by the licensee.

(5) Where the antenna and supporting structure are required to be painted and lighted under the provisions of Part 17 of this chapter, the licensee shall make suitable arrangements for the daily inspection and logging of the obstruction lighting and associated control equipment as required by §§ 17.47, 17.48, and 17.49 of this chapter.

(b) An application for authority to construct a new station pursuant to this subpart or to make changes in the facilities of such a station, which proposes unattended operation shall include an adequate showing as to the manner of compliance with this section.

[35 FR 15388, Oct. 2, 1970, as amended at 37 FR 18540, Sept. 13, 1972; 38 FR 25992, Sept. 17, 1973; 60 FR 55484, Nov. 1, 1995; 63 FR 33879, June 22, 1998; 67 FR 13234, Mar. 21, 2002]

§ 74.1235 Power limitations and antenna systems.

(a) An application for an FM translator station filed by the licensee or permittee of the primary station to provide fill-in service within the primary station's coverage area will not be accepted for filing if it specifies an effective radiated power (ERP) which exceeds 250 watts.

(b) An application for an FM translator station, other than one for fill-in service which is covered in paragraph (a) of this section, will not be accepted for filing if it specifies an effective radiated power (ERP) which exceeds the

maximum ERP (MERP) value determined in accordance with this paragraph. The antenna height above average terrain (HAAT) shall be determined in accordance with §73.313(d) of this chapter for each of 12 distinct radials, with each radial spaced 30 degrees apart and with the bearing of the first radial bearing true north. Each raidal HAAT value shall be rounded to the nearest meter. For each of the 12 radial directions, the MERP is the value corresponding to the calculated HAAT in the following tables that is appropriate for the location of the translator. For an application specifying a nondirectional transmitting antenna, the specified ERP must not exceed the smallest of the 12 MERP's. For an application specifying a directional transmitting antenna, the ERP in each azimuthal direction must not exceed the MERP for the closest of the 12 radial directions.

(1) For FM translators located east of the Mississippi River or in Zone I-A as described in §73.205(b) of this chapter:

Radial HAAT (meters)	Maximum ERP (MERP in watts)
Less than or equal to 32	250
33 to 39	170
40 to 47	120
48 to 57	80
58 to 68	55
69 to 82	38
83 to 96	27
97 to 115	19
116 to 140	13
Greater than or equal to 141	10

(2) For FM translators located in all other areas:

Radial HAAT (meters)	Maximum ERP (MERP in watts)
Less than or equal to 107	250
108 to 118	205
119 to 130	170
131 to 144	140
145 to 157	115
158 to 173	92
174 to 192	75
193 to 212	62
213 to 235	50
236 to 260	41
261 to 285	34
286 to 310	28
311 to 345	23
346 to 380	19
381 to 425	15.5
426 to 480	13
481 to 540	11
Greater than or equal to 541	10

(c) The effective radiated power of FM booster stations shall be limited such that the predicted service contour of the booster station, computed in accordance with §73.313 paragraphs (a) through (d) of this chapter, may not extend beyond the corresponding service contour of the primary FM station that the booster rebroadcasts. In no event shall the ERP of the booster station exceed 20% of the maximum allowable ERP for the primary station's class.

(d) Applications for FM translator stations located within 320 km of the Canadian border will not be accepted if they specify more than 50 watts effective radiated power in any direction or have a 34 dBu interference contour, calculated in accordance with §74.1204 of this part, that exceeds 32 km. FM translator stations located within 320 kilometers of the Mexican border must be separated from Mexican allotments and assignments in accordance with §73.207(b)(3) of this chapter and are limited to a transmitter power output of 10 watts or less. For purposes of compliance with that section, FM translators will be considered as Class D FM stations.

(1) Translator stations located within 125 kilometers of the Mexican border may operate with an ERP up to 50 watts (0.050 kW) ERP. A booster station may not produce a 34 dBu interfering contour in excess of 32 km from the transmitter site in the direction of the Mexican border, nor may the 60 dBu service contour of the booster station exceed 8.7 km from the transmitter site in the direction of the Mexican border.

(2) Translator stations located between 125 kilometers and 320 kilometers from the Mexican border may operate with an ERP in excess of 50 watts, up to the maximum permitted ERP of 250 watts per §74.1235(b)(2). However, in no event shall the location of the 60 dBu contour lie within 116.3 km of the Mexican border.

(3) Applications for translator or booster stations within 320 km of the Canadian border may employ an ERP up to a maximum of 250 watts, as specified in §74.1235(a) and (b). The distance to the 34 dBu interfering contour may not exceed 60 km in any direction.

(e) In no event shall a station authorized under this subpart be operated with a transmitter power output (TPO) in excess of the transmitter certificated rating. A station authorized under this subpart for a TPO that is less than its transmitter certificated rating shall determine its TPO in accordance with § 73.267 of this chapter and its TPO shall not be more than 105 percent of the authorized TPO.

(f) Composite antennas and antenna arrays may be used where the total ERP does not exceed the maximum determined in accordance with paragraphs (a), (b) or (c) of this section.

(g) Either horizontal, vertical, circular or elliptical polarization may be used provided that the supplemental vertically polarized ERP required for circular or elliptical polarization does not exceed the ERP otherwise authorized. Either clockwise or counterclockwise rotation may be used. Separate transmitting antennas are permitted if both horizontal and vertical polarization is to be provided.

(h) All applications must comply with § 73.316, paragraphs (d) and (e) of this chapter.

(i) An application that specifies use of a directional antenna must comply with § 73.316, paragraphs (c)(1) through (c)(3) of this chapter. Prior to issuance of a license, the applicant must: (1) Certify that the antenna is mounted in accordance with the specific instructions provided by the antenna manufacturer; and (2) certify that the antenna is mounted in the proper orientation. In instances where a directional antenna is proposed for the purpose of providing protection to another facility, a condition may be included in the construction permit requiring that before program tests are authorized, a permittee: (1) Must submit the results of a complete proof-of-performance to establish the horizontal plane radiation patterns for both the horizontally and vertically polarized radiation components; and, (2) must certify that the relative field strength of neither the measured horizontally nor vertically polarized radiation component shall exceed at any azimuth the value indicated on the composite radiation pattern authorized by the construction permit.

NOTE: Existing licensees and permittees that do not furnish data sufficient to calculate the contours in conformance with § 74.1204 will be assigned protected contours having the following radii:

Up to 10 watts—1 mile (1.6 km) from transmitter site.

Up to 100 watts—2 miles (3.2 km) from transmitter site.

Up to 250 watts—4 miles (6.5 km) from transmitter site.

(j) FM translator stations authorized prior to June 1, 1991, with facilities that do not comply with the ERP limitation of paragraph (a) or (b) of this section, as appropriate, may continue to operate, provided that operation is in conformance with § 74.1203 regarding interference. Applications for major changes in FM translator stations must specify facilities that comply with paragraph (a) or (b) of this section, as appropriate.

[55 FR 50697, Dec. 10, 1990, as amended at 56 FR 56170, Nov. 1, 1991; 58 FR 42026, Aug. 6, 1993; 62 FR 51063, Sept. 30, 1997; 63 FR 33879, June 22, 1998; 63 FR 36605, July 7, 1998]

§ 74.1236 Emission and bandwidth.

(a) The license of a station authorized under this subpart allows the transmission of either F3 or other types of frequency modulation (see § 2.201 of this chapter) upon a showing of need, as long as the emission complies with the following:

(1) For transmitter output powers no greater than 10 watts, paragraphs (b), (c), and (d) of this section apply.

(2) For transmitter output powers greater than 10 watts, § 73.317 (a), (b), (c), and (d) apply.

(b) Standard width FM channels will be assigned and the transmitting apparatus shall be operated so as to limit spurious emissions to the lowest practicable value. Any emissions including intermodulation products and radiofrequency harmonics which are not essential for the transmission of the desired aural information shall be considered to be spurious emissions.

(c) The power of emissions appearing outside the assigned channel shall be attenuated below the total power of the emission as follows:

Distance of emission from center frequency	Minimum attenuation below unmodulated carrier
120 to 240 kHz	25 dB
Over 240 and up to 600 kHz	35 dB
Over 600 kHz	60 dB

(d) Greater attenuation than that specified in paragraph (c) of this section may be required if interference results outside the assigned channel.

[35 FR 15388, Oct. 2, 1970, as amended at 52 FR 31406, Aug. 20, 1987; 55 FR 50698, Dec. 10, 1990]

§ 74.1237 Antenna location.

(a) An applicant for a new station to be authorized under this subpart or for a change in the facilities of such a station shall endeavor to select a site which will provide a line-of-sight transmission path to the entire area intended to be served and at which there is available a suitable signal from the primary station. The transmitting antenna should be placed above growing vegetation and trees lying in the direction of the area intended to be served, to minimize the possiblity of signal absorption by foliage.

(b) Consideration should be given to accessibility of the site at all seasons of the year and to the availability of facilities for the maintenance and operation of the FM translator.

(c) Consideration should be given to the existence of strong radiofrequency fields from other transmitters at the translator site and the possibility that such fields may result in the retransmission of signals originating on frequencies other than that of the primary station.

(d) The transmitting antenna of an FM booster station shall be located within the protected contour of its primary station, subject to Note, §74.1231 (h). The transmitting antenna of a commonly owned commercial FM translator station shall be located within the protected contour of its commercial primary FM station.

(e) Where an FM translator or booster licensee or permittee proposes to mount its antenna on or near an AM tower, as defined in §1.30002, the FM translator or booster licensee or permittee must comply with §1.30003 or §1.30002.

[35 FR 15388, Oct. 2, 1970, as amended at 55 FR 50698, Dec. 10, 1990; 58 FR 42026, Aug. 6, 1993; 62 FR 51063, Sept. 30, 1997; 78 FR 66298, Nov. 5, 2013]

§ 74.1250 Transmitters and associated equipment.

(a) FM translator and booster transmitting apparatus, and exciters employed to provide a locally generated and modulated input signal to translator and booster equipment, used by stations authorized under the provisions of this subpart must be certificated upon the request of any manufacturer of transmitters in accordance with this section and subpart J of part 2 of this chapter. In addition, FM translator and booster stations may use FM broadcast transmitting apparatus verified or approved under the provisions of part 73 of this chapter.

(b) Transmitting antennas, antennas used to receive signals to be rebroadcast, and transmission lines are not subject to the requirement for certification.

(c) The following requirements must be met before translator, booster or exciter equipment will be certificated in accordance with this section:

(1) Radio frequency harmonics and spurious emissions must conform with the specifications of §74.1236 of this part.

(2) The local oscillator or oscillators, including those in an exciter employed to provide a locally generated and modulated input signal to a translator or booster, when subjected to variations in ambient temperature between minus 30 degrees and plus 50 degrees centigrade, and in primary supply voltage between 85 percent and 115 percent of the rated value, shall be sufficiently stable to maintain the output center frequency within plus or minus 0.005 percent of the operating frequency and to enable conformance with the specifications of §74.1261 of this part.

(3) The apparatus shall contain automatic circuits to maintain the power output in conformance with §74.1235(e) of this part. If provision is included for adjusting the power output, then the normal operating constants shall be specified for operation at both the

rated power output and the minimum power output at which the apparatus is designed to operate. The apparatus shall be equipped with suitable meters or meter jacks so that the operating constants can be measured while the apparatus is in operation.

(4) Apparatus rated for transmitter power output of more than 1 watt shall be equipped with automatic circuits to place it in a nonradiating condition when no input signal is being received in conformance with § 74.1263(b) of this part and to transmit the call sign in conformance with § 74.1283(c)(2) of this part.

(5) For exciters, automatic means shall be provided for limiting the level of the audio frequency voltage applied to the modulator to ensure that a frequency swing in excess of 75 kHz will not occur under any condition of the modulation.

[55 FR 50698, Dec. 10, 1990, as amended at 63 FR 36606, July 7, 1998]

§ 74.1251 Technical and equipment modifications.

(a) No change, either mechanical or electrical, except as provided in part 2 of this chapter, may be made in FM translator or booster apparatus which has been certificated by the Commission without prior authority of the Commission.

(b) Formal application on FCC Form 349 is required of all permittees and licensees for any of the following changes:

(1) Replacement of the transmitter as a whole, except replacement with a transmitter of identical power rating which has been certificated by the FCC for use by FM translator or FM booster stations, or any change which could result in the electrical characteristics or performance of the station. Upon the installation or modification of the transmitting equipment for which prior FCC authority is not required under the provisions of this paragraph, the licensee shall place in the station records a certification that the new installation complies in all respects with the technical requirements of this part and the terms of the station authorization.

(2) A change in the transmitting antenna system, including the direction of radiation or directive antenna pattern.

(3) Any change in the overall height of the antenna structure except where notice to the Federal Aviation Administration is specifically not required under § 17.14(b) of this chapter.

(4) Any change in the location of the translator or booster except a move within the same building or upon the same pole or tower.

(5) Any horizontal change in the location of the antenna structure which would (i) be in excess of 152.4 meters (500 feet), or (ii) would require notice to the Federal Aviation Administration pursuant to § 17.7 of the FCC's rules.

(6) Any change in the output frequency of a translator.

(7) Any increase of authorized effective radiated power. FM translator and booster stations may decrease ERP on a modification of license application provided that exhibits are included to demonstrate that the following requirements are met:

(i) The license application may not propose to eliminate the authorized horizontally polarized ERP, if a horizontally polarized ERP is currently authorized;

(ii) The installed height of the antenna radiation center is not increased by more than two meters nor decreased by more than four meters from the authorized height for the antenna radiation center; and

(iii) The station is not presently authorized with separate horizontal and vertical antennas mounted at different heights. Use of separate horizontal and vertical antennas requires a construction permit before implementation or changes.

(8) Any change in area being served.

(c) Changes in the primary FM station being retransmitted must be submitted to the FCC in writing.

(d) Any application proposing a change in the height of the antenna structure or its location must also include the Antenna Structure Registration Number (FCC Form 854R) of the antenna structure upon which it proposes to locate its antenna. In the event the antenna structure does not have a Registration Number, either the antenna structure owner shall file FCC Form 854 (''Application for Antenna

Structure Registration'') in accordance with part 17 of this chapter or the applicant shall provide a detailed explanation why registration and clearance are not required.

[35 FR 15388, Oct. 2, 1970, as amended at 45 FR 26068, Apr. 17, 1980; 47 FR 24580, June 7, 1982; 50 FR 3525, Jan. 25, 1985; 50 FR 23710, June 5, 1985; 55 FR 50698, Dec. 10, 1990; 61 FR 4368, Feb. 6, 1996; 63 FR 33879, June 22, 1998; 63 FR 36606, July 7, 1998; 65 FR 79780, Dec. 20, 2000]

§ 74.1261 Frequency tolerance.

(a) The licensee of an FM translator or booster station with an authorized transmitter power output of 10 watts or less shall maintain the center frequency at the output of the translator within 0.01 percent of its assigned frequency.

(b) The licensee of an FM translator or booster station with an authorized transmitter power output greater than 10 watts shall maintain the center frequency at the output of the translator or booster station in compliance with the requirement of §73.1545(b)(1) of this chapter.

[55 FR 50699, Dec. 10, 1990]

§ 74.1262 Frequency monitors and measurements.

(a) The licensee of a station authorized under this subpart is not required to provide means for measuring the operating frequency of the transmitter. However, only equipment having the required stability will be approved for use by an FM translator or booster.

(b) In the event that a station authorized under this subpart is found to be operating beyond the frequency tolerance prescribed in §74.1261, the licensee shall promptly suspend operation of the station and shall not resume operation until the station has been restored to its assigned frequency. Adjustment of the frequency determining circuits of an FM translator or booster shall be made by a qualified person in accordance with §74.1250(g).

§ 74.1263 Time of operation.

(a) The licensee of an FM translator or booster station is not required to adhere to any regular schedule of operation. However, the licensee of an FM translator or booster station is expected to provide a dependable service to the extent that such is within its control and to avoid unwarranted interruptions to the service provided.

(b) An FM booster or FM translator station rebroadcasting the signal of an AM or FM primary station shall not be permitted to radiate during extended periods when signals of the primary station are not being retransmitted. Notwithstanding the foregoing, FM translators rebroadcasting Class D AM stations may continue to operate during nighttime hours only if the AM station has operated within the last 24 hours.

(c) The licensee of an FM translator or booster station must notify the Commission of its intent to discontinue operations for 30 or more consecutive days. Notification must be made within 10 days of the time the station first discontinues operation and Commission approval must be obtained for such discontinued operation to continue beyond 30 days. The notification shall specify the causes of the discontinued operation and a projected date for the station's return to operation, substantiated by supporting documentation. If the projected date for the station's return to operation cannot be met, another notification and further request for discontinued operations must be submitted in conformance with the requirements of this section. Within 48 hours of the station's return to operation, the licensee must notify the Commission of such fact. All notification must be in writing.

(d) The licensee of an FM translator or booster station must notify the Commission of its intent to permanently discontinue operations at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, DC for cancellation.

(e) Failure of an FM translator or booster station to operate for a period of 30 or more consecutive days, except for causes beyond the control of the licensee or authorized pursuant to paragraph (c) of this section, shall be deemed evidence of discontinuation of operation and the license of the station may be cancelled at the discretion of

the Commission. Furthermore, the station's license will expire as a matter of law, without regard to any causes beyond control of the licensee or to any authorization pursuant to paragraph (c) of this section, if the station fails to transmit broadcast signals for any consecutive 12-month period, notwithstanding any provision, term, or condition of the license to the contrary.

[55 FR 50699, Dec. 10, 1990, as amended at 61 FR 28768, June 6, 1996; 74 FR 45130, Sept. 1, 2009]

§ 74.1265 Posting of station license.

(a) The station license and any other instrument of authorization or individual order concerning the construction of the station or the manner of operation shall be kept in the station record file maintained by the licensee so as to be available for inspection upon request to any authorized representative of the Commission.

(b) The call sign of the translator or booster together with the name, address, and telephone number of the licensee or local representative of the licensee if the licensee does not reside in the community served by the translator or booster, and the name and address of a person and place where station records are maintained, shall be displayed at the translator or booster site on the structure supporting the transmitting antenna, so as to be visible to a person standing on the ground at the transmitter site. The display shall be prepared so as to withstand normal weathering for a reasonable period of time and shall be maintained in a legible condition by the licensee.

[35 FR 15388, Oct. 2, 1970, as amended at 40 FR 24901, June 11, 1975]

§ 74.1269 Copies of rules.

The licensee or permittee of a station authorized under this subpart shall have a current copy of Volumes I (parts 0, 1, 2 and 17) and III (parts 73 & 74) of the Commission's Rules and shall make the same available for use by the operator in charge. Each such licensee or permittee shall be familiar with those rules relating to stations authorized under this subpart. Copies of the Commission's Rules may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC 20402.

[55 FR 50699, Dec. 10, 1990]

§ 74.1281 Station records.

(a) The licensee of a station authorized under this Subpart shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, maintenance records, contracts, permission for rebroadcasts, and other pertinent documents.

(b) Entries required by § 17.49 of this chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light:

(1) The nature of such extinguishment or improper functioning.

(2) The date and time the extinguishment of improper operation was observed or otherwise noted.

(3) The date, time and nature of adjustments, repairs or replacements made.

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.1265(b) of the rules. The station records shall be made available upon request to any authorized representative of the Commission.

(d) Station logs and records shall be retained for a period of two years.

[48 FR 44807, Sept. 30, 1983]

§ 74.1283 Station identification.

(a) The call sign of an FM broadcast translator station will consist of the initial letter K or W followed by the channel number assigned to the translator and two letters. The use of the initial letter will generally conform to

the pattern used in the broadcast service. The two letter combinations following the channel number will be assigned in order and requests for the assignment of particular combinations of letters will not be considered.

(b) The call sign of an FM booster station will consist of the call sign of the primary station followed by the letters ''FM'' and the number of the booster station being authorized, e.g., WFCCFM–1.

(c) A translator station authorized under this subpart shall be identified by one of the following methods.

(1) By arranging for the primary station whose station is being rebroadcast to identify the translator station by call sign and location. Three such identifications shall be made during each day: once between 7 a.m. and 9 a.m., once between 12:55 p.m. and 1:05 p.m. and once between 4 p.m. and 6 p.m. Stations which do not begin their broadcast before 9 a.m. shall make their first identification at the beginning of their broadcast days. The licensee of an FM translator whose station identification is made by the primary station must arrange for the primary station licensee to keep in its file, and to make available to FCC personnel, the translator's call letters and location, giving the name, address and telephone number of the licensee or his service representative to be contacted in the event of malfunction of the translator. It shall be the responsibility of the translator licensee to furnish current information to the primary station licensee for this purpose.

(2) By transmitting the call sign in International Morse Code at least once each hour. Transmitters of FM broadcast translator stations of more than 1 watt transmitter output power must be equipped with an automatic keying device that will transmit the call sign at least once each hour, unless there is in effect a firm agreement with the translator's primary station as provided in §74.1283(c)(1) of this section. Transmission of the call sign can be accomplished by:

(i) Frequency shifting key; the carrier shift shall not be less than 5 kHz nor greater than 25 kHz.

(ii) Amplitude modulation of the FM carrier of at least 30 percent modulation. The audio frequency tone use shall not be within 200 hertz of the Emergency Broadcast System Attention signal alerting frequencies.

(d) FM broadcast booster stations shall be identified by their primary stations, by the broadcasting of the primary station's call signs and location, in accordance with the provisions of §73.1201 of this chapter.

(e) The Commission may, in its discretion, specify other methods of identification.

[55 FR 50699, Dec. 10, 1990]

§74.1284 Rebroadcasts.

(a) The term *rebroadcast* means the reception by radio of the programs or other signals of a radio station and the simultaneous retransmission of such programs or signals for direct reception by the general public.

(b) The licensee of an FM translator shall not rebroadcast the programs of any AM or FM broadcast station or other FM translator without obtaining prior consent of the primary station whose programs are proposed to be retransmitted. The Commission shall be notified of the call letters of each station rebroadcast and the licensee of the FM translator shall certify that written consent has been received from the licensee of the station whose programs are retransmitted.

(c) An FM translator is not authorized to rebroadcast the transmissions of any class of station other than an AM or FM broadcast station or another FM translator.

[35 FR 15388, Oct. 2, 1970, as amended at 74 FR 45130, Sept. 1, 2009]

§74.1290 FM translator and booster station information available on the Internet.

The Media Bureau's Audio Division provides information on the Internet regarding FM translator and booster stations, rules, and policies at *http://www.fcc.gov/mb/audio*.

[67 FR 13234, Mar. 21, 2002]

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[50 FR 38535, Sept. 23, 1985, as amended at 51 FR 34622, Sept. 30, 1986; 52 FR 37316, Oct. 6, 1987; 52 FR 47569, Dec. 15, 1987; 63 FR 33879, June 22, 1998; 63 FR 65127, Nov. 25, 1998; 64 FR 63744, Nov. 22, 1999]

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Subpart A—General

§ 76.1 Purpose.

The rules and regulations set forth in this part provide for the certification of cable television systems and for their operation in conformity with standards for carriage of television broadcast signals, program exclusivity, cablecasting, access channels, and related matters. The rules and regulations in this part also describe broadcast carriage requirements for cable operators and satellite carriers.

[37 FR 3278, Feb. 12, 1972, as amended at 70 FR 21670, Apr. 27, 2005]

§ 76.3 Other pertinent rules.

Other pertinent provisions of the Commission's rules and regulations relating to Multichannel Video and the Cable Television Service are included in the following parts of this chapter:

Part 1—Practice and Procedure.
Part 11—Emergency Alert System (EAS).
Part 21—Domestic Public Radio Services (Other Than Maritime Mobile).
Part 63—Extension of Lines and Discontinuance of Service by Carriers.
Part 64—Miscellaneous Rules Relating to Common Carriers.
Part 78—Cable Television Relay Service.
Part 79—Closed Captioning of Video Programming.
Part 91—Industrial Radio Services.

[65 FR 53614, Sept. 5, 2000]

§ 76.5 Definitions.

(a) *Cable system or cable television system.* A facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

(1) A facility that services only to retransmit the television signals of one or more television broadcast stations;

(2) A facility that serves subscribers without using any public right-of-way;

(3) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, as amended, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(4) An open video system that complies with Section 653 of the Communications Act; or

(5) Any facilities of any electric utility used solely for operating its electric utility systems.

NOTE TO PARAGRAPH (a): The provisions of subparts D and F of this part shall also apply to all facilities defined previously as cable systems on or before April 28, 1985, except those that serve subscribers without using any public right-of-way.

(b) *Television station; television broadcast station.* Any television broadcast station operating on a channel regularly assigned to its community by § 73.606 or § 73.622 of this chapter, and any television broadcast station licensed by a foreign government: *Provided, however,* That a television broadcast station licensed by a foreign government shall not be entitled to assert a claim to carriage, program exclusivity, or retransmission consent authorization pursuant to subpart D or F of this part, but may otherwise be carried if consistent with the rules on any service tier. Further provided that a television broadcast station operating on channels regularly assigned to its community by both §§ 73.606 and 73.622 of this chapter may assert a claim for carriage pursuant to subpart D of this part only for a channel assigned pursuant to § 73.606.

(c) *Television translator station.* A television broadcast translator station as defined in § 74.701 of this chapter.

(d) *Grade A and Grade B contours.* The field intensity contours defined in § 73.683(a) of this chapter.

(e) *Specified zone of a television broadcast station.* The area extending 56.3 air km (35 air miles) from the reference point in the community to which that station is licensed or authorized by the Commission. A list of reference points is contained in § 76.53. A television

broadcast station that is authorized but not operating has a specified zone that terminates eighteen (18) months after the initial grant of its construction permit.

(f) *Major television market.* The specified zone of a commercial television station licensed to a community listed in § 76.51, or a combination of such specified zones where more than one community is listed.

(g) *Designated community in a major television market.* A community listed in § 76.51.

(h) *Smaller television market.* The specified zone of a commercial television station licensed to a community that is not listed in § 76.51.

(i) *Significantly viewed.* Viewed in over-the-air households as follows: (1) For a full or partial network station—a share of viewing hours of at least 3 percent (total week hours), and a net weekly circulation of at least 25 percent; and (2) for an independent station—a share of viewing hours of at least 2 percent (total week hours), and a net weekly circulation of at least 5 percent. See § 76.54.

NOTE: As used in this paragraph, ''share of viewing hours'' means the total hours that over-the-air television households viewed the subject station during the week, expressed as a percentage of the total hours these households viewed all stations during the period, and ''net weekly circulation'' means the number of over-the-air television households that viewed the station for 5 minutes or more during the entire week, expressed as a percentage of the total over-the-air television households in the survey area.

(j) *Full network station.* A commercial television broadcast station that generally carries in weekly prime time hours 85 percent of the hours of programing offered by one of the three major national television networks with which it has a primary affiliation (*i.e.*, right of first refusal or first call).

(k) *Partial network station.* A commercial television broadcast station that generally carries in prime time more than 10 hours of programming per week offered by the three major national television networks, but less than the amount specified in paragraph (j) of this section.

(l) *Independent station.* A commercial television broadcast station that generally carries in prime time not more than 10 hours of programing per week offered by the three major national television networks.

(m) A network program is any program delivered simultaneously to more than one broadcast station regional or national, commercial or noncommercial.

(n) *Prime time.* The 5-hour period from 6 to 11 p.m., local time, except that in the central time zone the relevant period shall be between the hours of 5 and 10 p.m., and in the mountain time zone each station shall elect whether the period shall be 6 to 11 p.m. or 5 to 10 p.m.

NOTE: Unless the Commission is notified to the contrary, a station in the mountain time zone shall be presumed to have elected the 6 to 11 p.m. period.

(o) *Cablecasting.* Programming (exclusive of broadcast signals) carried on a cable television system. See paragraphs (y), (z) and (aa) (Classes II, III, and IV cable television channels) of this section.

(p) *Origination cablecasting.* Programing (exclusive of broadcast signals) carried on a cable television system over one or more channels and subject to the exclusive control of the cable operator.

(q) *Legally qualified candidate.* (1) Any person who:

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

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

(iii) Has met the qualifications set forth in either paragraphs (q)(2), (3) or (4) of this section.

(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 paragraph (q)(1) of this section, that person:

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

(ii) Has publicly committed himself or herself to seeking election by the write-in method and is eligible under

applicable law to be voted for by sticker, by writing in his or her name on the ballot or by other method, and makes a substantial showing that he or she is a bona fide candidate for nomination or office.

Persons seeking election to the office of President or Vice President of the United States shall, for the purposes of the Communications Act and the rules thereunder, be considered legally qualified candidates only in those States or territories (or the District of Columbia) in which they have met the requirements set forth in paragraphs (q) (1) and (2) of this rule; except that any such person who has met the requirements set forth in paragraphs (q) (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 (q)(1) 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.

(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 meeting the requirements set forth in paragraph (q)(1) of this section.

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

(ii) He or she has made a substantial showing of bona fide candidacy for such nomination in that State, territory of the District of Columbia; except that such person meeting the requirements set forth in paragraph (q) (1) and (4) 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 the Act.

(5) The term ''substantial showing'' of bona fide candidacy as used in paragraph (q) (2), (3) and (4) 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 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.

(r) *Class I cable television channel.* A signaling path provided by a cable television system to relay to subscriber terminals television broadcast programs that are received off-the-air or are obtained by microwave or by direct connection to a television broadcast station.

(s) *Class II cable television channel.* A signaling path provided by a cable television system to deliver to subscriber terminals television signals that are intended for reception by a television broadcast receiver without the use of an auxilliary decoding device and which signals are not involved in a broadcast transmission path.

(t) *Class III cable television channel.* A signaling path provided by a cable television system to deliver to subscriber terminals signals that are intended for reception by equipment other than a television broadcast receiver or by a television broadcast receiver only when used with auxiliary decoding equipment.

(u) *Class IV cable television channel.* A signaling path provided by a cable television system to transmit signals of any type from a subscriber terminal to another point in the cable television system.

(v) *Subscriber terminal.* The cable television system terminal to which a subscriber's equipment is connected. Separate terminals may be provided for delivery of signals of various classes. Terminal devices interconnected to subscriber terminals of a cable system must comply with the provisions of part 15 of this Chapter for TV interface devices.

(w) *System noise.* That combination of undesired and fluctuating disturbances within a cable television channel that degrades the transmission of the desired signal and that is due to modulation processes or thermal or other noise-producing effects, but does not include hum and other undesired signals of discrete frequency. System noise is specified in terms of its rms voltage or its mean power level as measured in the 4 MHz bandwidth between 1.25 and 5.25 MHz above the lower channel boundary of a cable television channel.

(x) *Terminal isolation.* The attenuation, at any subscriber terminal, between that terminal and any other subscriber terminal in the cable television system.

(y) *Visual signal level.* The rms voltage produced by the visual signal during the transmission of synchronizing pulses.

(z) *Affiliate.* When used in relation to any person, another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

(aa) *Person.* An individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

(bb) *Significant interest.* A cognizable interest for attributing interests in broadcast, cable, and newspaper properties pursuant to §§ 73.3555, 73.3615, and 76.501.

(cc) *Cable system operator.* Any person or group of persons (1) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system; or (2) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

(dd) *System community unit: Community unit.* A cable television system, or portion of a cable television system, that operates or will operate within a separate and distinct community or municipal entity (including unincorporated communities within unincorporated areas and including single, discrete unincorporated areas).

(ee) *Subscribers.* (1) *As used in the context of cable service, subscriber or cable subscriber* means a member of the general public who receives broadcast programming distributed by a cable television system and does not further distribute it.

(2) *As used in the context of satellite service, subscriber or satellite subscriber* means a person who receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

(ff) *Cable service.* The one-way transmission to subscribers of video programming, or other programming service; and, subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. For the purposes of this definition, ''video programming'' is programming provided by, or generally considered comparable to programming provided by, a television broadcast station; and, ''other programming service'' is information that a cable operator makes available to all subscribers generally.

(gg) *Satellite community.* (1) For purposes of the significantly viewed rules (see § 76.54), a separate and distinct community or municipal entity (including unincorporated communities within unincorporated areas and including single, discrete unincorporated areas). The boundaries of any such unincorporated community may be defined by one or more adjacent five-digit zip code areas. Satellite communities apply only in areas in which there is no pre-existing cable community, as defined in paragraph (dd) of this section.

(2) For purposes of the market modification rules (see § 76.59), a county.

(hh) *Input selector switch.* Any device that enables a viewer to select between cable service and off-the-air television signals. Such a device may be more sophisticated than a mere two-sided switch, may utilize other cable interface equipment, and may be built into consumer television receivers.

(ii) A *syndicated program* is any program sold, licensed, distributed or offered to television station licensees in more than one market within the United States other than as network programming as defined in § 76.5(m).

(jj) *Rural area.* A community unit with a density of less than 19 households per route kilometer or thirty households per route mile of coaxial and/or fiber optic cable trunk and feeder line.

(kk) *Technically integrated.* Having 75% or more of the video channels received from a common headend.

(ll) *Cable home wiring.* The internal wiring contained within the premises of a subscriber which begins at the demarcation point. Cable home wiring includes passive splitters on the subscriber's side of the demarcation point, but does not include any active elements such as amplifiers, converter or decoder boxes, or remote control units.

(mm) *Demarcation point.* (1) For new and existing single unit installations, the demarcation point shall be a point at (or about) twelve inches outside of where the cable wire enters the subscriber's premises.

(2) For new and existing multiple dwelling unit installations with non-loop-through wiring configurations, the demarcation point shall be a point at (or about) twelve inches outside of where the cable wire enters the subscriber's dwelling unit, or, where the wire is physically inaccessible at such point, the closest practicable point thereto that does not require access to the individual subscriber's dwelling unit.

(3) For new and existing multiple dwelling unit installations with loop-through wiring configurations, the demarcation points shall be at (or about) twelve inches outside of where the cable wire enters or exits the first and last individual dwelling units on the loop, or, where the wire is physically inaccessible at such point(s), the closest practicable point thereto that does not require access to an individual subscriber's dwelling unit.

(4) As used in this paragraph (mm)(3), the term ''physically inaccessible'' describes a location that:

(i) Would require significant modification of, or significant damage to, preexisting structural elements, and

(ii) Would add significantly to the physical difficulty and/or cost of accessing the subscriber's home wiring.

NOTE TO § 76.5 PARAGRAPH (mm)(4): For example, wiring embedded in brick, metal conduit, cinder blocks, or sheet rock with limited or without access openings would likely be physically inaccessible; wiring enclosed within hallway molding would not.

(nn) *Activated channels.* Those channels engineered at the headend of a cable system for the provision of services generally available to residential subscribers of the cable system, regardless of whether such services actually are provided, including any channel designated for public, educational or governmental use.

(oo) *Usable activated channels.* Those activated channels of a cable system, except those channels whose use for the distribution of broadcast signals would conflict with technical and safety regulations. See part 76, subpart K.

(pp) *Principal headend.* (1) The headend, in the case of a cable system with a single headend or,

(2) In the case of a cable system with more than one headend, the principal headend designated by the cable operator, except that such designation shall not undermine or evade the requirements of subpart D of this part. Each cable system must provide information regarding the designation and location of the principal headend to the Commission promptly upon request. Except for good cause, an operator may not change its choice of principal headend. Cable systems may elect voluntarily to provide the location of the principal headend in the Commission's online public inspection file database and may choose whether to make this information accessible only by the Commission or to also make it publicly available. Systems that elect not to provide this information in the online file, or to protect this information in the online file from public view, must

make it available to broadcast television stations and local franchisors upon request. If a request is submitted by a television station or franchisor in writing by certified mail, cable systems must respond in writing by certified mail within 15 calendar days. Cable systems may in addition elect to respond to requests from these entities submitted by telephone or email, but must respond in writing by certified mail if requested to do so by the station or franchisor.

(qq) Emergency Alert System (EAS). The EAS is composed of broadcast networks; cable networks and program suppliers; AM, FM and TV broadcast stations; Low Power TV (LPTV) stations; cable systems and wireless cable systems; and other entities and industries operating on an organized basis during emergencies at the National, State, or local levels.

[37 FR 3278, Feb. 12, 1972]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 76.5, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§ 76.6 General pleading requirements.

(a) *General pleading requirements.* All written submissions, both substantive and procedural, must conform to the following standards:

(1) A pleading must be clear, concise, and explicit. All matters concerning a claim, defense or requested remedy, should be pleaded fully and with specificity.

(2) Pleadings must contain facts which, if true, are sufficient to warrant a grant of the relief requested.

(3) Facts must be supported by relevant documentation or affidavit.

(4) The original of all pleadings and submissions by any party shall be signed by that party, or by the party's attorney. Complaints must be signed by the complainant. The signing party shall state his or her address and telephone number and the date on which the document was signed. Copies should be conformed to the original. Each submission must contain a written verification that the signatory has read the submission and to the best of his or her knowledge, information and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and that it is not interposed for any improper purpose. If any pleading or other submission is signed in violation of this provision, the Commission shall upon motion or upon its own initiative impose appropriate sanctions.

(5) Legal arguments must be supported by appropriate judicial, Commission, or statutory authority. Opposing authorities must be distinguished. Copies must be provided of all non-Commission authorities relied upon which are not routinely available in national reporting systems, such as unpublished decisions or slip opinions of courts or administrative agencies.

(6) Parties are responsible for the continuing accuracy and completeness of all information and supporting authority furnished in a pending complaint proceeding. Information submitted, as well as relevant legal authorities, must be current and updated as necessary and in a timely manner at any time before a decision is rendered on the merits of the complaint.

(b) *Copies to be Filed.* Unless otherwise directed by specific regulation or the Commission, an original and two (2) copies of all pleadings shall be filed in accordance with § 0.401(a) of this chapter, except that petitions requiring fees as set forth at part 1, subpart G of this chapter must be filed in accordance with § 0.401(b) of this chapter.

(c) *Frivolous pleadings.* It shall be unlawful for any party to file a frivolous pleading with the Commission. Any violation of this paragraph shall constitute an abuse of process subject to appropriate sanctions.

[64 FR 6569, Feb. 10, 1999]

§ 76.7 General special relief, waiver, enforcement, complaint, show cause, forfeiture, and declaratory ruling procedures.

(a) *Initiating pleadings.* In addition to the general pleading requirements, initiating pleadings must adhere to the following requirements:

(1) *Petitions.* On petition by any interested party, cable television system operator, a multichannel video programming distributor, local franchising authority, or an applicant, permittee, or licensee of a television broadcast or translator station, the Commission may waive any provision of this part 76, impose additional or different requirements, issue a ruling on a complaint or disputed question, issue a show cause order, revoke the certification of the local franchising authority, or initiate a forfeiture proceeding. Petitions may be submitted informally by letter.

(2) *Complaints.* Complaints shall conform to the relevant rule section under which the complaint is being filed.

(3) *Certificate of service.* Petitions and Complaints shall be accompanied by a certificate of service on any cable television system operator, multichannel video programming distributor, franchising authority, station licensee, permittee, or applicant, or other interested person who is likely to be directly affected if the relief requested is granted.

(4) *Statement of relief requested.* (i) The petition or complaint shall state the relief requested. It shall state fully and precisely all pertinent facts and considerations relied on to demonstrate the need for the relief requested and to support a determination that a grant of such relief would serve the public interest.

(ii) The petition or complaint shall set forth all steps taken by the parties to resolve the problem, except where the only relief sought is a clarification or interpretation of the rules.

(iii) A petition or complaint may, on request of the filing party, be dismissed without prejudice as a matter of right prior to the adoption date of any final action taken by the Commission with respect to the petition or complaint. A request for the return of an initiating document will be regarded as a request for dismissal.

(5) *Failure to prosecute.* Failure to prosecute petition or complaint, or failure to respond to official correspondence or request for additional information, will be cause for dismissal. Such dismissal will be without prejudice if it occurs prior to the adoption date of any final action taken by the Commission with respect to the initiating pleading.

(b) *Responsive pleadings.* In addition to the general pleading requirements, responsive pleadings must adhere to the following requirements:

(1) *Comments/oppositions to petitions.* Unless otherwise directed by the Commission, interested persons may submit comments or oppositions within twenty (20) days after the date of public notice of the filing of such petition. Comments or oppositions shall be served on the petitioner and on all persons listed in petitioner's certificate of service, and shall contain a detailed full showing, supported by affidavit, of any facts or considerations relied on.

(2) *Answers to complaints.* (i) Unless otherwise directed by the Commission, any party who is served with a complaint shall file an answer in accordance with the following, and the relevant rule section under which the complaint is being filed.

(ii) The answer shall be filed within 20 days of service of the complaint, unless another period is set forth in the relevant rule section.

(iii) The answer shall advise the parties and the Commission fully and completely of the nature of any and all defenses, and shall respond specifically to all material allegations of the complaint. Collateral or immaterial issues shall be avoided in answers and every effort should be made to narrow the issues. Any party against whom a complaint is filed failing to file and serve an answer within the time and in the manner prescribed by these rules may be deemed in default and an order may be entered against defendant in accordance with the allegations contained in the complaint.

(iv) The answer shall admit or deny the averments on which the adverse party relies. If the defendant is without knowledge or information sufficient to form a belief as to the truth of an averment, the defendant shall so state and this has the effect of a denial. When a defendant intends in good faith to deny only part of an averment, the answer shall specify so much of it as is true and shall deny only the remainder. The defendant may make its denials as specific denials of designated averments

or paragraphs, or may generally deny all the averments except such designated averments or paragraphs as the defendant expressly admits. When the defendant intends to controvert all averments, the defendant may do so by general denial.

(v) Averments in a complaint are deemed to be admitted when not denied in the answer.

(c) *Reply.* In addition to the general pleading requirements, reply comments and replies must adhere to the following requirements:

(1) The petitioner or complainant may file a reply to a responsive pleading which shall be served on all persons who have filed pleadings and shall also contain a detailed full showing, supported by affidavit, of any additional facts or considerations relied on. Unless expressly permitted by the Commission, reply comments and replies to an answer shall not contain new matters.

(2) Failure to reply will not be deemed an admission of any allegations contained in the responsive pleading, except with respect to any affirmative defense set forth therein.

(3) Unless otherwise directed by the Commission or the relevant rule section, comments and replies to answers must be filed within ten (10) days after submission of the responsive pleading.

(d) *Motions.* Except as provided in this section, or upon a showing of extraordinary circumstances, additional motions or pleadings by any party will not be accepted.

(e) *Additional procedures and written submissions.* (1) The Commission may specify other procedures, such as oral argument or evidentiary hearing directed to particular aspects, as it deems appropriate. In the event that an evidentiary hearing is required, the Commission will determine, on the basis of the pleadings and such other procedures as it may specify, whether temporary relief should be afforded any party pending the hearing and the nature of any such temporary relief.

(2) The Commission may require the parties to submit any additional information it deems appropriate for a full, fair, and expeditious resolution of the proceeding, including copies of all contracts and documents reflecting arrangements and understandings alleged to violate the requirements set forth in the Communications Act and in this part, as well as affidavits and exhibits.

(3) The Commission may, in its discretion, require the parties to file briefs summarizing the facts and issues presented in the pleadings and other record evidence.

(i) These briefs shall contain the findings of fact and conclusions of law which that party is urging the Commission to adopt, with specific citations to the record, and supported by relevant authority and analysis.

(ii) Any briefs submitted shall be filed concurrently by both the complainant and defendant at such time as is designated by the staff. Such briefs shall not exceed fifty (50) pages.

(iii) Reply briefs may be submitted by either party within twenty (20) days from the date initial briefs are due. Reply briefs shall not exceed thirty (30) pages.

(f) *Discovery.* (1) The Commission staff may in its discretion order discovery limited to the issues specified by the Commission. Such discovery may include answers to written interrogatories, depositions or document production.

(2) The Commission staff may in its discretion direct the parties to submit discovery proposals, together with a memorandum in support of the discovery requested. Such discovery requests may include answers to written interrogatories, document production or depositions. The Commission staff may hold a status conference with the parties, pursuant to §76.8 of this part, to determine the scope of discovery, or direct the parties regarding the scope of discovery. If the Commission staff determines that extensive discovery is required or that depositions are warranted, the staff may advise the parties that the proceeding will be referred to an administrative law judge in accordance with paragraph (g) of this section.

(g) *Referral to administrative law judge.* (1) After reviewing the pleadings, and at any stage of the proceeding thereafter, the Commission staff may, in its discretion, designate any proceeding or discrete issues arising out of any proceeding for an adjudicatory hearing before an administrative law judge.

(2) Before designation for hearing, the staff shall notify, either orally or in writing, the parties to the proceeding of its intent to so designate, and the parties shall be given a period of ten (10) days to elect to resolve the dispute through alternative dispute resolution procedures, or to proceed with an adjudicatory hearing. Such election shall be submitted in writing to the Commission and the Chief Administrative Law Judge.

(3) Unless otherwise directed by the Commission, or upon motion by the Media Bureau Chief, the Media Bureau Chief shall not be deemed to be a party to a proceeding designated for a hearing before an administrative law judge pursuant to this paragraph (g).

(h) *System community units outside the Contiguous States.* On a finding that the public interest so requires, the Commission may determine that a system community unit operating or proposing to operate in a community located outside of the 48 contiguous states shall comply with provisions of subparts D, F, and G of this part in addition to the provisions thereof otherwise applicable.

(i) *Commission ruling.* The Commission, after consideration of the pleadings, may determine whether the public interest would be served by the grant, in whole or in part, or denial of the request, or may issue a ruling on the complaint or dispute, issue an order to show cause, or initiate a forfeiture proceeding.

NOTE 1 TO §76.7: After issuance of an order to show cause pursuant to this section, the rules of procedure in Title 47, part 1, subpart A, §§1.91–1.95 of this chapter shall apply.

NOTE 2 TO §76.7: Nothing in this section is intended to prevent the Commission from initiating show cause or forfeiture proceedings on its own motion; Provided, however, that show cause proceedings and forfeiture proceedings pursuant to §1.80(g) of this chapter will not be initiated by such motion until the affected parties are given an opportunity to respond to the Commission's charges.

NOTE 3 TO §76.7: Forfeiture proceedings are generally nonhearing matters conducted pursuant to the provisions of §1.80(f) of this chapter (Notice of Apparent Liability). Petitioners who contend that the alternative hearing procedures of §1.80(g) of this chapter should be followed in a particular case must support this contention with a specific showing of the facts and considerations relied on.

NOTE 4 TO §76.7: To the extent a conflict is perceived between the general pleading requirements of this section, and the procedural requirements of a specific section, the procedural requirements of the specific section should be followed.

[64 FR 6569, Feb. 10, 1999, as amended at 67 FR 13234, Mar. 21, 2002; 76 FR 60673, Sept. 29, 2011; 80 FR 59663, Oct. 2, 2015]

§76.8 Status conference.

(a) In any proceeding subject to the part 76 rules, the Commission staff may in its discretion direct the attorneys and/or the parties to appear for a conference to consider:

(1) Simplification or narrowing of the issues;

(2) The necessity for or desirability of amendments to the pleadings, additional pleadings, or other evidentiary submissions;

(3) Obtaining admissions of fact or stipulations between the parties as to any or all of the matters in controversy;

(4) Settlement of the matters in controversy by agreement of the parties;

(5) The necessity for and extent of discovery, including objections to interrogatories or requests for written documents;

(6) The need and schedule for filing briefs, and the date for any further conferences; and

(7) Such other matters that may aid in the disposition of the proceeding.

(b) Any party may request that a conference be held at any time after an initiating document has been filed.

(c) Conferences will be scheduled by the Commission at such time and place as it may designate, to be conducted in person or by telephone conference call.

(d) The failure of any attorney or party, following advance notice with an opportunity to be present, to appear at a scheduled conference will be deemed a waiver and will not preclude the Commission from conferring with those parties or counsel present.

(e) During a status conference, the Commission staff may issue oral rulings pertaining to a variety of matters relevant to the conduct of the proceeding including, *inter alia,* procedural matters, discovery, and the submission

of briefs or other evidentiary materials. These rulings will be promptly memorialized in writing and served on the parties. When such rulings require a party to take affirmative action not subject to deadlines established by another provision of this subpart, such action will be required within ten (10) days from the date of the written memorialization unless otherwise directed by the staff.

[64 FR 6571, Feb. 10, 1999]

§ 76.9 Confidentiality of proprietary information.

(a) Any materials filed in the course of a proceeding under this provision may be designated as proprietary by that party if the party believes in good faith that the materials fall within an exemption to disclosure contained in the Freedom of Information Act (FOIA), 5 U.S.C. 552(b). Any party asserting confidentiality for such materials shall so indicate by clearly marking each page, or portion thereof, for which a proprietary designation is claimed. If a proprietary designation is challenged, the party claiming confidentiality will have the burden of demonstrating, by a preponderance of the evidence, that the material designated as proprietary falls under the standards for nondisclosure enunciated in FOIA.

(b) Submissions containing information claimed to be proprietary under this section shall be submitted to the Commission in confidence pursuant to the requirements of § 0.459 of this chapter and clearly marked ''Not for Public Inspection.'' An edited version removing all proprietary data shall be filed with the Commission for inclusion in the public file within five (5) days from the date the unedited reply is submitted, and shall be served on the opposing parties.

(c) Except as provided in paragraph (d) of this section, materials marked as proprietary may be disclosed solely to the following persons, only for use in the proceeding, and only to the extent necessary to assist in the prosecution or defense of the case:

(i) Counsel of record representing the parties in the proceeding and any support personnel employed by such attorneys;

(ii) Officers or employees of the parties in the proceeding who are named by another party as being directly involved in the proceeding;

(iii) Consultants or expert witnesses retained by the parties;

(iv) The Commission and its staff; and

(v) Court reporters and stenographers in accordance with the terms and conditions of this section.

(d) The Commission will entertain, subject to a proper showing, a party's request to further restrict access to proprietary information as specified by the party. The other parties will have an opportunity to respond to such requests.

(e) The persons designated in paragraphs (c) and (d) of this section shall not disclose information designated as proprietary to any person who is not authorized under this section to receive such information, and shall not use the information in any activity or function other than the prosecution or defense of the case before the Commission. Each individual who is provided access to the information by the opposing party shall sign a notarized statement affirmatively stating, or shall certify under penalty of perjury, that the individual has personally reviewed the Commission's rules and understands the limitations they impose on the signing party.

(f) No copies of materials marked proprietary may be made except copies to be used by persons designated in paragraphs (c) and (d) of this section. Each party shall maintain a log recording the number of copies made of all proprietary material and the persons to whom the copies have been provided.

(g) Upon termination of the complaint proceeding, including all appeals and petitions, all originals and reproductions of any proprietary materials, along with the log recording persons who received copies of such materials, shall be provided to the producing party. In addition, upon final termination of the proceeding, any notes or other work product derived in whole or in part from the proprietary materials of an opposing or third party shall be destroyed.

[64 FR 6571, Feb. 10, 1999]

§ 76.10 Review.

(a) *Interlocutory review.* (1) Except as provided below, no party may seek review of interlocutory rulings until a decision on the merits has been issued by the staff or administrative law judge.

(2) Rulings listed in this paragraph are reviewable as a matter of right. An application for review of such ruling may not be deferred and raised as an exception to a decision on the merits.

(i) If the staff's ruling denies or terminates the right of any person to participate as a party to the proceeding, such person, as a matter of right, may file an application for review of that ruling.

(ii) If the staff's ruling requires production of documents or other written evidence, over objection based on a claim of privilege, the ruling on the claim of privilege is reviewable as a matter of right.

(iii) If the staff's ruling denies a motion to disqualify a staff person from participating in the proceeding, the ruling is reviewable as a matter of right.

(b) *Petitions for reconsideration.* Petitions for reconsideration of interlocutory actions by the Commission's staff or by an administrative law judge will not be entertained. Petitions for reconsideration of a decision on the merits made by the Commission's staff should be filed in accordance with §§ 1.104 through 1.106 of this chapter.

(c) *Application for review.* (1) Any party to a part 76 proceeding aggrieved by any decision on the merits issued by the staff pursuant to delegated authority may file an application for review by the Commission in accordance with § 1.115 of this chapter.

(2) Any party to a part 76 proceeding aggrieved by any decision on the merits by an administrative law judge may file an appeal of the decision directly with the Commission, in accordance with §§ 1.276(a) and 1.277(a) through (c) of this chapter, except that in proceedings brought pursuant to §§ 76.1003, 76.1302, and 76.1513 of this part, unless a stay is granted by the Commission, the decision by the administrative law judge will become effective upon release and will remain in effect pending appeal.

[64 FR 6571, Feb. 10, 1999]

§ 76.11 Lockbox enforcement.

Any party aggrieved by the failure or refusal of a cable operator to provided a lockbox as provided for in Title VI of the Communications Act may petition the Commission for relief in accordance with the provisions and procedures set forth in § 76.7 for petitions for special relief.

[50 FR 18661, May 2, 1985]

Subpart B—Registration Statements

§ 76.29 Special temporary authority.

(a) In circumstances requiring the temporary use of community units for operations not authorized by the Commission's rules, a cable television system may request special temporary authority to operate. The Commission may grant special temporary authority, upon a finding that the public interest would be served thereby, for a period not to exceed ninety (90) days, and may extend such authority, upon a like finding, for one additional period, not to exceed ninety (90) days.

(b) Requests for special temporary authority may be submitted informally, by letter, and shall contain the following:

(1) Name and address of the applicant cable system.

(2) Community in which the community unit is located.

(3) Type of operation to be conducted.

(4) Date of commencement of proposed operations.

(5) Duration of time for which temporary authority is required.

(6) All pertinent facts and considerations relied on to demonstrate the need for special temporary authority and to support a determination that a grant of such authority would serve the public interest.

(7) A certificate of service on all interested parties.

(c) A request for special temporary authority shall be filed at least ten (10) days prior to the date of commencement of the proposed operations, or shall be accompanied by a statement of

reasons for the delay in submitting such request.

(d) A grant of special temporary authority may be rescinded by the Commission at any time upon a finding of facts which warrant such action.

[39 FR 35166, Sept. 30, 1974; 42 FR 19346, Apr. 13, 1977, as amended at 43 FR 49008, Oct. 20, 1978]

Subpart C—Cable Franchise Applications

§ 76.41 Franchise application process.

(a) Definition. *Competitive franchise applicant*. For the purpose of this section, an applicant for a cable franchise in an area currently served by another cable operator or cable operators in accordance with 47 U.S.C. 541(a)(1).

(b) A competitive franchise applicant must include the following information in writing in its franchise application, in addition to any information required by applicable State and local laws:

(1) The applicant's name;

(2) The names of the applicant's officers and directors;

(3) The business address of the applicant;

(4) The name and contact information of a designated contact for the applicant;

(5) A description of the geographic area that the applicant proposes to serve;

(6) The PEG channel capacity and capital support proposed by the applicant;

(7) The term of the agreement proposed by the applicant;

(8) Whether the applicant holds an existing authorization to access the public rights-of-way in the subject franchise service area as described under paragraph (b)(5) of this section;

(9) The amount of the franchise fee the applicant offers to pay; and

(10) Any additional information required by applicable State or local laws.

(c) A franchising authority may not require a competitive franchise applicant to negotiate or engage in any regulatory or administrative processes prior to the filing of the application.

(d) When a competitive franchise applicant files a franchise application with a franchising authority and the applicant has existing authority to access public rights-of-way in the geographic area that the applicant proposes to serve, the franchising authority must grant or deny the application within 90 days of the date the application is received by the franchising authority. If a competitive franchise applicant does not have existing authority to access public rights-of-way in the geographic area that the applicant proposes to serve, the franchising authority must grant or deny the application within 180 days of the date the application is received by the franchising authority. A franchising authority and a competitive franchise applicant may agree in writing to extend the 90-day or 180-day deadline, whichever is applicable.

(e) If a franchising authority does not grant or deny an application within the time limit specified in paragraph (d) of this section, the competitive franchise applicant will be authorized to offer service pursuant to an interim franchise in accordance with the terms of the application submitted under paragraph (b) of this section.

(f) If after expiration of the time limit specified in paragraph (d) of this section a franchising authority denies an application, the competitive franchise applicant must discontinue operating under the interim franchise specified in paragraph (e) of this section unless the franchising authority provides consent for the interim franchise to continue for a limited period of time, such as during the period when judicial review of the franchising authority's decision is pending. The competitive franchise applicant may seek judicial review of the denial under 47 U.S.C. 555.

(g) If after expiration of the time limit specified in paragraph (d) of this section a franchising authority and a competitive franchise applicant agree on the terms of a franchise, upon the effective date of that franchise, that franchise will govern and the interim franchise will expire.

[72 FR 13215, Mar. 21, 2007]

Subpart D—Carriage of Television Broadcast Signals

§ 76.51 Major television markets.

For purposes of the cable television rules, the following is a list of the major television markets and their designated communities:

(a) First 50 major television markets:
(1) New York, New York-Linden-Paterson-Newark, New Jersey.
(2) Los Angeles-San Bernardino-Corona-Riverside-Anaheim, Calif.
(3) Chicago, Ill.
(4) Philadelphia, Pa.-Burlington, N.J.
(5) Detroit, Mich.
(6) Boston-Cambridge-Worcester-Lawrence, Mass.
(7) San Francisco-Oakland-San Jose, Calif.
(8) Cleveland-Lorain-Akron, Ohio.
(9) Washington, DC.
(10) Pittsburgh, Pa.
(11) St. Louis, Mo.
(12) Dallas-Fort Worth, Tex.
(13) Minneapolis-St. Paul, Minn.
(14) Baltimore, Md.
(15) Houston, Tex.
(16) Indianapolis-Bloomington, Ind.
(17) Cincinnati, Ohio-Newport, Ky.
(18) Atlanta-Rome, Ga.
(19) Hartford-New Haven-New Britain-Waterbury-New London, Ct.
(20) Seattle-Tacoma, Wash.
(21) Miami, Fla.
(22) Kansas City, Mo.
(23) Milwaukee, Wis.
(24) Buffalo, N.Y.
(25) Sacramento-Stockton-Modesto, Calif.
(26) Memphis, Tenn.
(27) Columbus-Chillicothe, Ohio.
(28) Tampa-St. Petersburg-Clearwater, Florida.
(29) Portland, Oreg.
(30) Nashville, Tenn.
(31) New Orleans, La.
(32) Denver-Castle Rock, Colorado.
(33) Providence, R.I.-New Bedford, Mass.
(34) Albany-Schenectady-Troy, N.Y.
(35) Syracuse, N.Y.
(36) Charleston-Huntington, W. Va.
(37) Kalamazoo-Grand Rapids-Battle Creek, Mich.
(38) Louisville, Ky.
(39) Oklahoma City, Okla.
(40) Birmingham, Ala.
(41) Dayton-Kettering, Ohio.
(42) Charlotte, N.C.
(43) Phoenix-Mesa, Ariz.
(44) Norfolk-Newport News-Portsmouth-Hampton, Va.
(45) San Antonio, Tex.
(46) Greenville-Spartanburg-Anderson, S.C.-Asheville, N.C.
(47) Greensboro-High Point-Winston Salem, N.C.
(48) Salt Lake City, Utah.
(49) Wilkes Barre-Scranton, Pa.
(50) Little Rock-Pine Bluff, Arkansas.

(b) Second 50 major television markets:
(51) San Diego, Calif.
(52) Toledo, Ohio.
(53) Omaha, Nebr.
(54) Tulsa, Okla.
(55) Orlando-Daytona Beach-Melbourne-Cocoa-Clermont, Florida.
(56) Rochester, N.Y.
(57) Harrisburg-Lancaster-York, Pa.
(58) Texarkana, Tex.-Shreveport, La.
(59) Mobile, Ala.-Pensacola, Fla.
(60) Davenport, Iowa-Rock Island-Moline, Ill.
(61) Flint-Bay City-Saginaw, Mich.
(62) Green Bay, Wis.
(63) Richmond-Petersburg, Va.
(64) Springfield-Decatur-Champaign, Illinois.
(65) Cedar Rapids-Waterloo, Iowa.
(66) Des Moines-Ames, Iowa.
(67) Wichita-Hutchinson, Kans.
(68) Jacksonville, Fla.
(69) Cape Girardeau, Mo.-Paducah, Ky.-Harrisburg, Ill.
(70) Roanoke-Lynchburg, Va.
(71) Knoxville, Tenn.
(72) Fresno-Visalia-Hanford-Clovis-Merced-Porterville, California.
(73) Raleigh-Durham-Goldsboro-Fayetteville, North Carolina.
(74) Johnstown-Altoona, Pa.
(75) Portland-Poland Spring, Maine.
(76) Spokane, Wash.
(77) Jackson, Miss.
(78) Chattanooga, Tenn.
(79) Youngstown, Ohio.
(80) South Bend-Elkhart, Ind.
(81) Albuquerque, N. Mex.
(82) Fort Wayne-Roanoke, Ind.
(83) Peoria, Ill.
(84) Greenville-Washington-New Bern, N.C.
(85) Sioux Falls-Mitchell, S. Dak.
(86) Evansville, Ind.
(87) Baton Rouge, La.

(88) Beaumont-Port Arthur, Tex.
(89) Duluth, Minn.-Superior, Minn.
(90) Wheeling, W. Va.-Steubenville, Ohio.
(91) Lincoln-Hastings-Kearney, Nebr.
(92) Lansing-Onondaga, Mich.
(93) Madison, Wis.
(94) Columbus, Ga.
(95) Amarillo, Tex.
(96) Huntsville-Decatur, Ala.
(97) Rockford-Freeport, Ill.
(98) Fargo-Valley City, N.D.
(99) Monroe, La.-El Dorado, Ark.
(100) Columbia, S.C.

NOTE: Requests for changes to this list shall be made in the form of a petition for rulemaking pursuant to §1.401 of this chapter, except that such petitions shall not be subject to the public notice provisions of §1.403 of this chapter.

[37 FR 3278, Feb. 12, 1972]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §76.51, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§ 76.53 Reference points.

The following list of reference points shall be used to identify the boundaries of the major and smaller television markets (defined in §76.5). Where a community's reference point is not given, the geographic coordinates of the main post office in the community shall be used.

State and community	Latitude	Longitude
Alabama:		
Anniston	33°39′49″	85°49′47″
Birmingham	33°31′01″	86°48′36″
Decatur	34°36′35″	86°58′45″
Demopolis	32°30′56″	87°50′07″
Dothan	31°13′27″	85°23′35″
Dozier	31°29′30″	86°21′59″
Florence	34°48′05″	87°40′31″
Huntsville	34°44′18″	86°35′19″
Louisville	31°47′00″	85°33′09″
Mobile	30°41′36″	88°02′33″
Montgomery	32°22′33″	86°18′31″
Mount Cheaha State Park	33°29′26″	85°48′30″
Selma	24°24′26″	87°01′15″
Tuscaloosa	33°12′05″	87°33′44″
Alaska:		
Anchorage	61°13′09″	149°53′29″
College	64°51′22″	147°48′38″
Fairbanks	64°50′35″	147°41′51″
Juneau	58°18′06″	134°25′09″
Sitka	57°02′58″	135°20′12″
Arizona:		
Flagstaff	35°11′54″	111°39′02″
Mesa	33°24′54″	111°49′41″
Nogales	31°20′14″	110°56′12″
Phoenix	33°27′12″	112°04′28″
Tucson	32°13′15″	110°58′08″
Yuma	32°43′16″	114°37′01″
Arkansas:		
El Dorado	33°12′39″	92°39′40″
Fayetteville	36°03′41″	94°09′38″
Fort Smith	35°23′10″	94°25′36″
Jonesboro	35°50′14″	90°42′11″
Little Rock	34°44′42″	92°16′37″
California:		
Bakersfield	35°22′31″	119°01′16″
Chico	39°44′07″	121°49′57″
Concord	37°58′46″	122°01′51″
Corona	33°52′35″	117°33′56″
El Centro	32°47′25″	115°32′45″
Eureka	40°48′08″	124°09′46″
Fontana	34°05′45″	117°26′29″
Fresno	36°44′12″	119°47′11″
Guasti	34°03′48″	117°35′10″
Hanford	36°19′51″	119°38′48″
Los Angeles	34°03′15″	118°14′28″
Modesto	37°38′26″	120°59′44″
Monterey	36°35′44″	121°53′39″
Oakland	37°48′03″	122°15′54″
Palm Springs	33°49′22″	116°32′46″
Redding	40°34′57″	122°23′34″
Sacramento	38°34′57″	121°29′41″
Salinas	36°40′24″	121°39′25″
San Bernardino	34°06′30″	117°17′28″
San Diego	32°42′53″	117°09′21″
San Francisco	37°46′39″	122°24′40″
San Jose	37°20′16″	121°53′24″
San Luis Obispo	35°16′49″	120°39′34″
San Mateo	37°34′08″	122°19′16″
Santa Barbara	34°25′18″	119°41′55″
Santa Maria	34°57′02″	120°26′10″
Stockton	37°57′30″	121°17′16″
Tulare	36°12′31″	119°20′35″
Ventura	34°16′47″	119°17′22″
Visalia	36°19′46″	119°17′30″
Colorado:		
Colorado Springs	38°50′07″	104°49′16″
Denver	39°44′58″	104°59′22″
Durango	37°16′29″	107°52′25″
Grand Junction	39°04′06″	108°33′54″
Montrose	38°28′44″	107°52′31″
Pueblo	38°16′17″	104°36′33″
Sterling	40°37′29″	103°12′25″
Connecticut:		
Bridgeport	41°10′49″	73°11′22″
Hartford	41°46′12″	72°40′49″
New Britain	41°40′02″	72°47′08″
New Haven	41°18′25″	72°55′30″
Norwich	41°31′36″	72°04′31″
Waterbury	41°33′13″	73°02′31″
Delaware:		
Wilmington	39°44′46″	75°32′51″
District of Columbia:		
Washington	38°53′51″	77°00′33″
Florida:		
Clearwater	27°57′56″	82°47′51″
Daytona Beach	29°12′44″	81°01′10″
Fort Lauderdale	26°07′11″	80°08′34″
Fort Myers	26°38′42″	81°52′06″
Fort Pierce	27°26′48″	80°19′38″
Gainesville	29°38′56″	82°19′19″
Jacksonville	30°19′44″	81°39′42″
Largo	27°54′54″	82°47′32″
Leesburg	28°48′43″	81°52′30″
Melbourne	28°04′41″	80°36′29″
Miami	25°46′37″	80°11′32″
Ocala	29°11′34″	82°08′14″
Orlando	28°32′42″	81°22′38″
Panama City	30°09′24″	85°39′47″
Pensacola	30°24′51″	87°12′56″
St. Petersburg	27°46′18″	82°38′16″

State and community	Latitude	Longitude
Sarasota	27°20′05″	82°32′29″
Tallahassee	30°26′30″	84°16′50″
Tampa	27°56′58″	82°27′26″
West Palm Beach	26°42′36″	80°03′05″
Georgia:		
Albany	31°34′36″	84°09′22″
Athens	33°57′34″	83°22′39″
Atlanta	33°45′10″	84°23′37″
Augusta	33°28′20″	81°58′00″
Chatsworth	34°46′08″	84°46′10″
Cochran	32°23′18″	83°21′18″
Columbus	32°28′07″	84°59′24″
Dawson	31°46′33″	84°26′20″
Macon	32°50′12″	83°37′36″
Pelham	31°07′42″	84°09′02″
Savannah	32°04′42″	81°05′37″
Thomasville	30°50′25″	83°58′59″
Waycross	31°12′19″	82°21′47″
Wrens	33°12′21″	82°23′23″
Guam:		
Agana	13°28′23″	144°45′00″
Hawaii:		
Hilo	19°43′42″	155°05′30″
Honolulu	21°18′36″	157°51′48″
Wailuku	20°53′21″	156°30′27″
Idaho:		
Boise	43°37′07″	116°11′58″
Idaho Falls	43°29′39″	112°02′28″
Lewiston	46°25′05″	117°01′10″
Moscow	46°43′58″	116°59′54″
Pocatello	42°51′38″	112°27′01″
Twin Falls	42°33′25″	114°28′21″
Illinois:		
Aurora	41°45′22″	88°18′56″
Bloomington	40°28′58″	88°59′32″
Carbondale	37°43′38″	89°13′00″
Champaign	40°07′05″	88°14′48″
Chicago	41°52′28″	87°38′22″
Decatur	39°50′37″	88°57′11″
Elgin	42°02′14″	88°16′53″
Freeport	42°17′57″	89°37′07″
Harrisburg	37°44′20″	88°32′25″
Jacksonville	39°44′03″	90°13′44″
Joliet	41°31′37″	88°04′52″
La Salle	41°19′49″	89°05′44″
Moline	41°30′31″	90°30′49″
Mount Vernon	38°18′29″	88°54′26″
Olney	38°43′47″	88°05′00″
Peoria	40°41′42″	89°35′33″
Quincy	39°55′59″	91°24′12″
Rockford	42°16′07″	89°05′48″
Rock Island	41°30′40″	90°34′24″
Springfield	39°47′58″	89°38′51″
Urbana	40°06′41″	88°13′13″
Indiana:		
Bloomington	39°09′56″	86°31′52″
Elkhart	41°40′56″	85°58′15″
Evansville	37°58′20″	87°34′21″
Fort Wayne	41°04′21″	85°08′26″
Gary	41°35′59″	87°20′07″
Hammond	41°35′13″	87°27′43″
Indianapolis	39°46′07″	86°09′46″
Lafayette	40°25′11″	86°53′39″
Marion	40°33′17″	85°39′49″
Muncie	40°11′28″	85°23′16″
Richmond	39°49′49″	84°53′26″
Roanoke	40°57′50″	85°22′30″
St. John	41°27′00″	87°28′13″
South Bend	41°40′33″	86°15′01″
Terre Haute	39°28′03″	87°24′26″
Vincennes	38°40′52″	87°31′12″
Iowa:		
Ames	42°01′36″	93°36′44″
Cedar Rapids	41°58′48″	91°39′48″
Davenport	41°31′24″	90°34′21″
Des Moines	41°35′14″	93°37′00″
Dubuque	42°29′55″	90°40′08″
Fort Dodge	42°30′12″	94°11′05″
Iowa City	41°39′37″	91°31′52″
Mason City	43°09′15″	93°12′00″
Sioux City	42°29′46″	96°24′30″
Waterloo	42°29′40″	92°20′20″
Kansas:		
Ensign	37°38′48″	100°14′00″
Garden City	37°57′54″	100°52′20″
Goodland	39°20′53″	101°42′35″
Great Bend	38°22′04″	98°45′58″
Hays	38°52′16″	99°19′57″
Hutchinson	38°03′11″	97°55′20″
Pittsburg	37°24′50″	94°42′11″
Salina	38°50′36″	97°36′46″
Topeka	39°03′16″	95°40′23″
Wichita	37°41′30″	97°20′16″
Kentucky:		
Ashland	38°28′36″	82°38′23″
Bowling Green	36°59′41″	86°26′33″
Covington	39°05′00″	84°30′29″
Elizabethtown	37°41′38″	85°51′35″
Hazard	37°14′54″	83°11′31″
Lexington	38°02′50″	84°29′46″
Louisville	38°14′47″	85°45′49″
Madisonville	37°19′45″	87°29′54″
Morehead	38°10′53″	83°26′08″
Murray	36°36′35″	88°18′39″
Newport	39°05′28″	84°29′20″
Owensboro	37°46′27″	87°06′46″
Owenton	38°32′11″	84°50′16″
Paducah	37°05′13″	88°35′56″
Pikesville	37°28′49″	82°31′09″
Somerset	37°05′35″	84°36′17″
Louisiana:		
Alexandria	31°18′33″	92°26′47″
Baton Rouge	30°26′58″	91°11′00″
Houma	29°35′34″	90°43′09″
Lafayette	30°13′24″	92°01′06″
Lake Charles	30°13′45″	93°12′52″
Monroe	32°30′02″	92°06′55″
New Orleans	29°56′53″	90°04′10″
Shreveport	32°30′46″	93°44′58″
West Monroe	32°30′51″	92°08′13″
Maine:		
Augusta	44°18′53″	69°46′29″
Bangor	44°48′13″	68°46′18″
Calais	45°11′04″	67°16′43″
Orono	44°53′15″	68°40′12″
Poland Spring	44°01′42″	70°21′40″
Portland	43°39′33″	70°15′19″
Presque Isle	46°40′57″	68°00′52″
Maryland:		
Baltimore	39°17′26″	76°36′45″
Cumberland	39°39′01″	78°45′45″
Hagerstown	39°38′39″	77°43′15″
Salisbury	38°21′56″	75°35′56″
Massachusetts:		
Adams	42°37′30″	73°07′05″
Boston	42°21′24″	71°03′25″
Cambridge	42°21′58″	71°06′24″
Greenfield	42°35′15″	72°35′54″
New Bedford	41°38′13″	70°55′41″
Springfield	42°06′21″	72°35′32″
Worcester	42°15′37″	71°48′17″
Michigan:		
Allen Park	42°15′12″	83°12′57″
Battle Creek	42°18′58″	85°10′48″
Bay City	43°36′04″	83°53′15″
Cadillac	44°15′10″	85°23′52″
Cheboygan	45°38′38″	84°28′38″
Detroit	42°19′48″	83°02′57″

State and community	Latitude	Longitude
Escanaba	45°44′45″	87°03′18″
Flint	43°00′50″	83°41′33″
Grand Rapids	42°58′03″	85°40′13″
Jackson	42°14′43″	84°24′22″
Kalamazoo	42°17′29″	85°35′14″
Lansing	42°44′01″	84°33′15″
Marquette	46°32′37″	87°23′43″
Mount Pleasant	43°16′12″	84°46′31″
Muskegon	43°14′17″	86°15′02″
Onondaga	42°26′41″	84°33′43″
Saginaw	43°25′52″	83°56′05″
Sault Ste. Marie	46°29′58″	84°20′37″
Traverse City	44°45′47″	85°37′25″
University Center	43°33′31″	83°59′09″
Minnesota:		
Alexandria	45°53′06″	95°22′39″
Appleton	45°12′00″	96°01′02″
Austin	43°39′57″	92°58′20″
Duluth	46°46′56″	92°06′24″
Hibbing	47°25′43″	92°56′21″
Mankato	44°09′49″	94°00′09″
Minneapolis	44°58′57″	93°15′43″
Rochester	44°01′21″	92°28′03″
St. Cloud	45°33′35″	94°09′38″
St. Paul	44°56′50″	93°05′11″
Walker	47°05′57″	94°35′12″
Mississippi:		
Biloxi	30°23′43″	88°53′08″
Bude	31°27′46″	90°50′34″
Columbus	33°29′40″	88°25′33″
Greenwood	33°31′05″	90°10′55″
Gulfport	30°22′04″	89°05′36″
Jackson	32°17′56″	90°11′06″
Laurel	31°41′40″	89°07′48″
Meridian	32°21′57″	88°42′02″
Oxford	34°22′00″	89°31′07″
State College	33°27′18″	88°47′13″
Tupelo	34°15′26″	88°42′30″
Missouri:		
Cape Girardeau	37°18′29″	89°31′29″
Columbia	38°57′03″	92°19′46″
Hannibal	39°42′24″	91°22′45″
Jefferson City	38°34′40″	92°10′24″
Joplin	37°05′26″	94°30′50″
Kansas City	39°04′56″	94°35′20″
Kirksville	40°11′37″	92°34′58″
Poplar Bluff	36°45′20″	90°23′38″
St. Joseph	39°45′57″	94°51′02″
St. Louis	38°37′45″	90°12′22″
Sedalia	38°42′08″	93°13′26″
Springfield	37°13′03″	93°17′32″
Montana:		
Anaconda	46°07′40″	112°57′12″
Billings	45°47′00″	108°30′04″
Butte	46°01′06″	112°32′11″
Glendive	47°06′42″	104°43′02″
Great Falls	47°29′33″	111°18′23″
Helena	46°35′33″	112°02′24″
Kalispell	48°11′45″	114°18′44″
Miles City	46°24′34″	105°50′30″
Missoula	46°52′23″	113°59′29″
Nebraska:		
Albion	41°41′23″	97°59′53″
Alliance	42°06′04″	102°52′08″
Bassett	42°35′00″	99°32′10″
Grand Island	40°55′33″	98°20′23″
Hastings	40°35′21″	98°23′20″
Hayes Center	40°30′36″	101°01′18″
Hay Springs	42°41′03″	102°41′22″
Kearney	40°41′58″	99°04′53″
Lexington	40°46′30″	99°44′41″
Lincoln	40°48′59″	96°42′15″
McCook	40°12′02″	100°37′32″
Merriman	42°55′07″	101°42′02″
Norfolk	42°01′56″	97°24′42″
North Platte	41°08′14″	100°45′43″
Omaha	41°15′42″	95°56′14″
Scottsbluff	41°51′40″	103°39′00″
Superior	40°01′12″	98°04′00″
Nevada:		
Elko	40°50′00″	115°45′41″
Henderson	36°02′00″	114°58′57″
Las Vegas	36°10′20″	115°08′37″
Reno	39°31′27″	119°48′40″
New Hampshire:		
Berlin	44°28′20″	71°10′43″
Durham	43°08′02″	70°55′35″
Hanover	43°42′03″	72°17′24″
Keene	42°56′02″	72°16′44″
Lebanon	43°38′34″	72°15′12″
Littleton	44°18′22″	71°46′13″
Manchester	42°59′28″	71°27′41″
New Jersey:		
Atlantic City	39°21′32″	74°25′53″
Burlington	40°04′21″	74°51′47″
Camden	39°56′45″	75°07′20″
Glen Ridge	40°48′16″	74°12′14″
Linden	40°37′57″	74°15′22″
Newark	40°44′14″	74°10′19″
New Brunswick	40°29′38″	74°26′49″
Paterson	40°54′51″	74°09′51″
Trenton	40°13′16″	74°45′28″
Vineland	39°29′13″	75°01′17″
Wildwood	38°59′18″	74°48′43″
New Mexico:		
Albuquerque	35°05′01″	106°39′05″
Carlsbad	32°25′09″	104°13′47″
Clovis	34°24′11″	103°12′08″
Portales	34°10′58″	103°20′10″
Roswell	33°23′47″	104°31′26″
New York:		
Albany	42°39′01″	73°45′01″
Binghamton	42°06′03″	75°54′47″
Buffalo	42°52′52″	78°52′21″
Carthage	43°58′50″	75°36′26″
Elmira	42°05′26″	76°48′22″
Garden City	40°43′26″	73°38′03″
Ithaca	42°26′33″	76°29′42″
Jamestown	42°05′45″	79°14′40″
New York	40°45′06″	73°59′39″
North Pole	44°23′59″	73°51′00″
Norwood	44°45′00″	75°59′39″
Oneonta	42°27′21″	75°03′42″
Patchogue	40°45′56″	73°00′42″
Plattsburgh	44°42′03″	73°27′07″
Riverhead	40°55′06″	72°39′51″
Rochester	43°09′41″	77°36′21″
Schenectady	42°48′52″	73°56′24″
Syracuse	43°03′04″	76°09′14″
Utica	43°06′12″	75°13′33″
Watertown	43°58′30″	75°54′48″
North Carolina:		
Asheville	35°35′42″	82°33′26″
Chapel Hill	35°54′51″	79°03′11″
Charlotte	35°13′44″	80°50′45″
Columbia	35°55′06″	76°15′04″
Concord	35°24′29″	80°34′45″
Durham	35°59′48″	78°54′00″
Fayetteville	35°03′12″	78°52′54″
Greensboro	36°04′17″	79°47′25″
Greenville	35°36′49″	77°22′22″
Hickory	35°43′54″	81°20′20″
High Point	35°57′14″	80°00′15″
Jacksonville	34°45′00″	77°25′54″
Linville	36°04′06″	81°52′16″
New Bern	35°06′33″	77°02′23″
Raleigh	35°46′38″	78°38′21″
Washington	35°32′35″	77°03′16″

State and community	Latitude	Longitude
Wilmington	34°14′14″	77°56′58″
Winston-Salem	36°05′52″	80°14′42″
North Dakota:		
Bismark	46°48′23″	100°47′17″
Devils Lake	48°06′42″	98°51′29″
Dickinson	46°52′55″	102°47′06″
Fargo	46°52′30″	96°47′18″
Minot	48°14′09″	101°17′38″
Pembina	48°58′00″	97°14′37″
Valley City	46°55′31″	98°00′04″
Williston	48°08′47″	103°36′59″
Ohio:		
Akron	41°05′00″	81°30′44″
Athens	39°19′38″	82°06′09″
Bowling Green	41°22′37″	83°39′03″
Canton	40°47′50″	81°22′37″
Cincinnati	39°06′07″	84°30′35″
Cleveland	41°29′51″	81°41′50″
Columbus	39°57′47″	83°00′17″
Dayton	39°45′32″	84°11′43″
Kettering	39°41′22″	84°10′07″
Lima	40°44′29″	84°06′34″
Lorain	41°27′48″	82°10′23″
Marion	40°35′14″	83°07′36″
Newark	40°03′35″	82°24′15″
Oxford	39°30′28″	84°44′26″
Portsmouth	38°44′06″	82°59′39″
Springfield	39°55′38″	83°48′29″
Steubenville	40°21′42″	80°36′53″
Toledo	41°39′14″	83°32′39″
Youngstown	41°05′57″	80°39′02″
Zanesville	39°56′59″	82°00′56″
Oklahoma:		
Ada	34°46′24″	96°40′36″
Ardmore	34°10′18″	97°07′50″
Lawton	34°36′27″	98°23′41″
Oklahoma City	35°28′26″	97°31′04″
Sayre	35°17′34″	99°38′23″
Tulsa	36°09′12″	95°59′34″
Oregon:		
Coos Bay	43°22′02″	124°13′09″
Corvallis	44°34′10″	123°16′12″
Eugene	44°03′16″	123°05′30″
Klamath Falls	42°13′32″	121°46′32″
La Grande	45°19′47″	118°05′45″
Medford	42°19′33″	122°52′31″
Portland	45°31′06″	122°40′35″
Roseburg	43°12′34″	123°20′26″
Salem	44°56′21″	123°01′59″
Pennsylvania:		
Allentown	40°36′11″	75°28′06″
Altoona	40°30′55″	78°24′03″
Bethlehem	40°37′57″	75°21′36″
Clearfield	41°01′20″	78°26′10″
Erie	42°07′15″	80°04′57″
Harrisburg	40°15′43″	76°52′59″
Hershey	40°17′04″	76°39′01″
Johnstown	40°19′35″	78°55′03″
Lancaster	40°02′25″	76°18′29″
Philadelphia	39°56′58″	75°09′21″
Pittsburgh	40°26′19″	80°00′00″
Reading	40°20′09″	75°55′40″
Scranton	41°24′32″	75°39′46″
Wilkes-Barre	41°14′32″	75°53′17″
York	39°57′35″	76°43′36″
Puerto Rico:		
Aguadilla	18°25′53″	67°09′18″
Arecibo	18°28′26″	66°43′39″
Caguas	18°13′59″	66°02′06″
Fajardo	18°19′35″	65°39′21″
Mayaguez	18°12′16″	67°08′36″
Ponce	18°00′51″	66°36′58″
San Juan	18°26′55″	66°03′55″
Rhode Island:		
Providence	41°49′32″	71°24′41″
South Carolina:		
Allendale	33°00′30″	81°18′26″
Anderson	34°30′06″	82°38′54″
Charleston	32°46′35″	79°55′53″
Columbia	34°00′02″	81°02′00″
Florence	34°11′49″	79°46′06″
Greenville	34°50′50″	82°24′01″
Spartanburg	34°57′03″	81°56′06″
South Dakota:		
Aberdeen	45°27′31″	98°29′03″
Brookings	44°18′38″	96°47′53″
Florence	45°03′14″	97°19′35″
Lead	44°21′07″	103°46′03″
Mitchell	43°42′48″	98°01′36″
Pierre	44°22′06″	100°20′57″
Rapid City	44°04′52″	103°13′11″
Reliance	43°52′45″	99°36′18″
Sioux Falls	43°32′35″	96°43′35″
Vermillion	42°46′52″	96°55′35″
Tennessee:		
Chattanooga	35°02′41″	85°18′32″
Jackson	35°36′48″	88°49′15″
Johnson City	36°19′04″	82°20′56″
Kingsport	36°32′57″	82°33′44″
Knoxville	35°57′39″	83°55′07″
Lexington	35°38′58″	88°23′31″
Memphis	35°08′46″	90°03′13″
Nashville	36°09′33″	86°46′55″
Sneedville	36°31′46″	83°13′04″
Texas:		
Abilene	32°27′05″	99°43′51″
Amarillo	35°12′27″	101°50′04″
Austin	30°16′09″	97°44′37″
Beaumont	30°05′20″	94°06′09″
Belton	31°03′31″	97°27′39″
Big Spring	32°15′03″	101°28′38″
Bryan	30°38′48″	96°21′31″
College Station	30°37′05″	96°20′41″
Corpus Christi	27°47′51″	97°23′45″
Dallas	32°47′09″	96°47′37″
El Paso	31°45′36″	106°29′11″
Fort Worth	32°44′55″	97°19′44″
Galveston	29°18′10″	94°47′43″
Harlingen	26°11′29″	97°41′35″
Houston	29°45′26″	95°21′37″
Laredo	27°30′22″	99°30′30″
Longview	32°28′24″	94°43′45″
Lubbock	33°35′05″	101°50′33″
Lufkin	31°20′14″	94°43′21″
Midland	31°59′54″	102°04′31″
Monahans	31°35′16″	102°53′26″
Nacogdoches	31°36′13″	94°39′20″
Odessa	31°50′49″	102°22′01″
Port Arthur	29°52′09″	93°56′01″
Richardson	32°57′06″	96°44′05″
Rosenberg	29°33′30″	95°48′15″
San Angelo	31°27′39″	100°26′03″
San Antonio	29°25′37″	98°29′06″
Sweetwater	32°28′24″	100°24′18″
Temple	31°06′02″	97°20′22″
Texarkana	33°25′29″	94°02′34″
Tyler	32°21′21″	95°17′52″
Victoria	28°48′01″	97°00′06″
Waco	31°33′12″	97°08′00″
Weslaco	26°09′24″	97°59′33″
Wichita Falls	33°54′34″	98°29′28″
Utah:		
Logan	41°44′03″	111°50′11″
Ogden	41°13′31″	111°58′21″
Provo	40°14′07″	111°39′34″
Salt Lake City	40°45′23″	111°53′26″
Vermont:		
Burlington	44°28′34″	73°12′46″
Rutland	43°36′29″	72°58′56″

State and community	Latitude	Longitude
St. Johnsbury	44°25′16″	72°01′13″
Windsor	43°28′38″	72°23′32″
Virginia:		
Bristol	36°35′48″	82°11′04″
Charlottesville	38°01′52″	78°28′50″
Goldvein	38°26′54″	77°39′19″
Hampton	37°01′32″	76°20′32″
Harrisonburg	38°27′01″	78°52′07″
Lynchburg	37°24′51″	79°08′37″
Norfolk	36°51′10″	76°17′21″
Norton	36°56′05″	82°37′31″
Petersburg	37°13′40″	77°24′15″
Portsmouth	36°50′12″	76°17′54″
Richmond	37°32′15″	77°26′09″
Roanoke	37°16′13″	79°56′44″
Staunton	38°09′02″	79°04′34″
Virgin Islands:		
Charlotte Amalie	18°20′36″	64°55′53″
Christiansted	17°44′44″	64°42′21″
Washington:		
Bellingham	48°45′02″	122°28′36″
Kennewick	46°12′28″	119°08′32″
Lakewood Center	47°07′37″	122°31′15″
Pasco	46°13′50″	119°05′27″
Pullman	46°43′42″	117°10′46″
Richland	46°16′36″	119°16′21″
Seattle	47°36′32″	122°20′12″
Spokane	47°39′32″	117°25′33″
Tacoma	47°14′59″	122°26′15″
Yakima	46°36′09″	120°30′39″
West Virginia:		
Bluefield	37°15′29″	81°13′20″
Charleston	38°21′01″	81°37′52″
Clarksburg	39°16′50″	80°20′38″
Grandview	37°49′28″	81°04′20″
Huntington	38°25′12″	82°26′33″
Morgantown	39°37′41″	79°57′28″
Oak Hill	37°58′31″	81°08′45″
Parkersburg	39°15′57″	81°33′46″
Weston	39°02′19″	80°28′05″
Wheeling	40°04′03″	80°43′20″
Wisconsin:		
Eau Claire	44°48′31″	91°29′49″
Fond Du Lac	43°46′35″	88°26′52″
Green Bay	44°30′48″	88°00′50″
Janesville	42°40′52″	89°01′39″
Kenosha	42°35′04″	87°49′14″
La Crosse	43°48′48″	91°15′02″
Madison	43°04′23″	89°22′55″
Milwaukee	43°02′19″	87°54′15″
Rhinelander	45°38′09″	89°24′50″
Superior	46°43′14″	92°06′07″
Wausau	44°57′30″	89°37′40″
Wyoming:		
Casper	42°51′00″	106°19′22″
Cheyenne	41°08′09″	104°49′07″
Rawlins	41°47′23″	107°14′37″
Riverton	43°01′29″	108°23′03″

[37 FR 3278, Feb. 12, 1972, as amended at 37 FR 13866, July 14, 1972; 51 FR 18451, May 20, 1986; 51 FR 44608, Dec. 11, 1986; 54 FR 25716, June 19, 1989; 56 FR 49707, Oct. 1, 1991]

§ 76.54 Significantly viewed signals; method to be followed for special showings.

(a) Signals that are significantly viewed in a county (and thus are deemed to be significantly viewed within all communities within the county) are those that are listed in Appendix B of the memorandum opinion and order on reconsideration of the Cable Television Report and Order (Docket 18397 *et al.*), FCC 72–530, and those communities listed in the Significantly Viewed List as it appears on the official website of the Federal Communications Commission.

(b) Significant viewing in a cable television or satellite community for signals not shown as significantly viewed under paragraphs (a) or (d) of this section may be demonstrated by an independent professional audience survey of over-the-air television homes that covers at least two weekly periods separated by at least thirty (30) days but no more than one of which shall be a week between the months of April and September. If two surveys are taken, they shall include samples sufficient to assure that the combined surveys result in an average figure at least one standard error above the required viewing level. If surveys are taken for more than 2-weekly periods in any 12 months, all such surveys must result in an average figure at least one standard error above the required viewing level. If a cable television system serves more than one community, a single survey may be taken, provided that the sample includes over-the-air television homes from each community that are proportional to the population. A satellite carrier may demonstrate significant viewing in more than one community or satellite community through a single survey, provided that the sample includes over-the-air television homes from each community that are proportional to the population.

(c) Notice of a survey to be made pursuant to paragraph (b) of this section shall be served on all licensees or permittees of television broadcast stations within whose predicted noise limited service contour, as defined in § 73.622(e) of this chapter, the cable or satellite community or communities are located, in whole or in part, and on all other system community units, franchisees, and franchise applicants in the cable community or communities at least (30) days prior to the initial

survey period. Such notice shall include the name of the survey organization and a description of the procedures to be used. Objections to survey organizations or procedures shall be served on the party sponsoring the survey within twenty (20) days after receipt of such notice.

(d) Signals of television broadcast stations not encompassed by the surveys (for the periods May 1970, November 1970 and February/March 1971) used in establishing appendix B of the *Memorandum Opinion and Order on Reconsideration of Cable Television Report and Order*, FCC 72–530, 36 FCC 2d 326 (1972), may be demonstrated as significantly viewed on a county-wide basis by independent professional audience surveys which cover three separate, consecutive four-week periods and are otherwise comparable to the surveys used in compiling the above-referenced appendix B: *Provided, however*, That such demonstration shall be based upon audience survey data for the first three years of the subject station's broadcast operations.

(e) Satellite carriers that intend to retransmit the signal of a significantly viewed television broadcast station to a subscriber located outside such station's local market, as defined by §76.55(e) of this chapter, must provide written notice to all television broadcast stations that are assigned to the same local market as the intended subscriber at least 60 days before commencing retransmission of the significantly viewed station. Such satellite carriers must also provide the notifications described in §76.66(d)(5)(i) of this chapter. Such written notice must be sent via certified mail, return receipt requested, to the address for such station(s) as listed in the consolidated database maintained by the Federal Communications Commission.

(f) Satellite carriers that retransmit the signal of a significantly viewed television broadcast station to a subscriber located outside such station's local market must list all such stations and the communities to which they are retransmitted on their website.

(g) *Limitations on satellite subscriber eligibility.* A satellite carrier may retransmit a significantly viewed network station to a subscriber, provided the conditions in paragraphs (g)(1) and (g)(2) of this section are satisfied or one of the two exceptions to these conditions provided in paragraphs (g)(3) and (g)(4) of this section apply.

(1) *Local service requirement.* A satellite carrier may retransmit to a subscriber the signal of a significantly viewed station if:

(i) Such subscriber receives local-into-local service pursuant to §76.66; and

(ii) Such satellite carrier is in compliance with §76.65 with respect to the stations located in the local market into which the significantly viewed station will be retransmitted.

(2) *HD format requirement.* Subject to the conditions in paragraphs (g)(2)(i) through (iv) of this section, a satellite carrier may retransmit to a subscriber in high definition (HD) format the signal of a significantly viewed station only if such carrier also retransmits in HD format the signal of a station located in the local market of such subscriber and affiliated with the same network whenever such format is available from such station, including when the HD signal is broadcast on a multicast stream.

(i) The requirement in paragraph (g)(2) of this section applies only where a satellite carrier retransmits to a subscriber the significantly viewed station in HD format, and does not restrict a satellite carrier from retransmitting to a subscriber a significantly viewed station in standard definition (SD) format.

(ii) For purposes of paragraph (g)(2) of this section, the term ''HD format'' refers to a picture quality resolution of 720p, 1080i, or higher.

(iii) For purposes of paragraph (g)(2) of this section, the local station's HD signal will be considered ''available'' to the satellite carrier when the station:

(A) Elects mandatory carriage or grants retransmission consent;

(B) Provides a good quality HD signal to the satellite carrier's local receive facility (LRF); and

(C) Complies with the requirements of §§76.65 and 76.66.

(iv) Notwithstanding the provisions of paragraph (g)(2)(iii) of this section, if the local station is willing to grant

retransmission consent and make its HD signal available to the satellite carrier, but the satellite carrier does not negotiate with the local station in good faith, as required by §76.65, then the local station's HD signal will be deemed ''available'' for purposes of paragraph (g)(2) of this section.

(3) *Exception if no network affiliate in local market.* The limitations in paragraphs (g)(1) and (g)(2) of this section will not prohibit a satellite carrier from retransmitting a significantly viewed network station to a subscriber located in a local market in which there are no network stations affiliated with the same television network as the significantly viewed station.

(4) *Exception if waiver granted by local station.* The limitations in paragraphs (g)(1) and (g)(2) of this section will not apply if, and to the extent that, the local network station affiliated with the same television network as the significantly viewed station has granted a waiver in accordance with 47 U.S.C. 340(b)(4).

(h) [Reserved]

(i) For purposes of paragraph (g) of this section, television network and network station are as defined in 47 U.S.C. 339(d).

(j) Notwithstanding the requirements of this section, the signal of a television broadcast station will be deemed to be significantly viewed if such station is shown to qualify for such status pursuant to 47 U.S.C. 341(a).

(k) Notwithstanding the other provisions of this section, a satellite carrier may not retransmit as significantly viewed the signal of a television broadcast station into the Designated Market Areas identified in 47 U.S.C. 341(b).

[37 FR 3278, Feb. 12, 1972, as amended at 37 FR 13866, July 14, 1972; 40 FR 48930, Oct. 20, 1975; 41 FR 32429, Aug. 3, 1976; 42 FR 19346, Apr. 13, 1977; 53 FR 17051, May 13, 1988; 56 FR 33392, July 22, 1991; 70 FR 76529, Dec. 27, 2005; 75 FR 72986, Nov. 29, 2010]

§ 76.55 Definitions applicable to the must-carry rules.

For purposes of the must-carry rules set forth in this subpart, the following definitions apply:

(a) *Qualified noncommercial educational (NCE) television station.* A qualified NCE television station is any television broadcast station which

(1)(i) Under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as an NCE television broadcast station and which is owned and operated by a public agency, nonprofit foundation, corporation, or association; and

(ii) Has as its licensee an entity which is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) of the Communications Act of 1934, as amended; or

(2) Is owned and operated by a municipality and transmits noncommercial programs for educational programs for educational purposes, as defined in §73.621 of this chapter, for at least 50 percent of its broadcast week.

(3) This definition includes:

(i) The translator of any NCE television station with five watts or higher power serving the franchise area,

(ii) A full-service station or translator if such station or translator is licensed to a channel reserved for NCE use pursuant to §73.606 of this chapter, or any successor regulations thereto, and

(iii) Such stations and translators operating on channels not so reserved but otherwise qualified as NCE stations.

NOTE TO PARAGRAPH (a): For the purposes of §76.55(a), ''serving the franchise area'' will be based on the predicted protected contour of the NCE translator.

(b) *Qualified local noncommercial educational (NCE) television station.* A qualified local NCE television station is a qualified NCE television station:

(1) That is licensed to a community whose reference point, as defined in §76.53 is within 80.45 km (50 miles) of the principal headend, as defined in §76.5(pp), of the cable system; or

(2) Whose Grade B service contour encompasses the principal headend, as defined in §76.5(pp), of the cable system.

(3) Notwithstanding the provisions of this section, a cable operator shall not be required to add the signal of a qualified local noncommercial educational television station not already carried under the provision of §76.56(a)(5),

where such signal would be considered a distant signal for copyright purposes unless such station agrees to indemnify the cable operator for any increased copyright liability resulting from carriage of such signal on the cable system.

(c) *Local commercial television station.* A local commercial television station is any full power television broadcast station, other than a qualified NCE television station as defined in paragraph (a) of this section, licensed and operating on a channel regularly assigned to its community by the Commission that, with respect to a particular cable system, is within the same television market, as defined below in paragraph (e) of this section, as the cable system, except that the term local commercial television station does not include:

(1) Low power television stations, television translator stations, and passive repeaters with operate pursuant to part 74 of this chapter.

(2) A television broadcast station that would be considered a distant signal under the capable compulsory copyright license, 17 U.S.C. 111, if such station does not agree to indemnify the cable operator for any increased copyright liability resulting from carriage on the cable system; or

(3) A television broadcast station that does not deliver to the principal headend, as defined in §76.5(pp), of a cable system a signal level of −45dBm for analog UHF signals, −49dBm for analog VHF signals, or −61dBm for digital signals at the input terminals of the signal processing equipment, *i.e.*, the input to the first active component of the signal processing equipment relevant to the signal at issue, if such station does not agree to be responsible for the costs of delivering to the cable system a signal of good quality or a baseband video signal.

(d) *Qualified low power station.* A qualified low power station is any television broadcast station conforming to the low power television rules contained in part 74 of this chapter, only if:

(1) Such station broadcasts for at least the minimum number of hours of operation required by the Commission for full power television broadcast stations under part 73 of this chapter;

(2) Such station meets all obligations and requirements applicable to full power television broadcast stations under part 73 of this chapter, with respect to the broadcast of nonentertainment programming; programming and rates involving political candidates, election issues, controversial issues of public importance, editorials, and personal attacks; programming for children; and equal employment opportunity; and the Commission determines that the provision of such programming by such station would address local news and informational needs which are not being adequately served by full power television broadcast stations because of the geographic distance of such full power stations from the low power station's community of license;

(3) Such station complies with interference regulations consistent with its secondary status pursuant to part 74 of this chapter;

(4) Such station is located no more than 56.32 km (35 miles) from the cable system's principal headend, as defined in §76.5(pp), and delivers to that headend an over-the-air signal of good quality;

(5) The community of license of such station and the franchise area of the cable system are both located outside of the largest 160 Metropolitan Statistical Areas, ranked by population, as determined by the Office of Management and Budget on June 30, 1990, and the population of such community of license on such date did not exceed 35,000; and

(6) There is no full power television broadcast station licensed to any community within the county or other equivalent political subdivision (of a State) served by the cable system.

NOTE TO PARAGRAPH (d): For the purposes of this section, a good quality signal shall mean a signal level of either −45 dBm for UHF signals or −49 dBm for VHF signals at the input terminals of the signal processing equipment, or a baseband video signal.

(e) *Television market.* (1) Until January 1, 2000, a commercial broadcast television station's market, unless amended pursuant to §76.59, shall be defined as its Area of Dominant Influence (ADI) as determined by Arbitron and published in the Arbitron 1991–1992

Television ADI Market Guide, as noted below, except that for areas outside the contiguous 48 states, the market of a station shall be defined using Nielsen's Designated Market Area (DMA), where applicable, as published in the Nielsen 1991–92 DMA Market and Demographic Rank Report, and that Puerto Rico, the U.S. Virgin Islands, and Guam will each be considered a single market.

(2) Effective January 1, 2000, a commercial broadcast television station's market, unless amended pursuant to §76.59, shall be defined as its Designated Market Area (DMA) as determined by Nielsen Media Research and published in its Nielsen Station Index Directory and Nielsen Station Index US Television Household Estimates or any successor publications.

(i) For the 1999 election pursuant to §76.64(f), which becomes effective on January 1, 2000, DMA assignments specified in the 1997–98 Nielsen Station Index Directory and September 1997 Nielsen Station Index US Television Household Estimates, available from Nielsen Media Research, 770 Broadway, New York, NY, shall be used.

(ii) The applicable DMA list for the 2002 election pursuant to §76.64(f) will be the DMA assignments specified in the 2000–2001 list, and so forth for each triennial election pursuant to §76.64(f).

(3) In addition, the county in which a station's community of license is located will be considered within its market.

(4) A cable system's television market(s) shall be the one or more ADI markets in which the communities it serves are located until January 1, 2000, and the one or more DMA markets in which the communities it serves are located thereafter.

(5) In the absence of any mandatory carriage complaint or market modification petition, cable operators in communities that shift from one market to another, due to the change in 1999–2000 from ADI to DMA, will be permitted to treat their systems as either in the new DMA market, or with respect to the specific stations carried prior to the market change from ADI to DMA, as in both the old ADI market and the new DMA market.

(6) If the change from the ADI market definition to the DMA market definition in 1999–2000 results in the filing of a mandatory carriage complaint, any affected party may respond to that complaint by filing a market modification request pursuant to §76.59, and these two actions may be jointly decided by the Commission.

NOTE TO PARAGRAPH (e): For the 1996 must-carry/retransimission consent election, the ADI assignments specified in the *1991–1992 Television ADI Market Guide*, available from the Arbitron Ratings Co., 9705 Patuxent Woods Drive, Columbia, MD, will apply. For the 1999 election, which becomes effective on January 1, 2000, DMA assignments specified in the 1997–98 *DMA Market and Demographic Rank Report*, available from Nielsen Media Research, 299 Park Avenue, New York, NY, shall be used. The applicable DMA list for the 2002 election will be the 2000–2001 list, etc.

(f) *Network.* For purposes of the must-carry rules, a commercial television network is an entity that offers programming on a regular basis for 15 or more hours per week to at least 25 affiliates in 10 or more states.

[58 FR 17359, Apr. 2, 1993, as amended at 58 FR 44951, Aug. 25, 1993; 59 FR 62344, Dec. 5, 1994; 61 FR 29313, June 10, 1996; 64 FR 42617, Aug. 5, 1999; 68 FR 17312, Apr. 9, 2003; 73 FR 5685, Jan. 30, 2008]

§ 76.56 Signal carriage obligations.

(a) *Carriage of qualified noncommercial educational stations.* A cable television system shall carry qualified NCE television stations in accordance with the following provisions:

(1) Each cable operator shall carry on its cable television system any qualified local NCE television station requesting carriage, except that

(i) Systems with 12 or fewer usable activated channels, as defined in §76.6(oo), shall be required to carry the signal of one such station;

(ii) Systems with 13 to 36 usable activated channels, as defined in §76.5(oo), shall be required to carry at least one qualified local NCE station, but not more than three such stations; and

(iii) Systems with more than 36 usable activated channels shall be required to carry the signals of all qualified local NCE television stations requesting carriage, but in any event at least three such signals; however a cable system with more than 36 channels shall not be required to carry an

additional qualified local NCE station whose programming substantially duplicates the programming of another qualified local NCE station being carried on the system.

NOTE: For purposes of this paragraph, a station will be deemed to ''substantially duplicate'' the programming of another station if it broadcasts the same programming, simultaneous or non-simultaneous, for more than 50 percent of prime time, as defined in § 76.5(n), and more than 50 percent outside of prime time over a three-month period.

(2)(i) In the case of a cable system with 12 or fewer channels that operates beyond the presence of any qualified local NCE stations, the cable operator shall import one qualified NCE television station.

(ii) A cable system with between 13 and 36 channels that operates beyond the presence of any qualified local NCE stations, the cable operator shall import at least one qualified NCE television station.

(3) A cable system with 12 or fewer usable activated channels shall not be required to remove any programming service provided to subscribers as of March 29, 1990, to satisfy these requirements, except that the first available channel must be used to satisfy these requirements.

(4) A cable system with 13 to 36 usable activated channels which carries the signal of a qualified local NCE station affiliated with a State public television network shall not be required to carry more than one qualified local NCE station affiliated with such network, if the programming of such additional stations substantially duplicates, as defined in the note in paragraph (a)(1) of this section, the programming of a qualified local NCE television station receiving carriage.

(5) Notwithstanding the requirements of paragraph (a)(1) of this section, all cable operators shall continue to provide carriage to all qualified local NCE television stations whose signals were carried on their systems as of March 29, 1990. In the case of a cable system that is required to import a distance qualified NCE signal, and such system imported the signal of a qualified NCE station as of March 29, 1990, such cable system shall continue to import such signal until such time as a qualified local NCE signal is available to the cable system. This requirements may be waived with respect to a particular cable operator and a particular NCE station, upon the written consent of the cable operator and the station.

(b) *Carriage of local commercial television stations.* Effective June 2, 1993, a cable television system shall carry local commercial broadcast television stations in accordance with the following provisions:

(1) A cable system with 12 or fewer usable activated channels, as defined in § 76.5(oo), shall carry the signals of at least three qualified local commercial television stations, except that if such system serves 300 or fewer subscribers it shall not be subject to these requirements as long as it does not delete from carriage the signal of a broadcast television station which was carried on that system on October 5, 1992.

(2) A cable system with more than 12 usable activated channels, as defined in § 76.5(oo), shall carry local commercial television stations up to one-third of the aggregate number of usable activated channels of such system.

(3) If there are not enough local commercial television stations to fill the channels set aside under paragraphs (b)(1) and (b)(2) of this section, a cable operator of a system with 35 or fewer usable activated channels, as defined in § 76.5(oo), shall, if such stations exist, carry one qualified low power television station and a cable system with more than 35 usable activated channels shall carry two qualified low power stations.

(4) Whenever the number of local commercial television stations exceeds the maximum number of signals a cable system is required to carry under paragraph (b)(1) or (b)(2) of this section, the cable operator shall have discretion in selecting which such stations shall be carried on its cable system, except that

(i) Under no circumstances shall a cable operator carry a qualified low power station in lieu of a local commercial television station; and

(ii) If the cable operator elects to carry an affiliate of a broadcast network, as defined in § 76.55(f), such cable operator shall carry the affiliate of

such broadcast network whose community of license reference point, as defined in §76.53, is closest to the principal headend, as defined in §76.5(pp), of the cable system.

(5) A cable operator is not required to carry the signal of any local commercial television station that substantially duplicates the signal of another local commercial television station that is carried on its cable system, or to carry the signals of more than one local commercial television station affiliated with a particular broadcast network, as defined in §76.55(f). However, if a cable operator declines to carry duplicating signals, such cable operator shall carry the station whose community of license reference point, as defined in §76.53, is closest to the principal headend of the cable system. For purposes of this paragraph, substantially duplicates means that a station regularly simultaneously broadcasts the identical programming as another station for more than 50 percent of the broadcast week. For purposes of this definition, only identical episodes of a television series are considered duplicative and commercial inserts are excluded from the comparison. When the stations being compared are licensed to communities in different time zones, programming aired by a station within one hour of the identical program being broadcast by another station will be considered duplicative.

(6) [Reserved]

(7) A local commercial television station carried to fulfill the requirements of this paragraph, which subsequently elects retransmission consent pursuant to §76.64, shall continue to be carried by the cable system until the effective date of such retransmission consent election.

(c) *Use of public, educational, or governmental (PEG) channels.* A cable operator required to carry more than one signal of a qualified low power station or to add qualified local NCE stations in fulfillment of these must-carry obligations may do so, subject to approval by the franchising authority pursuant to Section 611 of the Communications Act of 1934, as amended, by placing such additional station on public, educational, or governmental channels not in use for their designated purposes.

(d) *Availability of signals.* (1) Local commercial television stations carried in fulfillment of the requirements of this section shall be provided to every subscriber of a cable system. Such signals shall be viewable via cable on all television receivers of a subscriber which are connected to a cable system by a cable operator or for which a cable operator provides a connection.

(2) Qualified local NCE television stations carried in fulfillment of the carriage obligations of a cable operator under this section shall be available to every subscriber as part of the cable system's lowest priced service tier that includes the retransmission of local commercial television broadcast signals.

(e) Carriage of additional broadcast television signals on such system shall be at the discretion of the cable operator, subject to the retransmission consent rules, §76.64. A cable system may also carry any ancillary or other transmission contained in the broadcast television signal.

(f) *Calculation of broadcast signals carried.* When calculating the portion of a cable system devoted to carriage of local commercial television stations under paragraph (b) of this section, a cable operator may count the primary video and program-related signals of all such stations, and any alternative-format versions of those signals, that they carry.

(g) *Channel sharing carriage rights.* A broadcast television station that voluntarily relinquishes spectrum usage rights under 73.3700 of this chapter in order to share a television channel and that possessed carriage rights under section 338, 614, or 615 of the Communications Act of 1934 (47 U.S.C. 338; 534; 535) on November 30, 2010, shall have, at its shared location, the carriage rights under such section that would apply to such station at such location if it were not sharing a channel.

NOTE 1 TO §76.56: Section 76.1620 provides notification requirements for a cable operator who authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, or with the equipment and materials for such connections.

NOTE 2 TO §76.56: Section 76.1614 provides response requirements for a cable operator

who receives a written request to identify its must-carry signals.

NOTE 3 TO § 76.56: Section 76.1709 provides recordkeeping requirements with regard to a cable operator's list of must-carry signals.

[58 FR 17360, Apr. 2, 1993, as amended at 58 FR 39161, July 22, 1993; 58 FR 40368, July 28, 1993; 59 FR 62344, Dec. 5, 1994; 65 FR 53614, Sept. 5, 2000; 66 FR 16553, Mar. 26, 2001; 73 FR 6054, Feb. 1, 2008; 77 FR 30426, May 23, 2012; 77 FR 36192, June 18, 2012]

§ 76.57 Channel positioning.

(a) At the election of the licensee of a local commercial broadcast television station, and for the purpose of this section, a qualified low power television station, carried in fulfillment of the must-carry obligations, a cable operator shall carry such signal on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, or on the channel on which it was carried on January 1, 1992.

(b) At the election of the licensee of a qualified local NCE broadcast television station carried in fulfillment of the must-carry obligations, a cable operator shall carry such signal on the cable system channel number on which the qualified NCE television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985.

(c) With respect to digital signals of a television station carried in fulfillment of the must-carry obligations, a cable operator shall carry the information necessary to identify and tune to the broadcast television signal.

(d) Any signal carried in fulfillment of the must-carry obligations may be carried on such other channel number as is mutually agreed upon by the station and the cable operator.

(e) At the time a local commercial station elects must-carry status pursuant to § 76.64, such station shall notify the cable system of its choice of channel position as specified in paragraphs (a), (b), and (d) of this section. A qualified NCE stations shall notify the cable system of its choice of channel position when it requests carriage. Channel positioning requests from local commercial stations shall be fulfilled by the cable operator no later than October 6, 1993.

(f) Pursuant to § 76.64(f)(3), a local commercial broadcast television station that fails to make an election is deemed a must-carry station. A cable operator shall carry such a television station on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, or on the channel on which it was carried on January 1, 1992. In the event that none of these specified channel positions is available due to a channel positioning request from a commercial television station affirmatively asserting its must-carry rights or such a request from a qualified local noncommercial educational station, the cable operator shall place the signal of such a television station on a channel of the cable system's choice, so long as that channel is included on the basic service tier.

NOTE TO § 76.57: Any existing agreement for channel position between a local commercial station entitled to must-carry status and a cable operator entered into prior to June 26, 1990, may continue through the expiration of such agreement.

[58 FR 17361, Apr. 2, 1993, as amended at 58 FR 40368, July 28, 1993; 59 FR 62345, Dec. 5, 1994; 66 FR 16553, Mar. 26, 2001]

§ 76.59 Modification of television markets.

(a) The Commission, following a written request from a broadcast station, cable system, satellite carrier or county government (only with respect to satellite modifications), may deem that the television market, as defined either by § 76.55(e) or § 76.66(e), of a particular commercial television broadcast station should include additional communities within its television market or exclude communities from such station's television market. In this respect, communities may be considered part of more than one television market.

(b) Such requests for modification of a television market shall be submitted in accordance with § 76.7, petitions for special relief, and shall include the following evidence:

(1) A map or maps illustrating the relevant community locations and geographic features, station transmitter sites, cable system headend or satellite

carrier local receive facility locations, terrain features that would affect station reception, mileage between the community and the television station transmitter site, transportation routes and any other evidence contributing to the scope of the market.

(2) Noise-limited service contour maps (for full-power digital stations) or protected contour maps (for Class A and low power television stations) delineating the station's technical service area and showing the location of the cable system headends or satellite carrier local receive facilities and communities in relation to the service areas.

NOTE TO PARAGRAPH (b)(2): Service area maps using Longley-Rice (version 1.2.2) propagation curves may also be included to support a technical service exhibit.

(3) Available data on shopping and labor patterns in the local market.

(4) Television station programming information derived from station logs or the local edition of the television guide.

(5) Cable system or satellite carrier channel line-up cards or other exhibits establishing historic carriage, such as television guide listings.

(6) Published audience data for the relevant station showing its average all day audience (*i.e.*, the reported audience averaged over Sunday–Saturday, 7 a.m.–1 a.m., or an equivalent time period) for both multichannel video programming distributor (MVPD) and non-MVPD households or other specific audience indicia, such as station advertising and sales data or viewer contribution records.

(7) If applicable, a statement that the station is licensed to a community within the same state as the relevant community.

(c) Petitions for Special Relief to modify television markets that do not include such evidence shall be dismissed without prejudice and may be refiled at a later date with the appropriate filing fee.

(d) A cable operator or satellite carrier shall not delete from carriage the signal of a commercial television station during the pendency of any proceeding pursuant to this section.

(e) A market determination under this section shall not create additional carriage obligations for a satellite carrier if it is not technically and economically feasible for such carrier to accomplish such carriage by means of its satellites in operation at the time of the determination.

(f) No modification of a commercial television broadcast station's local market pursuant to this section shall have any effect on the eligibility of households in the community affected by such modification to receive distant signals from a satellite carrier pursuant to 47 U.S.C. 339.

[58 FR 17361, Apr. 2, 1993, as amended at 64 FR 33796, June 24, 1999; 67 FR 53892, Aug. 22, 2002; 80 FR 59663, Oct. 2, 2015]

§ 76.60 Compensation for carriage.

A cable operator is prohibited from accepting or requesting monetary payment or other valuable consideration in exchange either for carriage or channel positioning of any broadcast television station carried in fulfillment of the must-carry requirements, except that

(a) Any such station may be required to bear the costs associated with delivering a good quality signal or a baseband video signal to the principal headend of the cable system; or

(b) A cable operator may accept payments from stations which would be considered distant signals under the cable compulsory copyright license, 17 U.S.C. 111, as indemnification for any increased copyright liability resulting from carriage of such signal.

NOTE: A cable operator may continue to accept monetary payment or other valuable consideration in exchange for carriage or channel positioning of the signal of any local commercial television station carried in fulfillment of the must-carry requirements, through, but not beyond, the date of expiration of an agreement between a cable operator and a local commercial television station entered into prior to June 26, 1990.

(c) A cable operator may accept payments from stations pursuant to a retransmission consent agreement, even if such station will be counted towards the must-carry complement, as long as all other applicable rules are adhered to.

[58 FR 17362, Apr. 2, 1993, as amended at 59 FR 62345, Dec. 5, 1994]

§ 76.61 Disputes concerning carriage.

(a) *Complaints regarding carriage of local commercial television stations.* (1) Whenever a local commercial television station or a qualified low power television station believes that a cable operator has failed to meet its carriage or channel positioning obligations, pursuant to §§ 76.56 and 76.57, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or position such signal on a particular channel.

(2) The cable operator shall, within 30 days of receipt of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning and other requirements of the must-carry rules. If a refusal for carriage is based on the station's distance from the cable system's principal headend, the operator's response shall include the location of such headend. If a cable operator denies carriage on the basis of the failure of the station to deliver a good quality signal at the cable system's principal headend, the cable operator must provide a list of equipment used to make the measurements, the point of measurement and a list and detailed description of the reception and over-the-air signal processing equipment used, including sketches such as block diagrams and a description of the methodology used for processing the signal at issue, in its response.

(3) A local commercial television station or qualified low power television station that is denied carriage or channel positioning or repositioning in accordance with the must-carry rules by a cable operator may file a complaint with the Commission in accordance with the procedures set forth in § 76.7 of this part. In addition to the requirements of § 76.7 of this part, such complaint shall specifically:

(i) Allege the manner in which such cable operator has failed to meet its obligations and the basis for such allegations.

(ii) Be accompanied by the notice from the complainant to the cable television system operator, and the cable television system operator's response, if any. If no timely response was received, the complaint shall so state.

(iii) Establish the complaint is being filed within the sixty-day deadline stated in paragraph (a)(5) of this section.

(4) If the Commission determines that a cable operator has failed to meet its must-carry obligations, the Commission shall order that, within 45 days of such order or such other time period as the Commission may specify, the cable operator reposition the complaining station or, in the case of an obligation to carry a station, commence or resume carriage of the station and continue such carriage for at least 12 months. If the Commission determines that the cable operator has fully met the must-carry requirements, it shall dismiss the complaint.

(5) No must-carry complaint filed pursuant to paragraph (a) of this section will be accepted by the Commission if filed more than sixty (60) days after—

(i) The denial by a cable television system operator of request for carriage or channel position contained in the notice required by paragraph (a)(1) of this section, or

(ii) The failure to respond to such notice within the time period allowed by paragraph (a)(2) of this section.

(b) *Complaints regarding carriage of qualified local NCE television stations.* (1) Whenever a qualified local NCE television station believes that a cable operator has failed to comply with the signal carriage or channel positioning requirements, pursuant to §§ 76.56 through 76.57 of this part, the station may file a complaint with the Commission in accordance with the procedures set forth in § 76.7 of this part. In addition to the requirements of § 76.7 of this part, such complaint shall specifically:

(i) Allege the manner in which such cable operator has failed to comply with such requirements and state the basis for such allegations.

(ii) Be accompanied by any relevant correspondence between the complainant and the cable television system operator.

(2) If the Commission determines that a cable operator has failed to meet its must-carry obligations, the Commission shall order that, within 45 days of such order or such other period as the Commission may specify, the cable operator reposition the complaining station or, in the case of an obligation to carry a station, commence or resume carriage of the station and continue such carriage for a period of time the Commission deems appropriate for the specific case under consideration. If the Commission determines that the cable operator has fully met the must-carry requirements, it shall dismiss the complaint.

(3) With respect to must-carry complaints filed pursuant to paragraph (b) of this section, such complaints may be filed at any time the complainant believes that the cable television system operator has failed to comply with the applicable provisions of subpart D of this part.

[58 FR 17362, Apr. 2, 1993, as amended at 64 FR 6572, Feb. 10, 1999]

§ 76.62 Manner of carriage.

(a) Cable operators shall carry the entirety of the program schedule of any television station (including low power television stations) carried by the system unless carriage of specific programming is prohibited, and other programming authorized to be substituted, under § 76.67 or subpart F of part 76, or unless carriage is pursuant to a valid retransmission consent agreement for the entire signal or any portion thereof as provided in § 76.64.

(b) Each digital television broadcast signal carried shall be carried without material degradation. Each analog television broadcast signal carried shall be carried without material degradation and in compliance with technical standards set forth in subpart K of this part.

(c) Each local commercial television station whose signal is carried shall, to the extent technically feasible and consistent with good engineering practice, be provided no less than the same quality of signal processing and carriage provided for carriage of any other type of standard television signal.

(d) Each qualified local noncommercial educational television station whose signal is carried shall be provided with bandwidth and technical capacity equivalent to that provided to commercial television broadcast stations carried.

(e) Each commercial broadcast television station carried pursuant to § 76.56 shall include in its entirety the primary video, accompanying audio, and closed captioning data contained in line 21 of the vertical blanking interval and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. Where appropriate and feasible, operators may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the system headend or headends.

(f) Each qualified local NCE television station carried pursuant to § 76.56 shall include in its entirety the primary video, accompanying audio, and closed captioning data contained in line 21 of the vertical blanking interval and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers, that may be necessary for receipt of programming by handicapped persons or for educational or language purposes.

(g) With respect to carriage of digital signals, operators are not required to carry ancillary or supplementary transmissions or non-program related video material.

(h) If a digital television broadcast signal is carried in accordance with § 76.62(b) and either (c) or (d), the carriage of that signal in additional formats does not constitute material degradation.

[58 FR 17362, Apr. 2, 1993, as amended at 59 FR 62345, Dec. 5, 1994; 66 FR 16553, Mar. 26, 2001; 73 FR 6054, Feb. 1, 2008]

§ 76.64 Retransmission consent.

(a) After 12:01 a.m. on October 6, 1993, no multichannel video programming distributor shall retransmit the signal of any commercial broadcasting station without the express authority of the originating station, except as provided in paragraph (b) of this section.

(b) A commercial broadcast signal may be retransmitted without express

authority of the originating station if—

(1) The distributor is a cable system and the signal is that of a commercial television station (including a low-power television station) that is being carried pursuant to the Commission's must-carry rules set forth in § 76.56;

(2) The multichannel video programming distributor obtains the signal of a superstation that is distributed by a satellite carrier and the originating station was a superstation on May 1, 1991, and the distribution is made only to areas outside the local market of the originating station; or

(3) The distributor is a satellite carrier and the signal is transmitted directly to a home satellite antenna, provided that:

(i) The broadcast station is not owned or operated by, or affiliated with, a broadcasting network and its signal was retransmitted by a satellite carrier on May 1, 1991, or

(ii) The broadcast station is owned or operated by, or affiliated with a broadcasting network, and the household receiving the signal is an unserved household. This paragraph shall terminate at midnight on December 31, 2019, provided that if Congress further extends this date, the rules remain in effect until the statutory authorization expires.

(c) For purposes of this section, the following definitions apply:

(1) A satellite carrier is an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing;

(2) A superstation is a television broadcast station other than a network station, licensed by the Federal Communications Commission that is secondarily transmitted by a satellite carrier;

(3) An unserved household with respect to a television network is a household that

(i) Cannot receive, through the use of a conventional outdoor rooftop receiving antenna, an over-the-air signal of grade B intensity of a primary network station affiliated with that network, and

(ii) Has not, within 90 days before the date on which that household subscribes, either initially or on renewal, received secondary transmissions by a satellite carrier of a network station affiliated with that network, subscribed to a cable system that provides the signal of a primary network station affiliated with the network.

(4) A primary network station is a network station that broadcasts or rebroadcasts the basic programming service of a particular national network;

(5) The terms ''network station,'' and ''secondary transmission'' have the meanings given them in 17 U.S.C. 111(f).

(d) A multichannel video program distributor is an entity such as, but not limited to, a cable operator, a BRS/EBS provider, a direct broadcast satellite service, a television receive-only satellite program distributor, or a satellite master antenna television system operator, that makes available for purchase, by subscribers or customers, multiple channels of video programming.

(e) The retransmission consent requirements of this section are not applicable to broadcast signals received by master antenna television facilities or by direct over-the-air reception in conjunction with the provision of service by a multichannel video program distributor provided that the multichannel video program distributor makes reception of such signals available without charge and at the subscribers option and provided further that the antenna facility used for the reception of such signals is either owned by the subscriber or the building owner; or under the control and available for purchase by the subscriber or the building owner upon termination of service.

(f) Commercial television stations are required to make elections between retransmission consent and must-carry

status according to the following schedule:

(1) The initial election must be made by June 17, 1993.

(2) Subsequent elections must be made at three year intervals; the second election must be made by October 1, 1996 and will take effect on January 1, 1997; the third election must be made by October 1, 1999 and will take effect on January 1, 2000, etc.

(3) Television stations that fail to make an election by the specified deadline will be deemed to have elected must carry status for the relevant three-year period.

(4) New television stations and stations that return their analog spectrum allocation and broadcast in digital only shall make their initial election any time between 60 days prior to commencing broadcast and 30 days after commencing broadcast or commencing broadcasting in digital only; such initial election shall take effect 90 days after it is made.

(5) Television broadcast stations that become eligible for must carry status with respect to a cable system or systems due to a change in the market definition may, within 30 days of the effective date of the new definition, elect must-carry status with respect to such system or systems. Such elections shall take effect 90 days after they are made.

(g) If one or more franchise areas served by a cable system overlaps with one or more franchise areas served by another cable system, television broadcast stations are required to make the same election for both cable systems.

(h) On or before each must-carry/retransmission consent election deadline, each television broadcast station shall place copies of all of its election statements in the station's public file, and shall send via certified mail to each cable system in the station's defined market a copy of the station's election statement with respect to that operator.

(i) Notwithstanding a television station's election of must-carry status, if a cable operator proposes to retransmit that station's signal without according the station must-carry rights (*i.e.*, pursuant to §76.56(e)), the operator must obtain the station's express authority prior to retransmitting its signal.

(j) Retransmission consent agreements between a broadcast station and a multichannel video programming distributor shall be in writing and shall specify the extent of the consent being granted, whether for the entire signal or any portion of the signal. This rule applies for either the analog or the digital signal of a television station.

(k) A cable system commencing new operation is required to notify all local commercial and noncommercial broadcast stations of its intent to commence service. The cable operator must send such notification, by certified mail, at least 60 days prior to commencing cable service. Commercial broadcast stations must notify the cable system within 30 days of the receipt of such notice of their election for either must-carry or retransmission consent with respect to such new cable system. If the commercial broadcast station elects must-carry, it must also indicate its channel position in its election statement to the cable system. Such election shall remain valid for the remainder of any three-year election interval, as established in §76.64(f)(2). Noncommercial educational broadcast stations should notify the cable operator of their request for carriage and their channel position. The new cable system must notify each station if its signal quality does not meet the standards for carriage and if any copyright liability would be incurred for the carriage of such signal. Pursuant to §76.57(e), a commercial broadcast station which fails to respond to such a notice shall be deemed to be a must-carry station for the remainder of the current three-year election period.

(l) Exclusive retransmission consent agreements are prohibited. No television broadcast station shall make or negotiate any agreement with one multichannel video programming distributor for carriage to the exclusion of other multichannel video programming distributors. This paragraph shall terminate at midnight on January 1, 2020, provided that if Congress further extends this date, the rules remain in effect until the statutory authorization expires.

(m) A multichannel video programming distributor providing an all-band FM radio broadcast service (a service that does not involve the individual processing of specific broadcast signals) shall obtain retransmission consents from all FM radio broadcast stations that are included on the service that have transmitters located within 92 kilometers (57 miles) of the receiving antenna for such service. Stations outside of this 92 kilometer (57 miles) radius shall be presumed not to be carried in an all-band reception mode but may affirmatively assert retransmission consent rights by providing 30 days advance notice to the distributor.

NOTE 1 TO §76.64: Section 76.1608 provides notification requirements for a cable system that changes its technical configuration in such a way as to integrate two formerly separate cable systems.

[58 FR 17363, Apr. 2, 1993, as amended at 59 FR 62345, Dec. 5, 1994; 65 FR 15575, Mar. 23, 2000; 65 FR 53615, Sept. 5, 2000; 66 FR 16553, Mar. 26, 2001; 67 FR 17015, Apr. 9, 2002; 69 FR 72045, Dec. 10, 2004; 70 FR 40224, July 13, 2005; 74 FR 69286, Dec. 31, 2009; 80 FR 11330, Mar. 3, 2015]

§ 76.65 Good faith and exclusive retransmission consent complaints.

(a) *Duty to negotiate in good faith.* Television broadcast stations and multichannel video programming distributors shall negotiate in good faith the terms and conditions of retransmission consent agreements to fulfill the duties established by section 325(b)(3)(C) of the Act; provided, however, that it shall not be a failure to negotiate in good faith if:

(1) The television broadcast station proposes or enters into retransmission consent agreements containing different terms and conditions, including price terms, with different multichannel video programming distributors if such different terms and conditions are based on competitive marketplace considerations; or

(2) The multichannel video programming distributor enters into retransmission consent agreements containing different terms and conditions, including price terms, with different broadcast stations if such different terms and conditions are based on competitive marketplace considerations. If a television broadcast station or multichannel video programming distributor negotiates in accordance with the rules and procedures set forth in this section, failure to reach an agreement is not an indication of a failure to negotiate in good faith.

(b) *Good faith negotiation*—(1) *Standards.* The following actions or practices violate a broadcast television station's or multichannel video programming distributor's (the ''Negotiating Entity'') duty to negotiate retransmission consent agreements in good faith:

(i) Refusal by a Negotiating Entity to negotiate retransmission consent;

(ii) Refusal by a Negotiating Entity to designate a representative with authority to make binding representations on retransmission consent;

(iii) Refusal by a Negotiating Entity to meet and negotiate retransmission consent at reasonable times and locations, or acting in a manner that unreasonably delays retransmission consent negotiations;

(iv) Refusal by a Negotiating Entity to put forth more than a single, unilateral proposal;

(v) Failure of a Negotiating Entity to respond to a retransmission consent proposal of the other party, including the reasons for the rejection of any such proposal;

(vi) Execution by a Negotiating Entity of an agreement with any party, a term or condition of which, requires that such Negotiating Entity not enter into a retransmission consent agreement with any other television broadcast station or multichannel video programming distributor;

(vii) Refusal by a Negotiating Entity to execute a written retransmission consent agreement that sets forth the full understanding of the television broadcast station and the multichannel video programming distributor; and

(viii) Coordination of negotiations or negotiation on a joint basis by two or more television broadcast stations in the same local market (as defined in 17 U.S.C. 122(j)) to grant retransmission consent to a multichannel video programming distributor, unless such stations are directly or indirectly under common de jure control permitted under the regulations of the Commission.

(ix) The imposition by a television broadcast station of limitations on the ability of a multichannel video programming distributor to carry into the local market (as defined in 17 U.S.C. 122(j)) of such station a television signal that has been deemed significantly viewed, within the meaning of §76.54 of this part, or any successor regulation, or any other television broadcast signal such distributor is authorized to carry under 47 U.S.C. 338, 339, 340 or 534, unless such stations are directly or indirectly under common de jure control permitted by the Commission.

(2) *Totality of the circumstances.* In addition to the standards set forth in §76.65(b)(1), a Negotiating Entity may demonstrate, based on the totality of the circumstances of a particular retransmission consent negotiation, that a television broadcast station or multichannel video programming distributor breached its duty to negotiate in good faith as set forth in §76.65(a).

(c) *Good faith negotiation and exclusivity complaints.* Any television broadcast station or multichannel video programming distributor aggrieved by conduct that it believes constitutes a violation of the regulations set forth in this section or §76.64(l) may commence an adjudicatory proceeding at the Commission to obtain enforcement of the rules through the filing of a complaint. The complaint shall be filed and responded to in accordance with the procedures specified in §76.7.

(d) *Burden of proof.* In any complaint proceeding brought under this section, the burden of proof as to the existence of a violation shall be on the complainant.

(e) *Time limit on filing of complaints.* Any complaint filed pursuant to this subsection must be filed within one year of the date on which one of the following events occurs:

(1) A complainant enters into a retransmission consent agreement with a television broadcast station or multichannel video programming distributor that the complainant alleges to violate one or more of the rules contained in this subpart; or

(2) A television broadcast station or multichannel video programming distributor engages in retransmission consent negotiations with a complainant that the complainant alleges to violate one or more of the rules contained in this subpart, and such negotiation is unrelated to any existing contract between the complainant and the television broadcast station or multichannel video programming distributor; or

(3) The complainant has notified the television broadcast station or multichannel video programming distributor that it intends to file a complaint with the Commission based on a request to negotiate retransmission consent that has been denied, unreasonably delayed, or unacknowledged in violation of one or more of the rules contained in this subpart.

(f) Termination of rules. This section shall terminate at midnight on January 1, 2020, provided that if Congress further extends this date, the rules remain in effect until the statutory authorization expires.

[70 FR 40224, July 13, 2005, as amended at 74 FR 69286, Dec. 31, 2009; 79 FR 28630, May 19, 2014; 80 FR 11330, Mar. 3, 2015]

§76.66 Satellite broadcast signal carriage.

(a) *Definitions*—(1) *Satellite carrier.* A satellite carrier is an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission, and operates in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of the Code of Federal Regulations, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or a service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing.

(2) *Secondary transmission.* A secondary transmission is the further transmitting of a primary transmission simultaneously with the primary transmission.

(3) *Subscriber.* A subscriber is a person who receives a secondary transmission service from a satellite carrier and

pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

(4) *Television broadcast station.* A television broadcast station is an over-the-air commercial or noncommercial television broadcast station licensed by the Commission under subpart E of part 73 of title 47, Code of Federal Regulations, except that such term does not include a low-power or translator television station.

(5) *Television network.* For purposes of this section, a television network is an entity which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated broadcast stations in 10 or more States.

(6) *Local-into-local television service.* A satellite carrier is providing local-into-local service when it retransmits a local television station signal back into the local market of that television station for reception by subscribers.

(b) *Signal carriage obligations.* (1) Each satellite carrier providing, under section 122 of title 17, United States Code, secondary transmissions to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, shall carry upon request the signals of all television broadcast stations located within that local market, subject to section 325(b) of title 47, United States Code, and other paragraphs in this section. Satellite carriers are required to carry digital-only stations upon request in markets in which the satellite carrier is providing any local-into-local service pursuant to the statutory copyright license.

(2) A satellite carrier that offers multichannel video programming distribution service in the United States to more than 5,000,000 subscribers shall, no later than December 8, 2005, carry upon request the signal originating as an analog signal of each television broadcast station that is located in a local market in Alaska or Hawaii; and shall, no later than June 8, 2007, carry upon request the signals originating as digital signals of each television broadcast station that is located in a local market in Alaska or Hawaii. Such satellite carrier is not required to carry the signal originating as analog after commencing carriage of digital signals on June 8, 2007. Carriage of signals originating as digital signals of each television broadcast station that is located in a local market in Alaska or Hawaii shall include the entire free over-the-air signal, including multicast and high definition digital signals.

(c) *Election cycle.* In television markets where a satellite carrier is providing local-into-local service, a commercial television broadcast station may elect either retransmission consent, pursuant to section 325 of title 47 United States Code, or mandatory carriage, pursuant to section 338, title 47 United States Code.

(1) The first retransmission consent-mandatory carriage election cycle shall be for a four-year period commencing on January 1, 2002 and ending December 31, 2005.

(2) The second retransmission consent-mandatory carriage election cycle, and all cycles thereafter, shall be for a period of three years (e.g. the second election cycle commences on January 1, 2006 and ends at midnight on December 31, 2008).

(3) A commercial television station must notify a satellite carrier, by July 1, 2001, of its retransmission consent-mandatory carriage election for the first election cycle commencing January 1, 2002.

(4) Except as provided in paragraphs (c)(6), (d)(2) and (d)(3) of this section, local commercial television broadcast stations shall make their retransmission consent-mandatory carriage election by October 1st of the year preceding the new cycle for all election cycles after the first election cycle.

(5) A noncommercial television station must request carriage by July 1, 2001 for the first election cycle and must renew its carriage request at the same time a commercial television station must make its retransmission consent-mandatory carriage election for all subsequent cycles.

(6) A commercial television broadcast station located in a local market in Alaska or Hawaii shall make its retransmission consent-mandatory carriage election by October 1, 2005, for carriage of its signal that originates as an analog signal for carriage commencing on December 8, 2005, and by

April 1, 2007, for its signal that originates as a digital signal for carriage commencing on June 8, 2007 and ending on December 31, 2008. For analog and digital signal carriage cycles commencing after December 31, 2008, such stations shall follow the election cycle in paragraphs (c)(2) and (4). A noncommercial television broadcast station located in a local market in Alaska or Hawaii must request carriage by October 1, 2005, for carriage of its signal that originates as an analog signal for carriage commencing on December 8, 2005, and by April 1, 2007, for its signal that originates as a digital signal for carriage commencing on June 8, 2007 and ending on December 31, 2008.

(d) *Carriage procedures*—(1) *Carriage requests.* (i) An election for mandatory carriage made by a television broadcast station shall be treated as a request for carriage. For purposes of this paragraph concerning carriage procedures, the term election request includes an election of retransmission consent or mandatory carriage.

(ii) An election request made by a television station must be in writing and sent to the satellite carrier's principal place of business, by certified mail, return receipt requested.

(iii) A television station's written notification shall include the:

(A) Station's call sign;

(B) Name of the appropriate station contact person;

(C) Station's address for purposes of receiving official correspondence;

(D) Station's community of license;

(E) Station's DMA assignment; and

(F) For commercial television stations, its election of mandatory carriage or retransmission consent.

(iv) Within 30 days of receiving a television station's carriage request, a satellite carrier shall notify in writing:

(A) those local television stations it will not carry, along with the reasons for such a decision; and

(B) those local television stations it intends to carry.

(v) A satellite carrier is not required to carry a television station, for the duration of the election cycle, if the station fails to assert its carriage rights by the deadlines established in this section.

(2) *New local-into-local service.* (i) A new satellite carrier or a satellite carrier providing local service in a market for the first time after July 1, 2001, shall inform each television broadcast station licensee within any local market in which a satellite carrier proposes to commence carriage of signals of stations from that market, not later than 60 days prior to the commencement of such carriage

(A) Of the carrier's intention to launch local-into-local service under this section in a local market, the identity of that local market, and the location of the carrier's proposed local receive facility for that local market;

(B) Of the right of such licensee to elect carriage under this section or grant retransmission consent under section 325(b);

(C) That such licensee has 30 days from the date of the receipt of such notice to make such election; and

(D) That failure to make such election will result in the loss of the right to demand carriage under this section for the remainder of the 3-year cycle of carriage under section 325.

(ii) Satellite carriers shall transmit the notices required by paragraph (d)(2)(i) of this section via certified mail to the address for such television station licensee listed in the consolidated database system maintained by the Commission.

(iii) A satellite carrier with more than five million subscribers shall provide the notice as required by paragraphs (d)(2)(i) and (ii) of this section to each television broadcast station located in a local market in Alaska or Hawaii, not later than March 1, 2007 with respect to carriage of digital signals; provided, further, that the notice shall also describe the carriage requirements pursuant to 47 U.S.C. 338(a)(4), and paragraph (b)(2) of this section.

(iv) A satellite carrier shall commence carriage of a local station by the later of 90 days from receipt of an election of mandatory carriage or upon commencing local-into-local service in the new television market.

(v) Within 30 days of receiving a local television station's election of mandatory carriage in a new television market, a satellite carrier shall notify in writing: Those local television stations

it will not carry, along with the reasons for such decision, and those local television stations it intends to carry.

(vi) Satellite carriers shall notify all local stations in a market of their intent to launch HD carry-one, carry-all in that market at least 60 days before commencing such carriage.

(3) *New television stations.* (i) A television station providing over-the-air service in a market for the first time on or after July 1, 2001, shall be considered a new television station for satellite carriage purposes.

(ii) A new television station shall make its election request, in writing, sent to the satellite carrier's principal place of business by certified mail, return receipt requested, between 60 days prior to commencing broadcasting and 30 days after commencing broadcasting. This written notification shall include the information required by paragraph (d)(1)(iii) of this section.

(iii) A satellite carrier shall commence carriage within 90 days of receiving the request for carriage from the television broadcast station or whenever the new television station provides over-the-air service.

(iv) Within 30 days of receiving a new television station's election of mandatory carriage, a satellite carrier shall notify the station in writing that it will not carry the station, along with the reasons for such decision, or that it intends to carry the station.

(4) Television broadcast stations must send election requests as provided in paragraphs (d)(1), (2), and (3) of this section on or before the relevant deadline.

(5) *Elections in markets in which significantly viewed signals are carried.* (i) Beginning with the election cycle described in §76.66(c)(2), the retransmission of significantly viewed signals pursuant to §76.54 by a satellite carrier that provides local-into-local service is subject to providing the notifications to stations in the market pursuant to paragraphs (d)(5)(i)(A) and (B) of this section, unless the satellite carrier was retransmitting such signals as of the date these notifications were due.

(A) In any local market in which a satellite carrier provided local-into-local service on December 8, 2004, at least 60 days prior to any date on which a station must make an election under paragraph (c) of this section, identify each affiliate of the same television network that the carrier reserves the right to retransmit into that station's local market during the next election cycle and the communities into which the satellite carrier reserves the right to make such retransmissions;

(B) In any local market in which a satellite carrier commences local-into-local service after December 8, 2004, at least 60 days prior to the commencement of service in that market, and thereafter at least 60 days prior to any date on which the station must thereafter make an election under §76.66(c) or (d)(2), identify each affiliate of the same television network that the carrier reserves the right to retransmit into that station's local market during the next election cycle.

(ii) A television broadcast station located in a market in which a satellite carrier provides local-into-local television service may elect either retransmission consent or mandatory carriage for each county within the station's local market if the satellite carrier provided notice to the station, pursuant to paragraph (d)(5)(i) of this section, that it intends to carry during the next election cycle, or has been carrying on the date notification was due, in the station's local market another affiliate of the same network as a significantly viewed signal pursuant to §76.54.

(iii) A television broadcast station that elects mandatory carriage for one or more counties in its market and elects retransmission consent for one or more other counties in its market pursuant to paragraph (d)(5)(ii) of this section shall conduct a unified negotiation for the entire portion of its local market for which retransmission consent is elected.

(iv) A television broadcast station that receives a notification from a satellite carrier pursuant to paragraph (d)(5)(i) of this section with respect to an upcoming election cycle may choose either retransmission consent or mandatory carriage for any portion of the 3-year election cycle that is not covered by an existing retransmission consent agreement.

(6) *Carriage after a market modification.* Television broadcast stations that become eligible for mandatory carriage with respect to a satellite carrier (pursuant to §76.66) due to a change in the market definition (by operation of a market modification pursuant to §76.59) may, within 30 days of the effective date of the new definition, elect retransmission consent or mandatory carriage with respect to such carrier. A satellite carrier shall commence carriage within 90 days of receiving the carriage election from the television broadcast station. The election must be made in accordance with the requirements in paragraph (d)(1) of this section.

(e) *Market definitions.* (1) A local market, in the case of both commercial and noncommercial television broadcast stations, is the designated market area in which a station is located, unless such market is amended pursuant to §76.59, and

(i) In the case of a commercial television broadcast station, all commercial television broadcast stations licensed to a community within the same designated market area within the same local market; and

(ii) In the case of a noncommercial educational television broadcast station, the market includes any station that is licensed to a community within the same designated market area as the noncommercial educational television broadcast station.

(2) A designated market area is the market area, as determined by Nielsen Media Research and published in the 1999–2000 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication. In the case of areas outside of any designated market area, any census area, borough, or other area in the State of Alaska that is outside of a designated market area, as determined by Nielsen Media Research, shall be deemed to be part of one of the local markets in the State of Alaska.

(3) A satellite carrier shall use the 1999–2000 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates to define television markets for the first retransmission consent-mandatory carriage election cycle commencing on January 1, 2002 and ending on December 31, 2005. The 2003–2004 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates shall be used for the second retransmission consent-mandatory carriage election cycle commencing January 1, 2006 and ending December 31, 2008, and so forth for each triennial election pursuant to this section. Provided, however, that a county deleted from a market by Nielsen need not be subtracted from a market in which a satellite carrier provides local-into-local service, if that county is assigned to that market in the 1999–2000 Nielsen Station Index Directory or any subsequent issue of that publication. A satellite carrier may determine which local market in the State of Alaska will be deemed to be the relevant local market in connection with each subscriber in an area in the State of Alaska that is outside of a designated market, as described in paragraph (e)(2) of this section.

(4) A local market includes all counties to which stations assigned to that market are licensed.

(f) *Receive facilities.* (1) A local receive facility is the reception point in each local market which a satellite carrier designates for delivery of the signal of the station for purposes of retransmission.

(2) A satellite carrier may establish another receive facility to serve a market if the location of such a facility is acceptable to at least one-half the stations with carriage rights in that market.

(3) Except as provided in 76.66(d)(2), a satellite carrier providing local-into-local service must notify local television stations of the location of the receive facility by June 1, 2001 for the first election cycle and at least 120 days prior to the commencement of all election cycles thereafter.

(4) A satellite carrier may relocate its local receive facility at the commencement of each election cycle. A satellite carrier is also permitted to relocate its local receive facility during the course of an election cycle, if it bears the signal delivery costs of the television stations affected by such a move. A satellite carrier relocating its

local receive facility must provide 60 days notice to all local television stations carried in the affected television market.

(g) *Good quality signal.* (1) A television station asserting its right to carriage shall be required to bear the costs associated with delivering a good quality signal to the designated local receive facility of the satellite carrier or to another facility that is acceptable to at least one-half the stations asserting the right to carriage in the local market.

(2) To be considered a good quality signal for satellite carriage purposes, a television station shall deliver to the local receive facility of a satellite carrier either a signal level of −45dBm for UHF signals or −49dBm for VHF signals at the input terminals of the signal processing equipment.

(3) A satellite carrier is not required to carry a television station that does not agree to be responsible for the costs of delivering a good quality signal to the receive facility.

(h) *Duplicating signals.* (1) A satellite carrier shall not be required to carry upon request the signal of any local television broadcast station that substantially duplicates the signal of another local television broadcast station which is secondarily transmitted by the satellite carrier within the same local market, or the signals of more than one local commercial television broadcast station in a single local market that is affiliated with a particular television network unless such stations are licensed to communities in different States.

(2) A satellite carrier may select which duplicating signal in a market it shall carry.

(3) A satellite carrier may select which network affiliate in a market it shall carry.

(4) A satellite carrier is permitted to drop a local television station whenever that station meets the substantial duplication criteria set forth in this paragraph. A satellite carrier must add a television station to its channel lineup if such station no longer duplicates the programming of another local television station.

(5) A satellite carrier shall provide notice to its subscribers, and to the affected television station, whenever it adds or deletes a station's signal in a particular local market pursuant to this paragraph.

(6) A commercial television station substantially duplicates the programming of another commercial television station if it simultaneously broadcasts the identical programming of another station for more than 50 percent of the broadcast week.

(7) A noncommercial television station substantially duplicates the programming of another noncommercial station if it simultaneously broadcasts the same programming as another noncommercial station for more than 50 percent of prime time, as defined by §76.5(n), and more than 50 percent outside of prime time over a three month period, Provided, however, that after three noncommercial television stations are carried, the test of duplication shall be whether more than 50 percent of prime time programming and more than 50 percent outside of prime time programming is duplicative on a non-simultaneous basis.

(i) *Channel positioning.* (1) No satellite carrier shall be required to provide the signal of a local television broadcast station to subscribers in that station's local market on any particular channel number or to provide the signals in any particular order, except that the satellite carrier shall retransmit the signal of the local television broadcast stations to subscribers in the stations' local market on contiguous channels.

(2) The television stations subject to this paragraph include those carried under retransmission consent.

(3) All local television stations carried under mandatory carriage in a particular television market must be offered to subscribers at rates comparable to local television stations carried under retransmission consent in that same market.

(4) Within a market, no satellite carrier shall provide local-into-local service in a manner that requires subscribers to obtain additional equipment at their own expense or for an additional carrier charge in order to obtain one or more local television broadcast signals if such equipment is not required for the receipt of other local television broadcast signals.

(5) All television stations carried under mandatory carriage, in a particular market, shall be presented to subscribers in the same manner as television stations that elected retransmission consent, in that same market, on any navigational device, on-screen program guide, or menu provided by the satellite carrier.

(j) *Manner of carriage.* (1) Each television station carried by a satellite carrier, pursuant to this section, shall include in its entirety the primary video, accompanying audio, and closed captioning data contained in line 21 of the vertical blanking interval and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. For noncommercial educational television stations, a satellite carrier must also carry any program-related material that may be necessary for receipt of programming by persons with disabilities or for educational or language purposes. Secondary audio programming must also be carried. Where appropriate and feasible, satellite carriers may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the local receive facility.

(2) A satellite carrier, at its discretion, may carry any ancillary service transmission on the vertical blanking interval or the aural baseband of any television broadcast signal, including, but not limited to, multichannel television sound and teletext.

(k) *Material degradation.* (1) Each local television station whose signal is carried under mandatory carriage shall, to the extent technically feasible and consistent with good engineering practice, be provided with the same quality of signal processing provided to television stations electing retransmission consent, including carriage of HD signals in HD if any local station in the same market is carried in HD. A satellite carrier is permitted to use reasonable digital compression techniques in the carriage of local television stations.

(2) Satellite carriers must provide carriage of local stations' HD signals if any local station in the same market is carried in HD, pursuant to the following schedule:

(i) In at least 15% of the markets in which they carry any station pursuant to the statutory copyright license in HD by February 17, 2010;

(ii) In at least 30% of the markets in which they carry any station pursuant to the statutory copyright license in HD no later than February 17, 2011;

(iii) In at least 60% of the markets in which they carry any station pursuant to the statutory copyright license in HD no later than February 17, 2012; and

(iv) In 100% of the markets in which they carry any station pursuant to the statutory copyright license in HD by February 17, 2013.

(l) *Compensation for carriage.* (1) A satellite carrier shall not accept or request monetary payment or other valuable consideration in exchange either for carriage of local television broadcast stations in fulfillment of the mandatory carriage requirements of this section or for channel positioning rights provided to such stations under this section, except that any such station may be required to bear the costs associated with delivering a good quality signal to the receive facility of the satellite carrier.

(2) A satellite carrier may accept payments from a station pursuant to a retransmission consent agreement.

(m) *Remedies.* (1) Whenever a local television broadcast station believes that a satellite carrier has failed to meet its obligations under this section, such station shall notify the carrier, in writing, of the alleged failure and identify its reasons for believing that the satellite carrier failed to comply with such obligations.

(2) The satellite carrier shall, within 30 days after such written notification, respond in writing to such notification and comply with such obligations or state its reasons for believing that it is in compliance with such obligations.

(3) A local television broadcast station that disputes a response by a satellite carrier that it is in compliance with such obligations may obtain review of such denial or response by filing a complaint with the Commission, in accordance with §76.7 of title 47, Code of Federal Regulations. Such complaint shall allege the manner in

which such satellite carrier has failed to meet its obligations and the basis for such allegations.

(4) The satellite carrier against which a complaint is filed is permitted to present data and arguments to establish that there has been no failure to meet its obligations under this section.

(5) The Commission shall determine whether the satellite carrier has met its obligations under this section. If the Commission determines that the satellite carrier has failed to meet such obligations, the Commission shall order the satellite carrier to take appropriate remedial action. If the Commission determines that the satellite carrier has fully met the requirements of this section, it shall dismiss the complaint.

(6) The Commission will not accept any complaint filed later than 60 days after a satellite carrier, either implicitly or explicitly, denies a television station's carriage request.

(n) *Channel sharing carriage rights.* A broadcast television station that voluntarily relinquishes spectrum usage rights under §73.3700 of this chapter in order to share a television channel and that possessed carriage rights under section 338, 614, or 615 of the Communications Act of 1934 (47 U.S.C. 338; 534; 535) on November 30, 2010, shall have, at its shared location, the carriage rights under such section that would apply to such station at such location if it were not sharing a channel.

[66 FR 7430, Jan. 23, 2001, as amended at 66 FR 49135, Sept. 26, 2001; 70 FR 21670, Apr. 27, 2005; 70 FR 51668, Aug. 31, 2005; 70 FR 53079, Sept. 7, 2005; 73 FR 24508, May 5, 2008; 77 FR 30426, May 23, 2012; 80 FR 59664, Oct. 2, 2015]

§ 76.70 Exemption from input selector switch rules.

(a) In any case of cable systems serving communities where no portion of the community is covered by the predicted Grade B contour of at least one full service broadcast television station, or non-commercial educational television translator station operating with 5 or more watts output power and where the signals of no such broadcast stations are ''significantly viewed'' in the county where such a cable system is located, the cable system shall be exempt from the provisions of §76.66. Cable systems may be eligible for this exemption where they demonstrate with engineering studies prepared in accordance with §73.686 of this chapter or other showings that broadcast signals meeting the above criteria are not actually viewable within the community.

(b) Where a new full service broadcast television station, or new noncommercial educational television translator station with 5 or more watts, or an existing such station of either type with newly upgraded facilities provides predicted Grade B service to a community served by a cable system previously exempt under paragraph (a) of this section, or the signal of any such broadcast station is newly determined to be ''significantly viewed'' in the county where such a cable system is located, the cable system at that time is required to comply fully with the provisions of §76.66. Cable systems may retain their exemption under paragraph (a) of this section where they demonstrate with engineering studies prepared in accordance with §73.686 of this chapter or other showings that broadcast signals meeting the above criteria are not actually viewable within the community.

[54 FR 25716, June 19, 1989]

Subpart E—Equal Employment Opportunity Requirements

SOURCE: 50 FR 40855, Oct. 7, 1985, unless otherwise noted.

§ 76.71 Scope of application.

(a) The provisions of this subpart shall apply to any corporation, partnership, association, joint-stock company, or trust engaged primarily in the management or operation of any cable system. Cable entities subject to these provisions include those systems defined in §76.5(a), all satellite master antenna television systems serving 50 or more subscribers, and any multichannel video programming distributor. For purposes of the provisions of this subpart, a multichannel video programming distributor is an entity such as, but not limited to, a cable operator, a BRS/EBS provider, a direct

broadcast satellite service, a television receive-only satellite program distributor, or a video dialtone program service provider, who makes available for purchase, by subscribers or customers, multiple channels of video programming, whether or not a licensee. Multichannel video programming distributors do not include any entity which lacks control over the video programming distributed. For purposes of this subpart, an entity has control over the video programming it distributes, if it selects video programming channels or programs and determines how they are presented for sale to consumers. Nothwithstanding the foregoing, the regulations in this subpart are not applicable to the owners or originators (of programs or channels of programming) that distribute six or fewer channels of commonly-owned video programming over a leased transport facility. For purposes of this subpart, programming services are ''commonly-owned'' if the same entity holds a majority of the stock (or is a general partner) of each program service.

(b) *Employment units.* The provisions of this subpart shall apply to cable entities as employment units. Each cable entity may be considered a separate employment unit; however, where two or more cable entities are under common ownership or control and are interrelated in their local management, operation, and utilization of employees, they shall constitute a single employment unit.

(c) *Headquarters office.* A multiple cable operator shall treat as a separate employment unit each headquarters office to the extent the work of that office is primarily related to the operation of more than one employment unit as described in paragraph (b) of this section.

[50 FR 40855, Oct. 7, 1985, as amended at 58 FR 42250, Aug. 9, 1993; 69 FR 72045, Dec. 10, 2004]

§ 76.73 General EEO policy.

(a) Equal opportunity in employment shall be afforded by each cable entity to all qualified persons, and no person shall be discriminated against in employment by such entity because of race, color, religion, national origin, age or sex.

(b) Each employment unit shall establish, maintain, and carry out a positive continuing program of specific practices designed to assure equal opportunity to every aspect of cable system employment policy and practice. Under the terms of its program, an employment unit shall:

(1) Define the responsibility of each level of management to ensure a positive application and vigorous enforcement of its 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 progam and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, age or sex, and solicit their recruitment assistance on a continuing basis;

(4) Conduct a continuing program to exclude every form of prejudice or discrimination based upon race, color, religion, national origin, age 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, training, job design, and other measures needed to ensure genuine equality of opportunity to participate fully in all organizational units, occupations, and levels of responsibility.

§ 76.75 Specific EEO program requirements.

Under the terms of its program, an employment unit must:

(a) Disseminate its equal employment opportunity program to job applicants, employees, and those with whom it regularly does business. For example, this requirement may be met by:

(1) Posting notices in the employment unit's office and places of employment informing employees, and applicants for employment, of their equal employment opportunity rights, and their right to notify the Equal Employment Opportunity Commission, the Federal Communications Commission,

or other appropriate agency, if they believe they have been discriminated against. Where a significant percentage of employees, employment applicants, or residents of the community of a cable television system of the relevant labor area are Hispanic, such notices should be posted in Spanish and English. Similar use should be made of other languages in such posted equal employment opportunity notices, where appropriate;

(2) Placing a notice in bold type on the employment application informing prospective employees that discrimination because of race, color, religion, national origin, age or sex is prohibited and that they may notify the Equal Employment Opportunity Commission, the Federal Communications Commission, or other appropriate agency if they believe they have been discriminated against.

(b) Establish, maintain and carry out a positive continuing program of outreach activities designed to ensure equal opportunity and nondiscrimination in employment. The following activities shall be undertaken by each employment unit:

(1) Recruit for every full-time job vacancy in its operation. A job filled by an internal promotion is not considered a vacancy for which recruitment is necessary. Nothing in this section shall be interpreted to require a multichannel video programming distributor to grant preferential treatment to any individual or group based on race, national origin, color, religion, age, or gender.

(i) An employment unit shall use recruitment sources for each vacancy sufficient in its reasonable, good faith judgment to widely disseminate information concerning the vacancy.

(ii) In addition to using such recruitment sources, a multichannel video programming distributor employment unit shall provide notification of each full-time vacancy to any organization that distributes information about employment opportunities to job seekers or refers job seekers to employers, upon request by such organization. To be entitled to notice of vacancies, the requesting organization must provide the multichannel video programming distributor employment unit with its name, mailing address, e-mail address (if applicable), telephone number, and contact person, and identify the category or categories of vacancies of which it requests notice. (An organization may request notice of all vacancies).

(2) Engage in at least two (if the unit has more than ten full-time employees and is not located in a smaller market) or one (if the unit has six to ten full-time employees and/or is located, in whole or in part, in a smaller market) of the following initiatives during each twelve-month period preceding the filing of an EEO program annual report:

(i) Participation in at least two job fairs by unit personnel who have substantial responsibility in the making of hiring decisions;

(ii) Hosting of at least one job fair;

(iii) Co-sponsoring at least one job fair with organizations in the business and professional community whose membership includes substantial participation of women and minorities;

(iv) Participation in at least two events sponsored by organizations representing groups present in the community interested in multichannel video programming distributor employment issues, including conventions, career days, workshops, and similar activities;

(v) Establishment of an internship program designed to assist members of the community in acquiring skills needed for multichannel video programming distributor employment;

(vi) Participation in job banks, Internet programs, and other programs designed to promote outreach generally (*i.e.*, that are not primarily directed to providing notification of specific job vacancies);

(vii) Participation in a scholarship program designed to assist students interested in pursuing a career in multichannel video programming communications;

(viii) Establishment of training programs designed to enable unit personnel to acquire skills that could qualify them for higher level positions;

(ix) Establishment of a mentoring program for unit personnel;

(x) Participation in at least two events or programs sponsored by educational institutions relating to career

opportunities in multichannel video programming communications;

(xi) Sponsorship of at least one event in the community designed to inform and educate members of the public as to employment opportunities in multichannel video programming communications;

(xii) Listing of each upper-level category opening in a job bank or newsletter of media trade groups whose membership includes substantial participation of women and minorities;

(xiii) Provision of assistance to unaffiliated non-profit entities in the maintenance of web sites that provide counseling on the process of searching for multichannel video programming employment and/or other career development assistance pertinent to multichannel video programming communications;

(xiv) Provision of training to management level personnel as to methods of ensuring equal employment opportunity and preventing discrimination;

(xv) Provision of training to personnel of unaffiliated non-profit organizations interested in multichannel video programming employment opportunities that would enable them to better refer job candidates for multichannel video programming positions;

(xvi) Participation in other activities reasonably calculated by the unit to further the goal of disseminating information as to employment opportunities in multichannel video programming to job candidates who might otherwise be unaware of such opportunities.

(c) Retain records sufficient to document that it has satisfied the requirements of paragraphs (b)(1) and (b)(2) of this section. Such records, which may be maintained in an electronic format, shall be retained for a period of seven years. Such records need not be submitted to the Commission unless specifically requested. The following records shall be maintained:

(1) Listings of all full-time job vacancies filled by the cable employment unit, identified by job title;

(2) For each such vacancy, the recruitment sources utilized to fill the vacancy (including, if applicable, organizations entitled to notification pursuant to paragraph (b)(1)(ii) of this section, which should be separately identified), identified by name, address, contact person, and telephone number;

(3) Dated copies of all advertisements, bulletins, letters, faxes, e-mails, or other communications announcing job vacancies;

(4) Documentation necessary to demonstrate performance of the initiatives required by paragraph (b)(2) of this section, if applicable, including information sufficient to fully disclose the nature of the initiative and the scope of the unit's participation, including the unit personnel involved;

(5) The total number of interviewees for each vacancy and the referral sources for each interviewee; and

(6) The date each vacancy was filled and the recruitment source that referred the hiree.

(d) Undertake to offer promotions of minorities and women in a non-discriminatory fashion to positions of greater responsibility. For example, this requirement may be met by:

(1) Instructing those who make decisions on placement and promotion that 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 to determine whether this results from discrimination;

(2) Giving minority groups 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, followed by assistance, counselling, and effective measures to enable employees with interest and potential to qualify themselves for such positions;

(3) Providing opportunity to perform overtime work on a basis that does not discriminate against qualified minority group or female employees.

(e) Encourage minority and female entrepreneurs to conduct business with all parts of its operation. For example, this requirement may be met by:

(1) Recruiting as wide as possible a pool of qualified entrepreneurs from sources such as employee referrals, community groups, contractors, associations, and other sources likely to be

representative of minority and female interests.

(f) A multichannel video programming distributor shall analyze its recruitment program on an ongoing basis to ensure that it is effective in achieving broad outreach, and address any problems found as a result of its analysis.

(g) Analyze on an ongoing basis its efforts to recruit, hire, promote and use services without discrimination on the basis of race, national origin, color, religion, age, or sex and explain any difficulties encountered in implementing its equal employment opportunity program. For example, this requirement may be met by:

(1) Where union agreements exist, cooperating with the union or unions in the development of programs to ensure all persons equal opportunity for employment, and including an effective nondiscrimination clause in new or renegotiated union agreements;

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

(3) Examining rates of pay and fringe benefits for employees having the same duties, and eliminating any inequities based upon race, national origin, color, religion, age, or sex discrimination;

(4) Evaluating the recruitment program to ensure that it is effective in achieving a broad outreach to potential applicants.

(5) Utilizing media for recruitment purposes in a manner that will contain no indication, either explicit or implicit, of a preference for one race, national origin, color, religion, age, or sex over another; and

(6) Avoiding the use of selection techniques or tests that have the effect of discriminating against qualified minority groups or women.

(h) A full-time employee is a permanent employee whose regular work schedule is 30 hours per week or more.

(i) The provisions of paragraphs (b)(1)(ii), (b)(2), (c), and (f) of this section shall not apply to multichannel video programming distributor employment units that have fewer than six full-time employees.

(j) For the purposes of this rule, a smaller market includes metropolitan areas as defined by the Office of Management and Budget with a population of fewer than 250,000 persons and areas outside of all metropolitan areas as defined by the Office of Management and Budget.

[50 FR 40855, Oct. 7, 1985, as amended at 65 FR 7457, Feb. 15, 2000; 68 FR 691, Jan. 7, 2003]

§ 76.77 Reporting requirements and enforcement.

(a) *EEO program annual reports.* Information concerning a unit's compliance with the EEO recruitment requirements shall be filed by each employment unit with six or more full-time employees on FCC Form 396–C on or before September 30 of each year. If a multichannel video programming distributor acquires a unit during the twelve months covered by the EEO program annual report, the recruitment activity in the report shall cover the period starting with the date the entity acquired the unit.

(b) *Certification of Compliance.* The Commission will use the recruitment information submitted on a unit's EEO program annual report to determine whether the unit is in compliance with the provisions of this subpart. Units found to be in compliance with these rules will receive a Certificate of Compliance. Units found not to be in compliance will receive notice that they are not certified for a given year.

(c) *Investigations.* The Commission will investigate each unit at least once every five years. Employment units are required to submit supplemental investigation information with their regular EEO program annual reports in the years they are investigated. If an entity acquires a unit during the period covered by the supplemental investigation, the information submitted by the unit as part of the investigation shall cover the period starting with the date the operator acquired the unit. The supplemental investigation information shall include a copy of the unit's EEO public file report for the preceding year.

(d) *Records and inquiries.* Employment units subject to this subpart shall maintain records of their recruitment activity in accordance with § 76.75 to demonstrate whether they are in compliance with the EEO rules. Units shall

ensure that they maintain records sufficient to verify the accuracy of information provided in their EEO program annual reports and the supplemental investigation responses required by §76.1702 to be kept in a unit's public file. To determine compliance with the EEO rules, the Commission may conduct inquiries of employment units at random or if the Commission has evidence of a possible violation of the EEO rules. Upon request, employment units shall make records available to the Commission for its review.

(e) *Public complaints.* The public may file complaints based on EEO program annual reports, supplemental investigation information, or the contents of a unit's public file.

(f) *Sanctions and remedies.* The Commission may issue appropriate sanctions and remedies for any violation of the EEO rules.

[68 FR 692, Jan. 7, 2003]

§ 76.79 Records available for public inspection.

A copy of every annual employment report, and any other employment report filed with the Commission, and complaint report that has been filed with the Commission, and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the cable entity and the Commission pertaining to the reports after they have been filed in all documents incorporated therein by reference, unless specifically exempted from the requirement, are open for public inspection at the offices of the Commission in Washington, DC.

NOTE TO §76.59: Cable operators must also comply with the public file requirements §76.1702.

[65 FR 7459, Feb. 15, 2000]

Subpart F—Network Non-duplication Protection, Syndicated Exclusivity and Sports Blackout

SOURCE: 65 FR 68101, Nov. 14, 2000, unless otherwise noted.

§ 76.92 Cable network non-duplication; extent of protection.

(a) Upon receiving notification pursuant to §76.94, a cable community unit located in whole or in part within the geographic zone for a network program, the network non-duplication rights to which are held by a commercial television station licensed by the Commission, shall not carry that program as broadcast by any other television signal, except as otherwise provided below.

(b) For purposes of this section, the order of nonduplication priority of television signals carried by a community unit is as follows:

(1) First, all television broadcast stations within whose specified zone the community of the community unit is located, in whole or in part;

(2) Second, all smaller market television broadcast stations within whose secondary zone the community of the community unit is located, in whole or in part.

(c) For purposes of this section, all noncommercial educational television broadcast stations licensed to a community located in whole or in part within a major television market as specified in §76.51 shall be treated in the same manner as a major market commercial television broadcast station, and all noncommercial educational television broadcast stations not licensed to a community located in whole or in part within a major television market shall be treated in the same manner as a smaller market television broadcast station.

(d) Any community unit operating in a community to which a 100-watt or higher power translator is located within the predicted Grade B signal contour of the television broadcast station that the translator station retransmits, and which translator is carried by the community unit shall, upon request of such translator station licensee or permittee, delete the duplicating network programming of any television broadcast station whose reference point (See §76.53) is more than 88.5 km (55 miles) from the community of the community unit.

(e) Any community unit which operates in a community located in whole or in part within the secondary zone of

a smaller market television broadcast station is not required to delete the duplicating network programming of any major market television broadcast station whose reference point (See § 76.53) is also within 88.5 km (55 miles) of the community of the community unit.

(f) A community unit is not required to delete the duplicating network programming of any television broadcast station which is significantly viewed in the cable television community pursuant to § 76.54.

(g) A community unit is not required to delete the duplicating network programming of any qualified NCE television broadcast station that is carried in fulfillment of the cable television system's mandatory signal carriage obligations, pursuant to § 76.56.

NOTE: With respect to network programming, the geographic zone within which the television station is entitled to enforce network non-duplication protection and priority of shall be that geographic area agreed upon between the network and the television station. In no event shall such rights exceed the area within which the television station may acquire broadcast territorial exclusivity rights as defined in § 73.658(m) of this Chapter, except that small market television stations shall be entitled to a secondary protection zone of 32.2 additional kilometers (20 additional miles). To the extent rights are obtained for any hyphenated market named in § 76.51, such rights shall not exceed those permitted under § 73.658(m) of this Chapter for each named community in that market.

§ 76.93 Parties entitled to network non-duplication protection.

Television broadcast station licensees shall be entitled to exercise non-duplication rights pursuant to § 76.92 in accordance with the contractual provisions of the network-affiliate agreement.

§ 76.94 Notification.

(a) In order to exercise non-duplication rights pursuant to § 76.92, television stations shall notify each cable television system operator of the non-duplication sought in accordance with the requirements of this section. Except as otherwise provided in paragraph (b) of this section, non-duplication protection notices shall include the following information:

(1) The name and address of the party requesting non-duplication protection and the television broadcast station holding the non-duplication right;

(2) The name of the program or series (including specific episodes where necessary) for which protection is sought; and

(3) The dates on which protection is to begin and end.

(b) Broadcasters entering into contracts providing for network non-duplication protection shall notify affected cable systems within 60 calendar days of the signing of such a contract. In the event the broadcaster is unable based on the information contained in the contract, to furnish all the information required by paragraph (a) of this section at that time, the broadcaster must provide modified notices that contain the following information:

(1) The name of the network (or networks) which has (or have) extended non-duplication protection to the broadcaster;

(2) The time periods by time of day (local time) and by network (if more than one) for each day of the week that the broadcaster will be broadcasting programs from that network (or networks) and for which non-duplication protection is requested; and

(3) The duration and extent (e.g., simultaneous, same-day, seven-day, etc.) of the non-duplication protection which has been agreed upon by the network (or networks) and the broadcaster.

(c) Except as otherwise provided in paragraph (d) of this section, a broadcaster shall be entitled to non-duplication protection beginning on the later of:

(1) The date specified in its notice (as described in paragraphs (a) or (b) of this section, whichever is applicable) to the cable television system; or

(2) The first day of the calendar week (Sunday through Saturday) that begins 60 days after the cable television system receives notice from the broadcaster.

(d) A broadcaster shall provide the following information to the cable television system under the following circumstances:

(1) In the event the protection specified in the notices described in paragraphs (a) or (b) of this section has been limited or ended prior to the time

specified in the notice, or in the event a time period, as identified to the cable system in a notice pursuant to paragraph (b) of this section, for which a broadcaster has obtained protection is shifted to another time of day or another day (but not expanded), the broadcaster shall, as soon as possible, inform each cable television system operator that has previously received the notice of all changes from the original notice. Notice to be furnished ''as soon as possible'' under this paragraph shall be furnished by telephone, telegraph, facsimile, overnight mail or other similar expedient means.

(2) In the event the protection specified in the modified notices described in paragraph (b) of this section has been expanded, the broadcaster shall, at least 60 calendar days prior to broadcast of a protected program entitled to such expanded protection, notify each cable system operator that has previously received notice of all changes from the original notice.

(e) In determining which programs must be deleted from a television signal, a cable television system operator may rely on information from any of the following sources published or otherwise made available:

(1) Newspapers or magazines of general circulation.

(2) A television station whose programs may be subject to deletion. If a cable television system asks a television station for information about its program schedule, the television station shall answer the request:

(i) Within ten business days following the television station's receipt of the request; or

(ii) Sixty days before the program or programs mentioned in the request for information will be broadcast; whichever comes later.

(3) The broadcaster requesting exclusivity.

(f) A broadcaster exercising exclusivity pursuant to §76.92 shall provide to the cable system, upon request, an exact copy of those portions of the contracts, such portions to be signed by both the network and the broadcaster, setting forth in full the provisions pertinent to the duration, nature, and extent of the non-duplication terms concerning broadcast signal exhibition to which the parties have agreed.

§ 76.95 Exceptions.

(a) The provisions of §§76.92 through 76.94 shall not apply to a cable system serving fewer than 1,000 subscribers. Within 60 days following the provision of service to 1,000 subscribers, the operator of each such system shall file a notice to that effect with the Commission, and serve a copy of that notice on every television station that would be entitled to exercise network non-duplication protection against it.

(b) Network non-duplication protection need not be extended to a higher priority station for one hour following the scheduled time of completion of the broadcast of a live sports event by that station or by a lower priority station against which a cable community unit would otherwise be required to provide non-duplication protection following the scheduled time of completion.

§ 76.101 Cable syndicated program exclusivity: extent of protection.

Upon receiving notification pursuant to §76.105, a cable community unit located in whole or in part within the geographic zone for a syndicated program, the syndicated exclusivity rights to which are held by a commercial television station licensed by the Commission, shall not carry that program as broadcast by any other television signal, except as otherwise provided below.

NOTE: With respect to each syndicated program, the geographic zone within which the television station is entitled to enforce syndicated exclusivity rights shall be that geographic area agreed upon between the nonnetwork program supplier, producer or distributor and the television station. In no event shall such zone exceed the area within which the television station has acquired broadcast territorial exclusivity rights as defined in §73.658(m) of this Chapter. To the extent rights are obtained for any hyphenated market named in §76.51, such rights shall not exceed those permitted under §73.658(m) of this Chapter for each named community in that market.

§ 76.103 Parties entitled to syndicated exclusivity.

(a) Television broadcast station licensees shall be entitled to exercise exclusivity rights pursuant to § 76.101 in accordance with the contractual provisions of their syndicated program license agreements, consistent with § 76.109.

(b) Distributors of syndicated programming shall be entitled to exercise exclusive rights pursuant to § 76.101 for a period of one year from the initial broadcast syndication licensing of such programming anywhere in the United States; provided, however, that distributors shall not be entitled to exercise such rights in areas in which the programming has already been licensed.

§ 76.105 Notification.

(a) In order to exercise exclusivity rights pursuant to § 76.101, distributors or television stations shall notify each cable television system operator of the exclusivity sought in accordance with the requirements of this section. Syndicated program exclusivity notices shall include the following information:

(1) The name and address of the party requesting exclusivity and the television broadcast station or other party holding the exclusive right;

(2) The name of the program or series (including specific episodes where necessary) for which exclusivity is sought;

(3) The dates on which exclusivity is to begin and end.

(b) Broadcasters entering into contracts on or after August 18, 1988, which contain syndicated exclusivity protection shall notify affected cable systems within sixty calendar days of the signing of such a contract. Broadcasters who have entered into contracts prior to August 18, 1988, and who comply with the requirements specified in § 76.109 shall notify affected cable systems on or before June 19, 1989. A broadcaster shall be entitled to exclusivity protection beginning on the later of:

(1) The date specified in its notice to the cable television system; or

(2) The first day of the calendar week (Sunday through Saturday) that begins 60 days after the cable television system receives notice from the broadcaster;

(c) In determining which programs must be deleted from a television broadcast signal, a cable television system operator may rely on information from any of the following sources published or otherwise made available.

(1) Newspapers or magazines of general circulation;

(2) A television station whose programs may be subject to deletion. If a cable television system asks a television station for information about its program schedule, the television station shall answer the request:

(i) Within ten business days following the television station's receipt of the request; or

(ii) Sixty days before the program or programs mentioned in the request for information will be broadcast; whichever comes later.

(3) The distributor or television station requesting exclusivity.

(d) In the event the exclusivity specified in paragraph (a) of this section has been limited or has ended prior to the time specified in the notice, the distributor or broadcaster who has supplied the original notice shall, as soon as possible, inform each cable television system operator that has previously received the notice of all changes from the original notice. In the event the original notice specified contingent dates on which exclusivity is to begin and/or end, the distributor or broadcaster shall, as soon as possible, notify the cable television system operator of the occurrence of the relevant contingency. Notice to be furnished ''as soon as possible'' under this paragraph shall be furnished by telephone, telegraph, facsimile, overnight mail or other similar expedient means.

§ 76.106 Exceptions.

(a) Notwithstanding the requirements of §§ 76.101 through 76.105, a broadcast signal is not required to be deleted from a cable community unit when that cable community unit falls, in whole or in part, within that signal's grade B contour, or when the signal is significantly viewed pursuant to § 76.54 in the cable community.

(b) The provisions of §§ 76.101 through 76.105 shall not apply to a cable system

serving fewer than 1,000 subscribers. Within 60 days following the provision of service to 1,000 subscribers, the operator of each such system shall file a notice to that effect with the Commission, and serve a copy of that notice on every television station that would be entitled to exercise syndicated exclusivity protection against it.

§ 76.107 Exclusivity contracts.

A distributor or television station exercising exclusivity pursuant to § 76.101 shall provide to the cable system, upon request, an exact copy of those portions of the exclusivity contracts, such portions to be signed by both the distributor and the television station, setting forth in full the provisions pertinent to the duration, nature, and extent of the exclusivity terms concerning broadcast signal exhibition to which the parties have agreed.

§ 76.108 Indemnification contracts.

No licensee shall enter into any contract to indemnify a cable system for liability resulting from failure to delete programming in accordance with the provisions of this subpart unless the licensee has a reasonable basis for concluding that such program deletion is not required by this subpart.

§ 76.109 Requirements for invocation of protection.

For a station licensee to be eligible to invoke the provisions of § 76.101, it must have a contract or other written indicia that it holds syndicated exclusivity rights for the exhibition of the program in question. Contracts entered on or after August 18, 1988, must contain the following words: ''the licensee [or substitute name] shall, by the terms of this contract, be entitled to invoke the protection against duplication of programming imported under the Compulsory Copyright License, as provided in § 76.101 of the FCC rules [or 'as provided in the FCC's syndicated exclusivity rules'].'' Contracts entered into prior to August 18, 1988, must contain either the foregoing language or a clear and specific reference to the licensee's authority to exercise exclusivity rights as to the specific programming against cable television broadcast signal carriage by the cable system in question upon the contingency that the government reimposed syndicated exclusivity protection. In the absence of such a specific reference in contracts entered into prior to August 18, 1988, the provisions of these rules may be invoked only if the contract is amended to include the specific language referenced in this section or a specific written acknowledgment is obtained from the party from whom the broadcast exhibition rights were obtained that the existing contract was intended, or should now be construed by agreement of the parties, to include such rights. A general acknowledgment by a supplier of exhibition rights that specific contract language was intended to convey rights under these rules will be accepted with respect to all contracts containing that specific language. Nothing in this section shall be construed as a grant of exclusive rights to a broadcaster where such rights are not agreed to by the parties.

§ 76.110 Substitutions.

Whenever, pursuant to the requirements of the syndicated exclusivity rules, a community unit is required to delete a television program on a broadcast signal that is permitted to be carried under the Commission's rules, such community unit may, consistent with these rules, substitute a program from any other television broadcast station. Programs substituted pursuant to this section may be carried to their completion.

[65 FR 68101, Nov. 14, 2000, as amended at 79 FR 63562, Oct. 24, 2014]

§ 76.120 Network non-duplication protection and syndicated exclusivity rules for satellite carriers: Definitions.

For purposes of §§ 76.122–76.130, the following definitions apply:

(a) *Satellite carrier.* The term ''satellite carrier'' means an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operates in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of the Code of Federal Regulations, to establish and operate a

channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing.

(b) *Nationally distributed superstation.* The term ''nationally distributed superstation'' means a television broadcast station, licensed by the Commission, that—

(1) Is not owned or operated by or affiliated with a television network that, as of January 1, 1995, offered 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;

(2) On May 1, 1991, was retransmitted by a satellite carrier and was not a network station at that time; and

(3) Was, as of July 1, 1998, retransmitted by a satellite carrier under the statutory license of Section 119 of title 17, United States Code.

(c) *Television network.* The term ''television network'' means a television network in the United States which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated broadcast stations in 10 or more States.

(d) *Network station.* The term ''network station'' means—

(1) A television broadcast station, including any translator station or terrestrial satellite station that rebroadcasts all or substantially all of the programming broadcast by a network station, that is owned or operated by, or affiliated with, one or more of the television networks in the United States which offer an interconnected program service on a regular basis for 15 or more hours per week to at least 25 of its affiliated television licensees in 10 or more States; or

(2) A noncommercial educational broadcast station (as defined in Section 397 of the Communications Act of 1934); except that the term does not include the signal of the Alaska Rural Communications Service, or any successor entity to that service.

(e) *Zone of protection.* The term ''zone of protection'' means—

(1) With respect to network non-duplication, the zone of protection within which the television station is entitled to enforce network non-duplication protection shall be that geographic area agreed upon between the network and the television station. In no event shall such rights exceed the area within which the television station may acquire broadcast territorial exclusivity rights as defined in §73.658(m) of this Chapter, except that small market television stations shall be entitled to a secondary protection zone of 32.2 additional kilometers (20 additional miles). To the extent rights are obtained for any hyphenated market named in §76.51, such rights shall not exceed those permitted under §73.658(m) of this Chapter for each named community in that market.

(2) With respect to each syndicated program, the zone of protection within which the television station is entitled to enforce syndicated exclusivity rights shall be that geographic area agreed upon between the non-network program supplier, producer or distributor and the television station. In no event shall such zone exceed the area within which the television station has acquired broadcast territorial exclusivity rights as defined in §73.658(m) of this Chapter. To the extent rights are obtained for any hyphenated market named in §76.51, such rights shall not exceed those permitted under §73.658(m) of this chapter for each named community in that market.

[65 FR 68101, Nov. 14, 2000, as amended at 79 FR 63562, Oct. 24, 2014]

§76.122 Satellite network non-duplication.

(a) Upon receiving notification pursuant to paragraph (c) of this section, a satellite carrier shall not deliver, to subscribers within zip code areas located in whole or in part within the zone of protection of a commercial television station licensed by the Commission, a program carried on a nationally distributed superstation or on a station carried pursuant to §76.54 of this chapter when the network non-duplication rights to such program are

held by the commercial television station providing notice, except as provided in paragraphs (j), (k) or (l) of this section.

(b) Television broadcast station licensees shall be entitled to exercise non-duplication rights pursuant to §76.122 in accordance with the contractual provisions of the network-affiliate agreement, and as provided in §76.124.

(c) In order to exercise non-duplication rights pursuant to §76.122, television stations shall notify each satellite carrier of the non-duplication sought in accordance with the requirements of this section. Non-duplication protection notices shall include the following information:

(1) The name and address of the party requesting non-duplication protection and the television broadcast station holding the non-duplication right;

(2) Where the agreement between network and affiliate so identifies, the name of the program or series (including specific episodes where necessary) for which protection is sought;

(3) The dates on which protection is to begin and end;

(4) The name of the network (or networks) which has (or have) extended non-duplication protection to the broadcaster;

(5) The time periods by time of day (local time) and by network (if more than one) for each day of the week that the broadcaster will be broadcasting programs from that network (or networks) and for which non-duplication protection is requested;

(6) The duration and extent (e.g., simultaneous, same-day, seven-day, etc.) of the non-duplication protection which has been agreed upon by the network (or networks) and the broadcaster; and

(7) A list of the U.S. postal zip code(s) that encompass the zone of protection under these rules.

(d) Broadcasters entering into contracts providing for network non-duplication protection shall notify affected satellite carriers within 60 calendar days of the signing of such a contract; provided, however, that for such contracts signed before November 29, 2000, the broadcaster may provide notice on or before January 31, 2001, or with respect to pre-November 29, 2000 contracts that require amendment in order to invoke the provisions of these rules, notification may be given within sixty calendar days of the signing of such amendment.

(e) Except as otherwise provided in this section, a broadcaster shall be entitled to non-duplication protection beginning on the later of:

(1) The date specified in its notice to the satellite carrier; or

(2) The first day of the calendar week (Sunday through Saturday) that begins 60 days after the satellite carrier receives notice from the broadcaster; Provided, however, that with respect to notifications given pursuant to this section prior to June 1, 2001, a satellite carrier is not required to provide non-duplication protection until 120 days after the satellite carrier receives such notification.

(f) A broadcaster shall provide the following information to the satellite carrier under the following circumstances:

(1) In the event the protection specified in the notices described in paragraph (c) of this section has been limited or ended prior to the time specified in the notice, or in the event a time period, as identified to the satellite carrier in a notice pursuant to paragraph (c) of this section, for which a broadcaster has obtained protection is shifted to another time of day or another day (but not expanded), the broadcaster shall, as soon as possible, inform each satellite carrier that has previously received the notice of all changes from the original notice. Notice to be furnished ''as soon as possible'' under this paragraph shall be furnished by telephone, telegraph, facsimile, e-mail, overnight mail or other similar expedient means.

(2) In the event the protection specified in the notices described in paragraph (c) of this section has been expanded, the broadcaster shall, at least 60 calendar days prior to broadcast of a protected program entitled to such expanded protection, notify each satellite carrier that has previously received notice of all changes from the original notice.

(g) In determining which programs must be deleted from a television signal, a satellite carrier may rely on information from newspapers or magazines of general circulation, the broadcaster requesting exclusivity protection, or the nationally distributed superstation.

(h) If a satellite carrier asks a nationally distributed superstation for information about its program schedule, the nationally distributed superstation shall answer the request:

(i) Within ten business days following its receipt of the request; or

(ii) Sixty days before the program or programs mentioned in the request for information will be broadcast, whichever comes later.

(i) A broadcaster exercising exclusivity pursuant to this section shall provide to the satellite carrier, upon request, an exact copy of those portions of the contracts, such portions to be signed by both the network and the broadcaster, setting forth in full the provisions pertinent to the duration, nature, and extent of the non-duplication terms concerning broadcast signal exhibition to which the parties have agreed.

(j) A satellite carrier is not required to delete the duplicating programming of any nationally distributed superstation that is carried by the satellite carrier as a local station pursuant to §76.66 of this chapter or as a significantly viewed station pursuant to §76.54 of this chapter

(1) Within the station's local market;

(2) If the station is ''significantly viewed,'' pursuant to §76.54 of this chapter, in zip code areas included within the zone of protection unless a waiver of the significantly viewed exception is granted pursuant to §76.7 of this chapter; or

(3) If the zone of protection falls, in whole or in part, within that signal's grade B contour or noise limited service contour.

(k) A satellite carrier is not required to delete the duplicating programming of any nationally distributed superstation from an individual subscriber who is located outside the zone of protection, notwithstanding that the subscriber lives within a zip code provided by the broadcaster pursuant to paragraph (c) of this section.

(l) A satellite carrier is not required to delete programming if it has fewer than 1,000 subscribers within the relevant protected zone who subscribe to the nationally distributed superstation carrying the programming for which deletion is requested pursuant to paragraph (c) of this section.

[65 FR 68101, Nov. 14, 2000, as amended at 67 FR 68951, Nov. 14, 2002; 70 FR 76530, Dec. 27, 2005]

§76.123 Satellite syndicated program exclusivity.

(a) Upon receiving notification pursuant to paragraph (d) of this section, a satellite carrier shall not deliver, to subscribers located within zip code areas in whole or in part within the zone of protection of a commercial television station licensed by the Commission, a program carried on a nationally distributed superstation or on a station carried pursuant to §76.54 of this chapter when the syndicated program exclusivity rights to such program are held by the commercial television station providing notice, except as provided in paragraphs (k), (l) and (m) of this section.

(b) Television broadcast station licensees shall be entitled to exercise exclusivity rights pursuant to this Section in accordance with the contractual provisions of their syndicated program license agreements, consistent with §76.124.

(c) Distributors of syndicated programming shall be entitled to exercise exclusive rights pursuant to this Section for a period of one year from the initial broadcast syndication licensing of such programming anywhere in the United States; provided, however, that distributors shall not be entitled to exercise such rights in areas in which the programming has already been licensed.

(d) In order to exercise exclusivity rights pursuant to this Section, distributors of syndicated programming or television broadcast stations shall notify each satellite carrier of the exclusivity sought in accordance with the requirements of this paragraph. Syndicated program exclusivity notices

shall include the following information:

(1) The name and address of the party requesting exclusivity and the television broadcast station or other party holding the exclusive right;

(2) The name of the program or series (including specific episodes where necessary) for which exclusivity is sought;

(3) The dates on which exclusivity is to begin and end; and

(4) A list of the U.S. postal zip code(s) that encompass the zone of protection under these rules.

(e) A distributor or television station exercising exclusivity pursuant to this Section shall provide to the satellite carrier, upon request, an exact copy of those portions of the exclusivity contracts, such portions to be signed by both the distributor and the television station, setting forth in full the provisions pertinent to the duration, nature, and extent of the exclusivity terms concerning broadcast signal exhibition to which the parties have agreed.

(f) Television broadcast stations or distributors entering into contracts on or after November 29, 2000, which contain syndicated exclusivity protection with respect to satellite retransmission of programming, shall notify affected satellite carriers within sixty calendar days of the signing of such a contract. Television broadcast stations or distributors who have entered into contracts prior to November 29, 2000, and who comply with the requirements specified in §76.124 shall notify affected satellite carriers on or before January 31, 2001; provided, however, that with respect to pre-November 29, 2000 contracts that require amendment in order to invoke the provisions of these rules, notification may be given within sixty calendar days of the signing of such amendment.

(g) Except as otherwise provided in this section, a television broadcast station shall be entitled to exclusivity protection beginning on the later of:

(1) The date specified in its notice to the satellite carrier; or

(2) The first day of the calendar week (Sunday through Saturday) that begins 60 days after the satellite carrier receives notice from the broadcaster.

Provided, however, that with respect to notifications given pursuant to this section prior to June 1, 2001, a satellite carrier is not required to provide syndicated exclusivity protection until 120 days after the satellite carrier receives such notification.

(h) In determining which programs must be deleted from a television broadcast signal, a satellite carrier may rely on information from the distributor or television broadcast station requesting exclusivity; newspapers or magazines of general circulation; or the nationally distributed superstation whose programs may be subject to deletion.

(i) If a satellite carrier asks a nationally distributed superstation for information about its program schedule, the nationally distributed superstation shall answer the request:

(1) Within ten business days following the its receipt of the request; or

(2) Sixty days before the program or programs mentioned in the request for information will be broadcast; whichever comes later.

(j) In the event the exclusivity specified in paragraph (a) of this section has been limited or has ended prior to the time specified in the notice, the distributor or broadcaster who has supplied the original notice shall, as soon as possible, inform each satellite carrier that has previously received the notice of all changes from the original notice. In the event the original notice specified contingent dates on which exclusivity is to begin and/or end, the distributor or broadcaster shall, as soon as possible, notify the satellite carrier of the occurrence of the relevant contingency. Notice to be furnished ''as soon as possible'' under this Subsection shall be furnished by telephone, telegraph, facsimile, e-mail, overnight mail or other similar expedient means.

(k) A satellite carrier is not required to delete the programming of any nationally distributed superstation that is carried by the satellite carrier as a local station pursuant to §76.66 of this chapter or as a significantly viewed station pursuant to §76.54 of this chapter:

(1) Within the station's local market;

(2) If the station is ''significantly viewed,'' pursuant to §76.54 of this chapter, in zip code areas included within the zone of protection unless a

waiver of the significantly viewed exception is granted pursuant to § 76.7 of this chapter; or

(3) If the zone of protection falls, in whole or in part, within that signal's grade B contour or noise limited service contour.

(l) A satellite carrier is not required to delete the duplicating programming of any nationally distributed superstation from an individual subscriber who is located outside the zone of protection, notwithstanding that the subscriber lives within a zip code provided by the broadcaster pursuant to paragraph (d) of this section.

(m) A satellite carrier is not required to delete programming if it has fewer than 1,000 subscribers within the relevant protected zone who subscribe to the nationally distributed superstation carrying the programming for which deletion is requested pursuant to paragraph (d) of this section.

[65 FR 68101, Nov. 14, 2000, as amended at 70 FR 76530, Dec. 27, 2005]

§ 76.124 Requirements for invocation of protection.

For a television broadcast station licensee or distributor of syndicated programming to be eligible to invoke the provisions of § 76.122 or § 76.123 of this subpart, it must have a contract or other written indicia that it holds network program non-duplication or syndicated exclusivity rights for the exhibition of the program in question. Contracts entered on or after November 29, 2000, must contain the following words: ''the licensee [or substitute name] shall, by the terms of this contract, be entitled to invoke the protection against duplication of programming imported under the Statutory Copyright License, as provided in § 76.122 or § 76.123 of the FCC rules [or 'as provided in the FCC's satellite network non-duplication or syndicated exclusivity rules'].'' Contracts entered into prior to November 29, 2000, must contain the foregoing language plus a clear and specific reference to the licensee's authority to exercise exclusivity rights as to the specific programming against signal carriage by the satellite carrier in question, or by satellite carriage in general in a protected, geographic or specified zone. In the absence of such a specific reference in contracts entered into prior to November 29, 2000, the provisions of these rules may be invoked only if the contract is amended to include the specific language referenced in this section or a specific written acknowledgment is obtained from the party from whom the broadcast exhibition rights were obtained that the existing contract was intended, or should now be construed by agreement of the parties, to include such rights. A general acknowledgment by a supplier of exhibition rights that specific contract language was intended to convey rights under these rules will be accepted with respect to all contracts containing that specific language. Nothing in this section shall be construed as a grant of exclusive rights to a broadcaster where such rights are not agreed to by the parties.

§ 76.125 Indemnification contracts.

No television broadcast station licensee shall enter into any contract to indemnify a satellite carrier for liability resulting from failure to delete programming in accordance with the provisions of this subpart unless the licensee has a reasonable basis for concluding that such program deletion is not required by this Subpart.

§ 76.130 Substitutions.

Whenever, pursuant to the requirements of the network program non-duplication or syndicated program exclusivity rules, a satellite carrier is required to delete a television program from retransmission to satellite subscribers within a zip code area, such satellite carrier may, consistent with this subpart, substitute a program from any other television broadcast station for which the satellite carrier has obtained the necessary legal rights and permissions, including but not limited to copyright and retransmission consent. Programs substituted pursuant to this section may be carried to their completion.

[65 FR 68101, Nov. 14, 2000, as amended at 79 FR 63562, Oct. 24, 2014]

Subpart G—Cablecasting

§ 76.205 Origination cablecasts by legally qualified candidates for public office; equal opportunities.

(a) *General requirements.* No cable television system is required to permit the use of its facilities by any legally qualified candidate for public office, but if any system 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 system 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 system. (section 315(a) of the Communications Act.)

(b) *Uses.* As used in this section and §76.206, the term ''use'' means a candidate appearance (including by voice or picture) that is not exempt under paragraphs 76.205 (a)(1) through (a)(4) of this section.

(c) *Timing of request.* A request for equal opportunities must be submitted to the system 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 system 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 system 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 system make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to cablecast to the exclusion of other legally qualified candidates for the same public office.

[57 FR 210, Jan. 3, 1992, as amended at 59 FR 14568, Mar. 29, 1994]

§ 76.206 Candidate rates.

(a) *Charges for use of cable television systems.* The charges, if any, made for the use of any system 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 system for the same class and amount of time for the same period.

(i) A candidate shall be charged no more per unit than the system charges its most favored commercial advertisers for the same classes and amounts of time for the same periods. Any system practices offered to commercial advertisers that enhance the value of advertising spots must be disclosed and made available to candidates upon 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 nonpreemptible, preemptible with notice, immediately preemptible and run-of-schedule as distinct classes of time.

(iii) Systems 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. Systems 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) Systems may establish reasonable classes of preemptible with notice time so long as they clearly define all such classes, fully disclose them and make them available to candidates.

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

(vi) Systems shall not establish a separate, premium-priced class of time sold only to candidates. Systems 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. Systems 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. Systems 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) Systems 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, systems shall issue such 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) Systems 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 system. 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 system 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) Systems must disclose and make available to candidates any make good policies provided to commercial advertisers. If a system 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, systems may charge legally qualified candidates for public office no more than the charges made for comparable use of the system 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 system would charge for comparable commercial advertising. All discount privileges otherwise offered by a system to commercial advertisers must be disclosed and made available upon equal terms to all candidates for public office.

(b) If a system permits a candidate to use its cablecast facilities, the system 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 on 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, as provided in §76.1611. Systems 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 enough 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 system'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 system'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, systems shall negotiate in good faith to actually sell time to candidates in accordance with the disclosure.

[57 FR 210, Jan. 3, 1992, as amended at 57 FR 27709, June 22, 1992; 65 FR 53615, Sept. 5, 2000]

§76.213 Lotteries.

(a) No cable television system operator, except as in paragraph (c), when engaged in origination cablecasting shall transmit or permit to be transmitted on the origination cablecasting channel or channels any advertisement of or information concerning any lottery, gift, enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of 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.

(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 if in connection with such program a prize consisting of money or thing of value is awarded 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 cablecast on the system in question.

(c) The provisions of paragraphs (a) and (b) of this section shall not apply to advertisements or lists of prizes or information concerning:

(1) A lottery conducted by a State acting under authority of State law which is transmitted:

(i) By a cable system located in that State;

(ii) By a cable system located in another State which conducts such a lottery; or

(iii) By a cable system located in another State which is integrated with a cable system described in paragraphs (c)(1)(i) or (c)(1)(ii) of this section, if termination of the receipt of such transmission by the cable systems in

such other State would be technically infeasible.

(2) Any gaming conducted by an Indian Tribe pursuant to the Indian Gaming Regulatory Act. (25 U.S.C. 2701 *et seq.*).

(3) 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; or

(ii) Conducted as a promotional activity by a commercial organization and is clearly occasional and ancillary to the primary business of that organization.

(d) For the purposes of paragraph (c) *lottery* means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. It does not include the placing or accepting of bets or wagers on sporting events or contests.

(e) For purposes of paragraph (c)(3)(i) of this section, the term ''not-for-profit organization'' means any organization that would qualify as tax exempt under section 501 of the Internal Revenue Code of 1986.

[37 FR 3278, Feb. 12, 1972, as amended at 40 FR 6210, Feb. 10, 1975; 42 FR 13947, Apr. 13, 1977; 54 FR 20856, May 15, 1989; 55 FR 18888, May 7, 1990]

§ 76.225 Commercial limits in children's programs.

(a) No cable operator 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.

(b) The display of Internet Web site addresses during program material or promotional material not counted as commercial time is permitted only if the Web site:

(1) Offers a substantial amount of bona fide program-related or other noncommercial content;

(2) Is not primarily intended for commercial purposes, including either e-commerce or advertising;

(3) The Web site's home page and other menu pages are clearly labeled to distinguish the noncommercial from the commercial sections; and

(4) The page of the Web site to which viewers are directed by the Web site address is not used for e-commerce, advertising, or other commercial purposes (e.g., contains no links labeled ''store'' and no links to another page with commercial material).

(c) If an Internet address for a Web site that does not meet the test in paragraph (b) of this section is displayed during a promotion in a children's program, in addition to counting against the commercial time limits in paragraph (a) of this section the promotion must be clearly separated from program material.

(d)(1) Entities subject to commercial time limits under the Children's Television Act shall not display a Web site address during or adjacent to a program if, at that time, on pages that are primarily devoted to free noncommercial content regarding that specific program or a character appearing in that program:

(i) Products are sold that feature a character appearing in that program; or

(ii) A character appearing in that program is used to actively sell products.

(2) The requirements of this paragraph do not apply to:

(i) Third-party sites linked from the companies' Web pages;

(ii) On-air third-party advertisements with Web site references to third-party Web sites; or

(iii) Pages that are primarily devoted to multiple characters from multiple programs.

(e) The requirements of this section shall not apply to programs aired on a broadcast television channel which the cable operator passively carries, or to access channels over which the cable operator may not exercise editorial control, pursuant to 47 U.S.C. 531(e) and 532(c)(2).

NOTE 1 TO § 76.225: *Commercial matter* means air time sold for purposes of selling a product or service and promotions of television programs or video programming services other than children's or other age-appropriate programming appearing on the same

channel or promotions for children's educational and informational programming on any channel.

NOTE 2 TO § 76.225: 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.

NOTE 3 TO § 76.225: Section 76.1703 contains recordkeeping requirements for cable operators with regard to children's programming.

[56 FR 19616, Apr. 29, 1991, as amended at 65 FR 53615, Sept. 5, 2000; 70 FR 38, Jan. 3, 2005; 71 FR 64165, Nov. 1, 2006]

§ 76.227 [Reserved]

Subpart H—General Operating Requirements

§ 76.309 Customer service obligations.

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (c) of this section against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards.

(b) Nothing in this rule should be construed to prevent or prohibit:

(1) A franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards set forth in paragraph (c) of this section;

(2) A franchising authority from enforcing, through the end of the franchise term, pre-existing customer service requirements that exceed the standards set forth in paragraph (c) of this section and are contained in current franchise agreements;

(3) Any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or

(4) The establishment or enforcement of any State or municipal law or regulation concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by the standards set forth in paragraph (c) of this section.

(c) Effective July 1, 1993, a cable operator shall be subject to the following customer service standards:

(1) Cable system office hours and telephone availability—

(i) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(A) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(B) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

(ii) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

(iii) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(iv) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

(v) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(2) Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis:

(i) Standard installations will be performed within seven (7) business days after an order has been placed. ''Standard'' installations are those that are located up to 125 feet from the existing distribution system.

(ii) Excluding conditions beyond the control of the operator, the cable operator will begin working on ''service interruptions'' promptly and in no

event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

(iii) The ''appointment window'' alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

(iv) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(3) Communications between cable operators and cable subscribers—

(i) Refunds—Refund checks will be issued promptly, but no later than either—

(A) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(B) The return of the equipment supplied by the cable operator if service is terminated.

(ii) Credits—Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(4) Definitions—

(i) *Normal business hours*—The term ''normal business hours'' means those hours during which most similar businesses in the community are open to serve customers. In all cases, ''normal business hours'' must include some evening hours at least one night per week and/or some weekend hours.

(ii) *Normal operating conditions*—The term ''normal operating conditions'' means those service conditions which are within the control of the cable operator. Those conditions which are *not* within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which *are* ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(iii) *Service interruption*—The term ''service interruption'' means the loss of picture or sound on one or more cable channels.

NOTE TO §76.309: Section 76.1602 contains notification requirements for cable operators with regard to operator obligations to subscribers and general information to be provided to customers regarding service. Section 76.1603 contains subscriber notification requirements governing rate and service changes. Section 76.1619 contains notification requirements for cable operators with regard to subscriber bill information and operator response procedures pertaining to bill disputes.

[58 FR 21109, Apr. 19, 1993, as amended at 61 FR 18977, Apr. 30, 1996; 65 FR 53615, Sept. 5, 2000; 67 FR 1650, Jan. 14, 2002]

Subpart I—Forms and Reports

§76.403 Cable television system reports.

The operator of every operational cable television system that serves 20,000 or more subscribers shall file with the Commission a Form 325 soliciting general information and frequency and signal distribution information on a Physical System Identification Number (''PSID'') basis. These forms shall be completed and filed with (returned to) the Commission within 60 days after the Commission notifies the operator that the form is due.

NOTE: The Commission retains its authority to require Form 325 to be filed by a sampling of cable operators with less than 20,000 subscribers.

[64 FR 28108, May 25, 1999, as amended at 68 FR 27003, May 19, 2003]

Subpart J—Ownership of Cable Systems

§76.501 Cross-ownership.

(a)–(c) [Reserved]

(d) No cable operator shall offer satellite master antenna television service (''SMATV''), as that service is defined in §76.5(a)(2), separate and apart from any franchised cable service in any portion of the franchise area served by that cable operator's cable system, either directly or indirectly through an affiliate owned, operated, controlled, or under common control with the cable operator.

(e)(1) A cable operator may directly or indirectly, through an affiliate owned, operated, controlled by, or under common control with the cable operator, offer SMATV service within its franchise area if the cable operator's SMATV system was owned, operated, controlled by or under common control with the cable operator as of October 5, 1992.

(2) A cable operator may directly or indirectly, through an affiliate owned, operated, controlled by, or under common control with the cable operator, offer service within its franchise area through SMATV facilities, provided such service is offered in accordance with the terms and conditions of a cable franchise agreement.

(f) The restrictions in paragraphs (d) and (e) of this section shall not apply to any cable operator in any franchise area in which a cable operator is subject to effective competition as determined under section 623(l) of the Communications Act.

NOTE 1 TO §76.501: Actual working control, in whatever manner exercised, shall be deemed a cognizable interest.

NOTE 2 TO §76.501: In applying the provisions of this section, ownership and other interests in an entity or entities covered by this rule 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 corporation will be cognizable;

(b) 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 corporation, or if any of the officers or directors of the corporation are representatives of the investment company, insurance company or bank concerned. Holdings by a bank or insurance company will be aggregated if the bank or insurance company has any right to determine how the stock will be voted. Holdings by investment companies will be aggregated if under common management.

(c) Attribution of ownership interests in an entity covered by this rule 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% (0.1×0.25). Under the 5% attribution benchmark, X's interest in ''Licensee'' would be cognizable, while A's interest would not be cognizable.]

(d) 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 entity covered by this rule are subject to said trust.

(e) Subject to paragraph (i) of this Note, holders of non-voting stock shall not be attributed an interest in the issuing entity. Subject to paragraph (i) of this Note, holders of debt and instruments such as warrants, convertible debentures, options or other nonvoting interests with rights of conversion to voting interests shall not be attributed unless and until conversion is effected.

(f)(1) Subject to paragraph (i) of this Note, 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 relevant entity 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 relevant entity so certifies.

(2) In the case of a limited partnership, in order for an entity 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 attribution, establishes that the exempt limited partner has no material involvement, directly or indirectly, in the management or operation of the media activities of the partnership. In the case of an LLC or RLLP, in order for an entity 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 these certifications 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 businesses of the partnership or LLC or RLLP.

(3) In the case of an LLC or RLLP, the entity 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.

(g) Officers and directors of an entity covered by this rule 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 media business, 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 media entity, 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 media subsidiary, and a certification properly documenting this fact is submitted to the Commission. The officers and directors of a sister corporation of a media entity shall not be attributed with ownership of that entity by virtue of such status.

(h) Discrete ownership interests held by the same individual or entity 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.

(i) Notwithstanding paragraphs (e) and (f) of this Note, the holder of an equity or debt interest or interests in an entity covered by this rule shall have that interest attributed if the equity (including all stockholdings, whether voting or nonvoting, common or preferred, and partnership interests) and debt interest or interests, in the aggregate, exceed 33 percent of the total asset value (all equity plus all debt) of that entity, provided however that:

(1) in applying the provisions of paragraph (i) of this note to §§76.501, 76.505 and 76.905(b)(2), the holder of an equity or debt interest or interests in a broadcast station, cable system, SMATV or multiple video distribution provider subject to §76.501, §76.505, or §76.905(b)(2) (''interest holder'') shall have that interest attributed if the equity (including all stockholdings, whether voting or nonvoting, common or preferred, and partnership interests) 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 entity; and

(i) the interest holder also holds an interest in a broadcast station, cable system, SMATV, or multiple video distribution provider that operates in the same market, is subject to §76.501, §76.505, or §76.905(b)(2) and is attributable without reference to this paragraph (i); 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.

(2) For purposes of applying subparagraph (i)(1), the term ''market'' will be defined as it is defined under the rule that is being applied.

NOTE 3 TO §76.501: 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 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 this subpart.

NOTE 4 TO §76.501: Paragraph (a) of this section will not be applied so as to require the divestiture of ownership interests proscribed herein solely because of the transfer of such interests to heirs or legatees by will or intestacy, provided that the degree or extent of the proscribed cross-ownership is not increased by such transfer.

NOTE 5 TO §76.501: Certifications pursuant to this section and these notes shall be sent to the attention of the Media Bureau, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

NOTE 6 TO §76.501: In applying paragraph (a) of §76.501, for purposes of paragraph note 2(i) of this section, attribution of ownership interests in an entity covered by this rule that are held indirectly by any party through one or more intervening organizations 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. The ownership percentage for any link in the chain that exceeds 50% shall be included. [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 15% (0.6×0.25), and A's interest in ''Licensee'' would be 1.5% ($0.1 \times 0.6 \times 0.25$).]

[58 FR 27677, May 11, 1993, as amended at 60 FR 37834, July 24, 1995; 61 FR 15388, Apr. 8, 1996; 64 FR 50646, Sept. 17, 1999; 64 FR 67194, Dec. 1, 1999; 66 FR 9973, Feb. 13, 2001; 67 FR 13234, Mar. 21, 2002; 68 FR 13237, Mar. 19, 2003]

§76.502 Time limits applicable to franchise authority consideration of transfer applications.

(a) A franchise authority shall have 120 days from the date of submission of a completed FCC Form 394, together with all exhibits, and any additional information required by the terms of the franchise agreement or applicable state or local law to act upon an application to sell, assign, or otherwise transfer controlling ownership of a cable system.

(b) A franchise authority that questions the accuracy of the information provided under paragraph (a) must notify the cable operator within 30 days of the filing of such information, or such information shall be deemed accepted, unless the cable operator has failed to provide any additional information reasonably requested by the franchise authority within 10 days of such request.

(c) If the franchise authority fails to act upon such transfer request within 120 days, such request shall be deemed granted unless the franchise authority and the requesting party otherwise agree to an extension of time.

[61 FR 15388, Apr. 8, 1996]

§76.503 National subscriber limits.

(a) No cable operator shall serve more than 30 percent of all multichannel-video programming subscribers nationwide through multichannel video programming distributors owned by such operator or in which such cable operator holds an attributable interest.

(b)–(d) [Reserved]

(e) ''Multichannel video-programming subscribers'' means subscribers who receive multichannel video-programming from cable systems, direct broadcast satellite services, direct-to-home satellite services, BRS/EBS, local multipoint distribution services, satellite master antenna television services (as defined in §76.5(a)(2)), and open video systems.

(f) ''Cable operator'' means any person or entity that owns or has an attributable interest in an incumbent cable franchise.

(g) Prior to acquiring additional multichannel video-programming providers, any cable operator that serves 20% or more of multichannel video-programming subscribers nationwide shall certify to the Commission, concurrent with its applications to the Commission for transfer of licenses at issue in the acquisition, that no violation of the national subscriber limits prescribed in this section will occur as a result of such acquisition.

NOTE 1 TO §76.503: Certifications made under this section shall be sent to the attention of the Media Bureau, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

NOTE 2 TO §76.503: *Attributable Interest* shall be defined by reference to the criteria set forth in Notes 1 through 5 to §76.501 provided however, that:

(a) Notes 2(f) and 2(g) to §76.501 to shall not apply;

(b)(1) Subject to Note 2(i) to §76.501, 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 video programming-related activities of the partnership and the relevant entity 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 video programming-related activities of the partnership and the relevant entity so certifies.

(2) In the case of a limited partnership, in order for an entity to make the certification set forth in paragraph (b)(1) of this section, it must verify that the partnership agreement or certificate of limited partnership, with respect to the particular limited partner exempt from attribution, establishes that the exempt limited partner has no material involvement, directly or indirectly, in the management or operation of the video programming activities of the partnership. In the case of an LLC or RLLP, in order for an entity 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 video programming activities of the LLC or RLLP. The criteria which would assume adequate insulation for purposes of these certifications are described in the Report and Order, FCC No. 99–288, CS Docket No. 98–82 (released October 20, 1999). In order for the Commission to accept the certification, the certification must be accompanied by facts, e.g. in the form of documents, affidavits or declarations, that demonstrate that these insulation criteria are met. 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 video-programming activities of the partnership or LLC or RLLP.

(3) In the case of an LLC or RLLP, the entity 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.

(c) Officers and directors of an entity covered by this rule are considered to have a cognizable interest in the entity with which they are so associated. If any such entity engages in activities other than video-programming activities, it may request the Commission to waive attribution for any officer or director whose duties and responsibilities are wholly unrelated to the entity's video-programming activities. In the case of common or appointed directors and officers, if common or appointed directors or officers have duties and responsibilities that are wholly unrelated to video-programming activities for both entities, the relevant entity may request the Commission to waive attribution of the director or officer. The officers and directors of a parent company of a video-programming business, 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 video-programming subsidiary, and a certification properly documenting this fact is submitted to the Commission. The officers and directors of a sister corporation of a cable system shall not be attributed with ownership of that entity by virtue of such status.

[64 FR 67195, 67199, Dec. 1, 1999, as amended at 67 FR 13234, Mar. 21, 2002; 69 FR 72046, Dec. 10, 2004; 73 FR 11050, Feb. 29, 2008]

§ 76.504 Limits on carriage of vertically integrated programming.

(a) Except as otherwise provided in this section no cable operator shall devote more than 40 percent of its activated channels to the carriage of national video programming services owned by the cable operator or in which the cable operator has an attributable interest.

(b) The channel occupancy limits set forth in paragraph (a) of this section shall apply only to channel capacity up to 75 channels.

(c) A cable operator may devote two additional channels or up to 45 percent of its channel capacity, whichever is greater, to the carriage of video programming services owned by the cable operator or in which the cable operator has an attributable interest provided such video programming services are minority-controlled.

(d) Cable operators carrying video programming services owned by the cable operator or in which the cable operator holds an attributable interest in excess of limits set forth in paragraph (a) of this section as of December 4, 1992, shall not be precluded by the restrictions in this section.

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

(f) *Minority* means Black, Hispanic, American Indian, Alaska Native, Asian and Pacific Islander.

NOTE 1: Attributable interest shall be defined by reference to the criteria set forth in Notes 1 through 5 to §76.501 provided however, that:

(a) Notes 2(f) and 2(g) to §76.501 to shall not apply;

(b)(1) Subject to Note 2(i) to §76.501, 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 video programming-related activities of the partnership and the relevant entity 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 video programming-related activities of the partnership and the relevant entity so certifies.

(2) In the case of a limited partnership, in order for an entity to make the certification set forth in paragraph (b)(1) of this section, it must verify that the partnership agreement or certificate of limited partnership, with respect to the particular limited partner exempt from attribution, establishes that the exempt limited partner has no material involvement, directly or indirectly, in the management or operation of the video programming activities of the partnership. In the case of an LLC or RLLP, in order for an entity 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 video programming activities of the LLC or RLLP. The criteria which would assume adequate insulation for purposes of these certifications are described in the Report and Order, FCC No. 99–288, CS Docket No. 98–82 (released October 20, 1999). In order for the Commission to accept the certification, the certification must be accompanied by facts, e.g. in the form of documents, affidavits or declarations, that demonstrate that these insulation criteria are met. 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 video-programming activities of the partnership or LLC or RLLP.

(3) In the case of an LLC or RLLP, the entity 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.

(c) Officers and directors of an entity covered by this rule are considered to have a cognizable interest in the entity with which they are so associated. If any such entity engages in activities other than video-programming activities, it may request the Commission to waive attribution for any officer or director whose duties and responsibilities are wholly unrelated to the entity's video-programming activities. In the case of common or appointed directors and officers, if common or appointed directors or officers have duties and responsibilities that are wholly unrelated to video-programming activities for both entities, the relevant entity may request the Commission to waive attribution of the director or officer. The officers and directors of a parent company of a video-programming business, 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 video-programming subsidiary, and a certification properly documenting this fact is submitted to the Commission. The officers and directors of a sister corporation of a cable system shall not be attributed with ownership of that entity by virtue of such status.

NOTE 2 TO §76.504: Section 76.1710 contains recordkeeping requirements for cable operators with regard to attributable interests.

[58 FR 60141, Nov. 15, 1993, as amended at 64 FR 67196, Dec. 1, 1999; 65 FR 53615, Sept. 5, 2000]

§ 76.505 Prohibition on buy outs.

(a) No local exchange carrier or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier may purchase or otherwise acquire directly or indirectly more than a 10 percent financial interest, or any management interest, in any cable operator providing cable service within the local exchange carrier's telephone service area.

(b) No cable operator or affiliate of a cable operator that is owned by, operated by, controlled by, or under common ownership with such cable operator may purchase or otherwise acquire, directly or indirectly, more than a 10 percent financial interest, or any

management interest, in any local exchange carrier providing telephone exchange service within such cable operator's franchise area.

(c) A local exchange carrier and a cable operator whose telephone service area and cable franchise area, respectively, are in the same market may not enter into any joint venture or partnership to provide video programming directly to subscribers or to provide telecommunications services within such market.

(d) Exceptions:

(1) Notwithstanding paragraphs (a), (b), and (c) of this section, a local exchange carrier (with respect to a cable system located in its telephone service area) and a cable operator (with respect to the facilities of a local exchange carrier used to provide telephone exchange service in its cable franchise area) may obtain a controlling interest in, management interest in, or enter into a joint venture or partnership with the operator of such system or facilities for the use of such system or facilities to the extent that:

(i) Such system or facilities only serve incorporated or unincorporated :

(A) Places or territories that have fewer than 35,000 inhabitants; and

(B) Are outside an urbanized area, as defined by the Bureau of the Census; and

(ii) In the case of a local exchange carrier, such system, in the aggregate with any other system in which such carrier has an interest, serves less than 10 percent of the households in the telephone service area of such carrier.

(2) Notwithstanding paragraph (c) of this section, a local exchange carrier may obtain, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that part of the transmission facilities of a cable system extending from the last multiuser terminal to the premises of the end user, if such use is reasonably limited in scope and duration, as determined by the Commission.

(3) Notwithstanding paragraphs (a) and (c) of this section, a local exchange carrier may obtain a controlling interest in, or form a joint venture or other partnership with, or provide financing to, a cable system (hereinafter in this paragraph referred to as ''the subject cable system'') if:

(i) The subject cable system operates in a television market that is not in the top 25 markets, and such market has more than 1 cable system operator, and the subject cable system is not the cable system with the most subscribers in such television market;

(ii) The subject cable system and the cable system with the most subscribers in such television market held on May 1, 1995, cable television franchises from the largest municipality in the television market and the boundaries of such franchises were identical on such date;

(iii) The subject cable system is not owned by or under common ownership or control of any one of the 50 cable system operators with the most subscribers as such operators existed on May 1, 1995; and

(iv) The system with the most subscribers in the television market is owned by or under common ownership or control of any one of the 10 largest cable system operators as such operators existed on May 1, 1995.

(4) Paragraph (a) of this section does not apply to any cable system if:

(i) The cable system serves no more than 17,000 cable subscribers, of which no less than 8,000 live within an urban area, and no less than 6,000 live within a nonurbanized area as of June 1, 1995;

(ii) The cable system is not owned by, or under common ownership or control with, any of the 50 largest cable system operators in existence on June 1, 1995; and

(iii) The cable system operates in a television market that was not in the top 100 television markets as of June 1, 1995.

(5) Notwithstanding paragraphs (a) and (c) of this section, a local exchange carrier with less than $100,000,000 in annual operating revenues (or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier) may purchase or otherwise acquire more than a 10 percent financial interest in, or any management interest in, or enter into a joint venture or partnership with, any cable system within the local exchange carrier's telephone service area that serves no more than 20,000 cable

subscribers, if no more than 12,000 of those subscribers live within an urbanized area, as defined by the Bureau of the Census.

(6) The Commission may waive the restrictions of paragraphs (a), (b), or (c) of this section only if:

(i) The Commission determines that, because of the nature of the market served by the affected cable system or facilities used to provide telephone exchange service:

(A) The affected cable operator or local exchange carrier would be subjected to undue economic distress by the enforcement of such provisions;

(B) The system or facilities would not be economically viable if such provisions were enforced; or

(C) The anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served; and

(ii) The local franchising authority approves of such waiver.

(e) For purposes of this section, the term ''telephone service area'' when used in connection with a common carrier subject in whole or in part to title II of the Communications Act means the area within which such carrier provided telephone exchange service as of January 1, 1993, but if any common carrier after such date transfers its telephone exchange service facilities to another common carrier, the area to which such facilities provide telephone exchange service shall be treated as part of the telephone service area of the acquiring common carrier and not of the selling common carrier.

(f) For purposes of this section, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities.

(g) Attributable interest shall be defined by reference to the criteria set forth in Notes 1 through 5 to § 76.501.

[61 FR 18977, Apr. 30, 1996, as amended at 64 FR 67196, Dec. 1, 1999]

Subpart K—Technical Standards

§ 76.601 Performance tests.

(a) The operator of each cable television system shall be responsible for insuring that each such system is designed, installed, and operated in a manner that fully complies with the provisions of this subpart.

(b) The operator of each cable television system shall conduct complete performance tests of that system at least twice each calendar year (at intervals not to exceed seven months), unless otherwise noted below. The performance tests shall be directed at determining the extent to which the system complies with all the technical standards set forth in § 76.605(a) and shall be as follows:

(1) For cable television systems with 1000 or more subscribers but with 12,500 or fewer subscribers, proof-of-performance tests conducted pursuant to this section shall include measurements taken at six (6) widely separated points. However, within each cable system, one additional test point shall be added for every additional 12,500 subscribers or fraction thereof (e.g., 7 test points if 12,501 to 25,000 subscribers; 8 test points if 25,001 to 37,500 subscribers, etc.). In addition, for technically integrated portions of cable systems that are not mechanically continuous (*i.e.*, employing microwave connections), at least one test point will be required for each portion of the cable system served by a technically integrated microwave hub. The proof-of-performance test points chosen shall be balanced to represent all geographic areas served by the cable system. At least one-third of the test points shall be representative of subscriber terminals most distant from the system input and from each microwave receiver (if microwave transmissions are employed), in terms of cable length. The measurements may be taken at convenient monitoring points in the cable network: Provided, that data shall be included to relate the measured performance of the system as would be viewed from a nearby subscriber terminal. An identification of the instruments, including the makes, model numbers, and the most recent date of calibration, a description of the procedures utilized, and a statement of the qualifications of the person performing the tests shall also be included.

(2) Proof-of-performance tests to determine the extent to which a cable television system complies with the standards set forth in §76.605(a) (3), (4), and (5) shall be made on each of the NTSC or similar video channels of that system. Unless otherwise as noted, proof-of-performance tests for all other standards in §76.605(a) shall be made on a minimum of four (4) channels plus one additional channel for every 100 MHz, or fraction thereof, of cable distribution system upper frequency limit (e.g., 5 channels for cable television systems with a cable distribution system upper frequency limit of 101 to 216 MHz; 6 channels for cable television systems with a cable distribution system upper frequency limit of 217–300 MHz; 7 channels for cable television systems with a cable distribution upper frequency limit to 300 to 400 MHz, etc.). The channels selected for testing must be representative of all the channels within the cable television system.

(3) The operator of each cable television system shall conduct semi-annual proof-of-performance tests of that system, to determine the extent to which the system complies with the technical standards set forth in §76.605(a)(4) as follows. The visual signal level on each channel shall be measured and recorded, along with the date and time of the measurement, once every six hours (at intervals of not less than five hours or no more than seven hours after the previous measurement), to include the warmest and the coldest times, during a 24-hour period in January or February and in July or August.

(4) The operator of each cable television system shall conduct triennial proof-of-performance tests of its system to determine the extent to which the system complies with the technical standards set forth in §76.605(a)(11).

(c) Successful completion of the performance tests required by paragraph (b) of this section does not relieve the system of the obligation to comply with all pertinent technical standards at all subscriber terminals. Additional tests, repeat tests, or tests involving specified subscriber terminals may be required by the Commission or the local franchiser to secure compliance with the technical standards.

(d) The provisions of paragraphs (b) and (c) of this section shall not apply to any cable television system having fewer than 1,000 subscribers: *Provided, however*, that any cable television system using any frequency spectrum other than that allocated to over-the-air television and FM broadcasting (as described in §§73.603 and 73.210 of this chapter) is required to conduct all tests, measurements and monitoring of signal leakage that are required by this subpart. A cable television system operator complying with the monitoring, logging and the leakage repair requirements of §76.614, shall be considered to have met the requirements of this paragraph. However, the leakage log shall be retained for five years rather than the two years prescribed in §76.1706.

NOTE 1 TO §76.601: Prior to requiring any additional testing pursuant to §76.601(c), the local franchising authority shall notify the cable operator who will be allowed thirty days to come into compliance with any perceived signal quality problems which need to be corrected. The Commission may request cable operators to test their systems at any time.

NOTE 2 TO §76.601: Section 76.1717 contains recordkeeping requirements for each system operator in order to show compliance with the technical rules of this subpart.

NOTE 3 TO §76.601: Section 76.1704 contains recordkeeping requirements for proof of performance tests.

[65 FR 53615, Sept. 5, 2000]

§76.602 Incorporation by reference.

(a) The materials listed in this section are incorporated by reference in this part. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the FEDERAL REGISTER. The materials are available for inspection at the Federal Communications Commission, 445 12th. St. SW., Reference Information Center, Room CY–A257, Washington, DC 20554 and at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/*

federal__register/code__of__federal__regulations/ibr__locations.html.

(b) The following materials are available from Advanced Television Systems Committee (ATSC), 1776 K Street NW., 8th Floor, Washington, DC 20006; phone: 202–872–9160; or online at *http://www.atsc.org/standards.html*.

(1) ATSC A/65B: ''ATSC Standard: Program and System Information Protocol for Terrestrial Broadcast and Cable (Revision B),'' March 18, 2003, IBR approved for § 76.640.

(2) ATSC A/85:2013 ''ATSC Recommended Practice: Techniques for Establishing and Maintaining Audio Loudness for Digital Television,'' (March 12, 2013) (''ATSC A/85 RP''), IBR approved for § 76.607.

(c) The following materials are available from Consumer Electronics Association (CEA), 1919 S. Eads St., Arlington, VA 22202; phone: 866–858–1555; or online at *http://www.ce.org/standards*.

(1) CEA–542–B, ''CEA Standard: Cable Television Channel Identification Plan,'' July 2003, IBR approved for § 76.605.

(2) CEA–931–A, ''Remote Control Command Pass-through Standard for Home Networking,'' 2003, IBR approved for § 76.640.

(d) The following materials are available from Society of Cable Telecommunications Engineers (SCTE), 140 Philips Road Exton, PA 19341–1318; phone: 800–542–5040; or online at *http://www.scte.org/standards/Standards__Available.aspx*.

(1) ANSI/SCTE 26 2001 (formerly DVS 194): ''Home Digital Network Interface Specification with Copy Protection,'' 2001, IBR approved for § 76.640.

(2) SCTE 28 2003 (formerly DVS 295): ''Host-POD Interface Standard,'' 2003, IBR approved for § 76.640.

(3) SCTE 40 2003 (formerly DVS 313), ''Digital Cable Network Interface Standard,'' 2003, IBR approved for § 76.640.

(4) SCTE 41 2003 (formerly DVS 301): ''POD Copy Protection System,'' 2003, IBR approved for § 76.640.

(5) ANSI/SCTE 54 2003 (formerly DVS 241), ''Digital Video Service Multiplex and Transport System Standard for Cable Television,'' 2003, IBR approved for § 76.640.

(6) ANSI/SCTE 65 2002 (formerly DVS 234), ''Service Information Delivered Out-of-Band for Digital Cable Television,'' 2002, IBR approved for § 76.640.

(e) Some standards listed above are also available for purchase from the following sources:

(1) American National Standards Institute (ANSI), 25 West 43rd Street, 4th Floor, New York, NY 10036; phone: 212–642–4980; or online at *http://webstore.ansi.org/*.

(2) Global Engineering Documents (standards reseller), 15 Inverness Way East, Englewood, CO 80112; phone: 800–854–7179; or online at *http://global.ihs.com*.

[77 FR 40300, July 9, 2012, as amended at 79 FR 51113, Aug. 27, 2014]

§ 76.605 Technical standards.

(a) The following requirements apply to the performance of a cable television system as measured at any subscriber terminal with a matched impedance at the termination point or at the output of the modulating or processing equipment (generally the headend) of the cable television system or otherwise as noted. The requirements are applicable to each NTSC or similar video downstream cable television channel in the system:

(1)(i) The cable television channels delivered to the subscriber's terminal shall be capable of being received and displayed by TV broadcast receivers used for off-the-air reception of TV broadcast signals, as authorized under part 73 of this chapter; and

(ii) Cable television systems shall transmit signals to subscriber premises equipment on frequencies in accordance with the channel allocation plan set forth in CEA–542–B: ''Standard: Cable Television Channel Identification Plan,'' (Incorporated by reference, *see* § 76.602).

(2) The aural center frequency of the aural carrier must be 4.5 MHz ±5 kHz above the frequency of the visual carrier at the output of the modulating or processing equipment of a cable television system, and at the subscriber terminal.

(3) The visual signal level, across a terminating impedance which correctly matches the internal impedance of the cable system as viewed from the

subscriber terminal, shall not be less than 1 millivolt across an internal impedance of 75 ohms (0 dBmV). Additionally, as measured at the end of a 30 meter (100 foot) cable drop that is connected to the subscriber tap, it shall not be less than 1.41 millivolts across an internal impedance of 75 ohms (+3 dBmV). (At other impedance values, the minimum visual signal level, as viewed from the subscriber terminal, shall be the square root of 0.0133 (Z) millivolts and, as measured at the end of a 30 meter (100 foot) cable drop that is connected to the subscriber tap, shall be 2 times the square root of 0.00662(Z) millivolts, where Z is the appropriate impedance value.)

(4) The visual signal level on each channel, as measured at the end of a 30 meter cable drop that is connected to the subscriber tap, shall not vary more than 8 decibels within any six-month interval, which must include four tests performed in six-hour increments during a 24-hour period in July or August and during a 24-hour period in January or February, and shall be maintained within:

(i) 3 decibels (dB) of the visual signal level of any visual carrier within a 6 MHz nominal frequency separation;

(ii) 10 dB of the visual signal level on any other channel on a cable television system of up to 300 MHz of cable distribution system upper frequency limit, with a 1 dB increase for each additional 100 MHz of cable distribution system upper frequency limit (e.g., 11 dB for a system at 301–400 MHz; 12 dB for a system at 401–500 MHz, *etc.*); and

(iii) A maximum level such that signal degradation due to overload in the subscriber's receiver or terminal does not occur.

(5) The rms voltage of the aural signal shall be maintained between 10 and 17 decibels below the associated visual signal level. This requirement must be met both at the subscriber terminal and at the output of the modulating and processing equipment (generally the headend). For subscriber terminals that use equipment which modulate and remodulate the signal (e.g., baseband converters), the rms voltage of the aural signal shall be maintained between 6.5 and 17 decibels below the associated visual signal level at the subscriber terminal.

(6) The amplitude characteristic shall be within a range of ±2 decibels from 0.75 MHz to 5.0 MHz above the lower boundary frequency of the cable television channel, referenced to the average of the highest and lowest amplitudes within these frequency boundaries. The amplitude characteristic shall be measured at the subscriber terminal.

(7) The ratio of RF visual signal level to system noise shall not be less than 43 decibels. For class I cable television channels, the requirements of this section are applicable only to:

(i) Each signal which is delivered by a cable television system to subscribers within the predicted Grade B contour for that signal;

(ii) Each signal which is first picked up within its predicted Grade B contour;

(iii) Each signal that is first received by the cable television system by direct video feed from a TV broadcast station, a low power TV station, or a TV translator station.

(8) The ratio of visual signal level to the rms amplitude of any coherent disturbances such as intermodulation products, second and third order distortions or discrete-frequency interfering signals not operating on proper offset assignments shall be as follows:

(i) The ratio of visual signal level to coherent disturbances shall not be less than 51 decibels for noncoherent channel cable television systems, when measured with modulated carriers and time averaged; and

(ii) The ratio of visual signal level to coherent disturbances which are frequency-coincident with the visual carrier shall not be less than 47 decibels for coherent channel cable systems, when measured with modulated carriers and time averaged.

(9) The terminal isolation provided to each subscriber terminal:

(i) Shall not be less than 18 decibels. In lieu of periodic testing, the cable operator may use specifications provided by the manufacturer for the terminal isolation equipment to meet this standard; and

(ii) Shall be sufficient to prevent reflections caused by open-circuited or

short-circuited subscriber terminals from producing visible picture impairments at any other subscriber terminal.

(10) The peak-to-peak variation in visual signal level caused by undesired low frequency disturbances (hum or repetitive transients) generated within the system, or by inadequate low frequency response, shall not exceed 3 percent of the visual signal level. Measurements made on a single channel using a single unmodulated carrier may be used to demonstrate compliance with this parameter at each test location.

(11) As of June 30, 1995, the following requirements apply to the performance of the cable television system as measured at the output of the modulating or processing equipment (generally the headend) of the system:

(i) The chrominance-luminance delay inequality (or chroma delay), which is the change in delay time of the chrominance component of the signal relative to the luminance component, shall be within 170 nanoseconds.

(ii) The differential gain for the color subcarrier of the television signal, which is measured as the difference in amplitude between the largest and smallest segments of the chrominance signal (divided by the largest and expressed in percent), shall not exceed ±20%.

(iii) The differential phase for the color subcarrier of the television signal which is measured as the largest phase difference in degrees between each segment of the chrominance signal and reference segment (the segment at the blanking level of O IRE), shall not exceed ±10 degrees.

(12) As an exception to the general provision requiring measurements to be made at subscriber terminals, and without regard to the type of signals carried by the cable television system, signal leakage from a cable television system shall be measured in accordance with the procedures outlined in §76.609(h) and shall be limited as follows:

Frequencies	Signal leakage limit (micro-volt/meter)	Distance in meters (m)
Less than and including 54 MHz, and over 216 MHz	15	30
Over 54 up to and including 216 MHz	20	3

(b) Cable television systems distributing signals by using methods such as nonconventional coaxial cable techniques, noncoaxial copper cable techniques, specialized coaxial cable and fiber optical cable hybridization techniques or specialized compression techniques or specialized receiving devices, and which, because of their basic design, cannot comply with one or more of the technical standards set forth in paragraph (a) of this section, may be permitted to operate: Provided, That an adequate showing is made pursuant to §76.7 which establishes that the public interest is benefited. In such instances, the Commission may prescribe special technical requirements to ensure that subscribers to such systems are provided with an equivalent level of good quality service.

NOTE 1: Local franchising authorities of systems serving fewer than 1000 subscribers may adopt standards less stringent than those in §76.605(a). Any such agreement shall be reduced to writing and be associated with the system's proof-of-performance records.

NOTE 2: For systems serving rural areas as defined in §76.5, the system may negotiate with its local franchising authority for standards less stringent than those in §§76.605(a)(3), 76.605(a)(7), 76.605(a)(8), 76.605(a)(10) and 76.605(a)(11). Any such agreement shall be reduced to writing and be associated with the system's proof-of-performance records.

NOTE 3: The requirements of this section shall not apply to devices subject to the TV interface device rules under part 15 of this chapter.

NOTE 4: Should subscriber complaints arise from a system failing to meet §76.605(a)(6) prior to December 30, 1999, the cable operator will be required to provide a converter that will allow the system to meet the standard immediately at the complaining subscriber's terminal. Further, should the problem be found to be system-wide, the Commission may order all converters on the system be changed to meet the standard.

NOTE 5: Should subscriber complaints arise from a system failing to meet §76.605(a)(10), the cable operator will be required to remedy the complaint and perform test measurements on §76.605(a)(10) containing the full

number of channels as indicated in §76.601(b)(2) at the complaining subscriber's terminal. Further, should the problem be found to be system-wide, the Commission may order that the full number of channels as indicated in §76.601(b)(2) be tested at all required locations for future proof-of-performance tests.

NOTE 6: No State or franchising authority may prohibit, condition, or restrict a cable system's use of any type of subscriber equipment or any transmission technology.

[37 FR 3278, Feb. 12, 1972]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §76.605, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§76.606 Closed captioning.

(a) As of June 30, 1992, the operator of each cable television system shall not take any action to remove or alter closed captioning data contained on line 21 of the vertical blanking interval.

(b) As of July 1, 1993, the operator of each cable television system shall deliver intact closed captioning data contained on line 21 of the vertical blanking interval, as it arrives at the headend or from another origination source, to subscriber terminals and (when so delivered to the cable system) in a format that can be recovered and displayed by decoders meeting §15.119 of this chapter.

[57 FR 11003, Apr. 1, 1992]

§76.607 Transmission of commercial advertisements.

(a) *Transmission of commercial advertisements by cable operator or other multichannel video programming distributor.* (1) *Mandatory compliance with ATSC A/85 RP.* Effective December 13, 2012, cable operators and other multichannel video programming distributors (MVPDs), as defined in 47 U.S.C. 522, must comply with ATSC A/85 RP (incorporated by reference, see §76.602), insofar as it concerns the transmission of commercial advertisements.

(2) *Commercials inserted by cable operator or other MVPD.* A cable operator or other multichannel video programming distributor that installs, utilizes, and maintains in a commercially reasonable manner the equipment and associated software to comply with ATSC A/85 RP shall be deemed in compliance with respect to locally inserted commercials, which for the purposes of this provision are commercial advertisements added to a programming stream by a cable operator or other MVPD prior to or at the time of transmission to viewers. In order to be considered to have installed, utilized and maintained the equipment and associated software in a commercially reasonable manner, a cable operator or other MVPD must:

(i) Install, maintain and utilize equipment to properly measure the loudness of the content and to ensure that the dialnorm metadata value correctly matches the loudness of the content when encoding the audio into AC–3 for transmitting the content to the consumer;

(ii) Provide records showing the consistent and ongoing use of this equipment in the regular course of business and demonstrating that the equipment has undergone commercially reasonable periodic maintenance and testing to ensure its continued proper operation;

(iii) Certify that it either has no actual knowledge of a violation of the ATSC A/85 RP, or that any violation of which it has become aware has been corrected promptly upon becoming aware of such a violation; and

(iv) Certify that its own transmission equipment is not at fault for any pattern or trend of complaints.

(3) *Embedded commercials—safe harbor.* With respect to embedded commercials, which, for the purposes of this provision, are those commercial advertisements placed into the programming stream by a third party (*i.e.*, programmer) and passed through by the cable operator or other MVPD to viewers, a cable operator or other MVPD must certify that its own transmission equipment is not at fault for any pattern or trend of complaints, and may demonstrate compliance with the ATSC A/85 RP through one of the following methods:

(i) Relying on a network's or other programmer's certification of compliance with the ATSC A/85 RP with respect to commercial programming, provided that:

(A) The certification is widely available by Web site or other means to any

television broadcast station, cable operator, or multichannel video programming distributor that transmits that programming; and

(B) The cable operator or other MVPD has no reason to believe that the certification is false; and

(C) The cable operator or other MVPD performs a spot check, as defined in §76.607(a)(3)(iv)(A), (B), (D), and (E), on the programming in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials contained in that programming;

(ii) If transmitting any programming that is not certified as described in §76.607(a)(3)(i):

(A) A cable operator or other MVPD that had 10,000,000 subscribers or more as of December 31, 2011 must perform annual spot checks, as defined in §76.607(a)(3)(iv)(A), (B), (C), and (E), of all the non-certified commercial programming it receives from a network or other programmer that is carried by any system operated by the cable operator or other MVPD, and perform a spot check, as defined in §76.607(a)(3)(iv)(A), (B), (D), and (E), on programming in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials contained in that programming; and

(B) A cable operator or other MVPD that had fewer than 10,000,000 but more than 400,000 subscribers as of December 31, 2011, must perform annual spot checks, as defined in §76.607(a)(3)(iv)(A), (B), (C), and (E), of a randomly chosen 50 percent of the non-certified commercial programming it receives from a network or other programmer that is carried by any system operated by the cable operator or other MVPD, and perform a spot check, as defined in §76.607(a)(3)(iv)(A), (B), (D), and (E), on programming in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials contained in that programming; or

(iii) A cable operator or other MVPD that had fewer than 400,000 subscribers as of December 31, 2011, need not perform annual spot checks but must perform a spot check, as defined in §76.607(a)(3)(iv)(A), (B), (D), and (E), on programming in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials contained in that programming.

(iv) For the purposes of this section, a ''spot check'' of embedded commercials requires monitoring 24 uninterrupted hours of programming with an audio loudness meter compliant with the ATSC A/85 RP's measurement technique, and reviewing the records from that monitoring to detect any commercials transmitted in violation of the ATSC A/85 RP. The cable operator or other MVPD must not inform the network or programmer of the spot check prior to performing it.

(A) Spot-checking must be conducted after the signal has passed through the cable operator or other MVPD's processing equipment (e.g., at the output of a set-top box). If a problem is found, the cable operator or other MVPD must determine the source of the noncompliance.

(B) To be considered valid, the cable operator or other MVPD must demonstrate appropriate maintenance records for the audio loudness meter.

(C) With reference to the annual ''safe harbor'' spot check in §76.607(a)(3)(ii):

(*1*) To be considered valid, the cable operator or other—MVPD must demonstrate, at the time of any enforcement inquiry, that appropriate spot checks had been ongoing.

(*2*) If there is no single 24 hour period in which all programmers of a given channel are represented, an annual spot check could consist of a series of loudness measurements over the course of a 7 day period, totaling no fewer than 24 hours, that measure at least one program, in its entirety, provided by each non-certified programmer that supplies programming for that channel.

(*3*) If annual spot checks are performed for two consecutive years without finding evidence of noncompliance with the ATSC A/85 RP, no further annual spot checks are required to remain in the safe harbor for existing programming.

(*4*) Newly-added (or newly de-certified) non-certified channels must be

spot-checked annually using the approach described in this section. If annual spot checks of the channel are performed for two consecutive years without finding evidence of noncompliance with the ATSC A/85 RP, no further annual spot checks are required to remain in the safe harbor for that channel.

(*5*) Even after the two year period, if a spot check shows noncompliance on a non-certified channel, the cable operator or other MVPD must once again perform annual spot checks of that channel to be in the safe harbor for that programming. If these renewed annual spot checks are performed for two consecutive years without finding additional evidence of noncompliance with the ATSC A/85 RP, no further annual spot checks are required to remain in the safe harbor for that channel.

(D) With reference to the spot checks in response to an enforcement inquiry pursuant to §76.607(a)(3)(i)(C), (ii), or (iii):

(*1*) If notified of a pattern or trend of complaints, the cable operator or other MVPD must perform the 24-hour spot check of the channel or programming at issue within 30 days or as otherwise specified by the Enforcement Bureau; and

(*2*) If the spot check reveals actual compliance, the cable operator or other MVPD must notify the Commission in its response to the enforcement inquiry.

(E) If any spot check shows noncompliance with the ATSC A/85 RP, the cable operator or other MVPD must notify the Commission and the network or programmer within 7 days, direct the programmer's attention to any relevant complaints, and must perform a follow-up spot check within 30 days of providing such notice. The cable operator or other MVPD must notify the Commission and the network or programmer of the results of the follow-up spot check. Notice to the Federal Communications Commission must be provided to the Chief, Investigations and Hearings Division, Enforcement Bureau, or as otherwise directed in a Letter of Inquiry to which the cable operator or other MVPD is responding.

(*1*) If the follow-up spot check shows compliance with the ATSC A/85 RP, the cable operator or other MVPD remains in the safe harbor for that channel or programming.

(*2*) If the follow-up spot check shows noncompliance with the ATSC A/85 RP, the cable operator or other MVPD will not be in the safe harbor with respect to commercials contained in programming for which the spot check showed noncompliance until a subsequent spot check shows that the programming is in compliance.

(4) *Use of a real-time processor.* A cable operator or other MVPD that installs, maintains and utilizes a real-time processor in a commercially reasonable manner will be deemed in compliance with the ATSC A/85 RP with regard to any commercial advertisements on which it uses such a processor, so long as it also:

(i) Provides records showing the consistent and ongoing use of this equipment in the regular course of business and demonstrating that the equipment has undergone commercially reasonable periodic maintenance and testing to ensure its continued proper operation;

(ii) Certifies that it either has no actual knowledge of a violation of the ATSC A/85 RP, or that any violation of which it has become aware has been corrected promptly upon becoming aware of such a violation; and

(iii) Certifies that its own transmission equipment is not at fault for any pattern or trend of complaints.

(5) *Commercials locally inserted by a cable operator or other MVPD's agent—safe harbor.* With respect to commercials locally inserted, which for the purposes of this provision are commercial advertisements added to a programming stream for the cable operator or other MVPD by a third party after it has been received from the programmer but prior to or at the time of transmission to viewers, a cable operator or other MVPD may demonstrate compliance with the ATSC A/85 RP by relying on the third party local inserter's certification of compliance with the ATSC A/85 RP, provided that:

(i) The cable operator or other MVPD has no reason to believe that the certification is false;

(ii) The cable operator or other MVPD certifies that its own transmission equipment is not at fault for any pattern or trend of complaints; and

(iii) The cable operator or other MVPD performs a spot check, as defined in §76.607(a)(3)(iv)(A), (B), (D), and (E), on the programming at issue in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials inserted by that third party.

(6) Instead of demonstrating compliance pursuant to paragraphs (a)(2) through (5) of this section, a cable operator or other MVPD may demonstrate compliance with paragraph (a)(1) of this section in response to an enforcement inquiry prompted by a pattern or trend of complaints by demonstrating actual compliance with ATSC A/85 RP with regard to the commercial advertisements that are the subject of the inquiry, and certifying that its own transmission equipment is not at fault for any such pattern or trend of complaints.

NOTE TO §76.607(a): For additional information regarding this requirement, *see* Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act, FCC 11–182.

(b) [Reserved]

[77 FR 40300, July 9, 2012]

§76.609 Measurements.

(a) Measurements made to demonstrate conformity with the performance requirements set forth in §§76.601 and 76.605 shall be made under conditions which reflect system performance during normal operations, including the effect of any microwave relay operated in the Cable Television Relay (CARS) Service intervening between pickup antenna and the cable distribution network. Amplifiers shall be operated at normal gains, either by the insertion of appropriate signals or by manual adjustment. Special signals inserted in a cable television channel for measurement purposes should be operated at levels approximating those used for normal operation. Pilot tones, auxiliary or substitute signals, and nontelevision signals normally carried on the cable television system should be operated at normal levels to the extent possible. Some exemplary, but not mandatory, measurement procedures are set forth in this section.

(b) When it may be necessary to remove the television signal normally carried on a cable television channel in order to facilitate a performance measurement, it will be permissible to disconnect the antenna which serves the channel under measurement and to substitute therefor a matching resistance termination. Other antennas and inputs should remain connected and normal signal levels should be maintained on other channels.

(c) As may be necessary to ensure satisfactory service to a subscriber, the Commission may require additional tests to demonstrate system performance or may specify the use of different test procedures.

(d) The frequency response of a cable television channel may be determined by one of the following methods, as appropriate:

(1) By using a swept frequency or a manually variable signal generator at the sending end and a calibrated attenuator and frequency-selective voltmeter at the subscriber terminal; or

(2) By using either a multiburst generator or vertical interval test signals and either a modulator or processor at the sending end, and by using either a demodulator and either an oscilloscope display or a waveform monitor display at the subscriber terminal.

(e) System noise may be measured using a frequency-selective voltmeter (field strength meter) which has been suitably calibrated to indicate rms noise or average power level and which has a known bandwidth. With the system operating at normal level and with a properly matched resistive termination substituted for the antenna, noise power indications at the subscriber terminal are taken in successive increments of frequency equal to the bandwidth of the frequency-selective voltmeter, summing the power indications to obtain the total noise power present over a 4 MHz band centered within the cable television channel. If it is established that the noise level is constant within this bandwidth, a single measurement may be

taken which is corrected by an appropriate factor representing the ratio of 4 MHz to the noise bandwidth of the frequency-selective voltmeter. If an amplifier is inserted between the frequency-selective voltmeter and the subscriber terminal in order to facilitate this measurement, it should have a bandwidth of at least 4 MHz and appropriate corrections must be made to account for its gain and noise figure. Alternatively, measurements made in accordance with the NCTA Recommended Practices for Measurements on Cable Television Systems, 2nd edition, November 1989, on noise measurement may be employed.

(f) The amplitude of discrete frequency interfering signals within a cable television channel may be determined with either a spectrum analyzer or with a frequency-selective voltmeter (field strength meter), which instruments have been calibrated for adequate accuracy. If calibration accuracy is in doubt, measurements may be referenced to a calibrated signal generator, or a calibrated variable attenuator, substituted at the point of measurement. If an amplifier is used between the subscriber terminal and the measuring instrument, appropriate corrections must be made to account for its gain.

(g) The terminal isolation between any two terminals in the cable television system may be measured by applying a signal of known amplitude to one terminal and measuring the amplitude of that signal at the other terminal. The frequency of the signal should be close to the midfrequency of the channel being tested. Measurements of terminal isolation are not required when either:

(1) The manufacturer's specifications for subscriber tap isolation based on a representative sample of no less than 500 subscribers taps or

(2) Laboratory tests performed by or for the operator of a cable television system on a representative sample of no less than 50 subscriber taps, indicates that the terminal isolation standard of § 76.605(a)(9) is met.

To demonstrate compliance with § 76.605(a)(9), the operator of a cable television system shall attach either such manufacturer's specifications or laboratory measurements as an exhibit to each proof-of-performance record.

(h) Measurements to determine the field strength of the signal leakage emanated by the cable television system shall be made in accordance with standard engineering procedures. Measurements made on frequencies above 25 MHz shall include the following:

(1) A field strength meter of adequate accuracy using a horizontal dipole antenna shall be employed.

(2) Field strength shall be expressed in terms of the rms value of synchronizing peak for each cable television channel for which signal leakage can be measured.

(3) The resonant half wave dipole antenna shall be placed 3 meters from and positioned directly below the system components and at 3 meters above ground. Where such placement results in a separation of less than 3 meters between the center of the dipole antenna and the system components, or less than 3 meters between the dipole and ground level, the dipole shall be repositioned to provide a separation of 3 meters from the system components at a height of 3 meters or more above ground.

(4) The horizontal dipole antenna shall be rotated about a vertical axis and the maximum meter reading shall be used.

(5) Measurements shall be made where other conductors are 3 or more meters (10 or more feet) away from the measuring antenna.

(i) For systems using cable traps and filters to control the delivery of specific channels to the subscriber terminal, measurements made to determine compliance with § 76.605(a) (5) and (6) may be performed at the location immediately prior to the trap or filter for the specific channel. The effects of these traps or filters, as certified by the system engineer or the equipment manufacturer, must be attached to each proof-of-performance record.

(j) Measurements made to determine the differential gain, differential phase and the chrominance-luminance delay inequality (chroma delay) shall be made in accordance with the NCTA Recommended Practices for Measurements on Cable Television Systems,

2nd edition, November 1989, on these parameters.

[37 FR 3278, Feb. 12, 1972, as amended at 37 FR 13867, July 14, 1972; 41 FR 10067, Mar. 9, 1976; 42 FR 21782, Apr. 29, 1977; 49 FR 45441, Nov. 16, 1984; 57 FR 11004, Apr. 1, 1992; 57 FR 61011, Dec. 23, 1992; 58 FR 44952, Aug. 25, 1993]

§ 76.610 Operation in the frequency bands 108–137 and 225–400 MHz—scope of application.

The provisions of §§ 76.605(a)(12), 76.611, 76.612, 76.613, 76.614, 76.616, 76.617, 76.1803 and 76.1804 are applicable to all MVPDs (cable and non-cable) transmitting carriers or other signal components carried at an average power level equal to or greater than 10^{-4} watts across a 25 kHz bandwidth in any 160 microsecond period, at any point in the cable distribution system in the frequency bands 108–137 and 225–400 MHz for any purpose. Exception: Non-cable MVPDs serving less than 1000 subscribers and less than 1000 units do not have to comply with § 76.1803.

[69 FR 57862, Sept. 28, 2004]

§ 76.611 Cable television basic signal leakage performance criteria.

(a) No cable television system shall commence or provide service in the frequency bands 108–137 and 225–400 MHz unless such systems is in compliance with one of the following cable television basic signal leakage performance criteria:

(1) Prior to carriage of signals in the aeronautical radio bands and at least once each calendar year, with no more than 12 months between successive tests thereafter, based on a sampling of at least 75% of the cable strand, and including any portion of the cable system which are known to have or can reasonably be expected to have less leakage integrity than the average of the system, the cable operator demonstrates compliance with a cumulative signal leakage index by showing either that (i) 10 log I_{3000} is equal to or less than -7 or (ii) 10 log I_{00} is equal to or less than 64, using one of the following formula:

$$I_{3000} = \frac{1}{\emptyset}\sum_{i=1}^{n}\frac{E_i^2}{R_i^2},$$

$$I_{\infty} = \frac{1}{\emptyset}\sum_{i=1}^{n}E_i^2,$$

where:

$$R_i^2 = r_i^2 + (3000)^2$$

r_i is the distance (in meters) between the leakage source and the center of the cable television system;

θ is the fraction of the system cable length actually examined for leakage sources and is equal to the strand kilometers (strand miles) of plant tested divided by the total strand kilometers (strand miles) in the plant;

R_i is the slant height distance (in meters) from leakage source i to a point 3000 meters above the center of the cable television system;

E_i is the electric field strength in microvolts per meter (μV/m) measured pursuant to § 76.609(h) 3 meters from the leak i; and

n is the number of leaks found of field strength equal to or greater than 50 μV/m pursuant to Section 76.609(h).

The sum is carried over all leaks i detected in the cable examined; or

(2) Prior to carriage of signals in the aeronautical radio bands and at least once each calendar year, with no more than 12 months between successive tests thereafter, the cable operator demonstrates by measurement in the airspace that at no point does the field strength generated by the cable system exceed 10 microvolts per meter (μV/m) RMS at an altitude of 450 meters above the average terrain of the cable system. The measurement system (including the receiving antenna) shall be calibrated against a known field of 10 μV/m RMS produced by a well characterized antenna consisting of orthogonal reasonant dipoles, both parallel to and one quarter wavelength above the ground plane of a diameter of two meters or more at ground level. The dipoles shall have centers collocated and be excited 90 degrees apart. The half-power bandwidth of the detector shall be 25 kHz. If an aeronautical receiver is used for this purpose it shall meet the standards of the Radio Technical Commission for Aeronautics (RCTA) for aeronautical communications receivers. The aircraft antenna shall be horizontally polarized. Calibration shall be made in the community unit or, if more than one, in any of

the community units of the physical system within a reasonable time period to performing the measurements. If data is recorded digitally the 90th percentile level of points recorded over the cable system shall not exceed 10 μV/m RMS; if analog recordings is used the peak values of the curves, when smoothed according to good engineering practices, shall not exceed 10 μV/m RMS.

(b) In paragraphs (a)(1) and (a)(2) of this section the unmodulated test signal used on the cable plant shall: (1) Be within the VHF aeronautical band 108–137 MHz or any other frequency in which the results can be correlated to the VHF aeronautical band and (2) have an average power level equal to the average power level of the strongest cable television carrier on the system.

(c) In paragraph (a)(1) and (2) of this section, if a modulated test signal is used, the test signal and detector technique must, when considered together, yield the same result as though an unmodulated test signal were used in conjunction with a detection technique which would yield the RMS value of said unmodulated carrier.

(d) If a sampling of at least 75% of the cable strand (and including any portions of the cable system which are known to have or can reasonably be expected to have less leakage integrity than the average of the system) as described in paragraph (a)(1) cannot be obtained by the cable operator or is otherwise not reasonably feasible, the cable operator shall perform the airspace measurements described in paragraph (a)(2).

(e) Prior to providing service to any subscriber on a new section of cable plant, the operator shall show compliance with either: (1) The basic signal leakage criteria in accordance with paragraph (a)(1) or (a)(2) of this section for the entire plant in operation or (2) a showing shall be made indicating that no individual leak in the new section of the plant exceeds 20 μV/m at 3 meters in accordance with §76.609 fo the Rules.

(f) Notwithstanding paragraph (a) of this section, a cable operator shall be permitted to operate on any frequency which is offset pursuant to §76.612 in the frequency band 108–137 MHz for the purpose of demonstrating compliance with the cable television basic signal leakage performance criteria.

[50 FR 29399, July 19, 1985, as amended at 53 FR 2499, Jan. 28, 1988; 53 FR 5684, Feb. 25, 1988; 58 FR 44952, Aug. 25, 1993]

§ 76.612 Cable television frequency separation standards.

All cable television systems which operate in the frequency bands 108–137 and 225–400 MHz shall comply with the following frequency separation standards:

(a) In the aeronautical radiocommunication bands 118–137, 225–328.6 and 335.4–400 MHz, the frequency of all carrier signals or signal components carried at an average power level equal to or greater than 10^{-4} watts in a 25 kHz bandwidth in any 160 microsecond period must operate at frequencies offset from certain frequencies which may be used by aeronautical radio services operated by Commission licensees or by the United States Government or its Agencies. The aeronautical frequencies from which offsets must be maintained are those frequencies which are within one of the aeronautical bands defined in this subparagraph, and when expressed in MHz and divided by 0.025 yield an integer. The offset must meet one of the following two criteria:

(1) All such cable carriers or signal components shall be offset by 12.5 kHz with a frequency tolerance of ±5 kHz; or

(2) The fundamental frequency from which the visual carrier frequencies are derived by multiplication by an integer number which shall be 6.0003 MHz with a tolerance of ±1 Hz (Harmonically Related Carrier (HRC) comb generators only).

(b) In the aeronautical radionavigation bands 108–118 and 328.6–335.4 MHz, the frequency of all carrier signals or signal components carrier at an average power level equal to or greater than 10^{-4} watts in a 25 kHz bandwidth in any 160 microsecond period shall be offset by 25 kHz with a tolerance of ±5 kHz. The aeronautical radionavigation frequencies from which offsets must be maintained are defined as follows:

(1) Within the aeronautical band 108–118 MHz when expressed in MHz and divided by 0.025 yield an even integer.

(2) Within the band 328.6–335.4 MHz, the radionavigation glide path channels are listed in Section 87.501 of the Rules.

NOTE: The HRC system, as described above, will meet this requirement in the 328.6–335.4 MHz navigation glide path band. Those Incrementally Related Carriers (IRC) systems, with comb generator reference frequencies set at certain odd multiples equal to or greater than 3 times the 0.0125 MHz aeronautical communications band offset, e.g. (6n + 1.250 ±0.0375) MHz, may also meet the 25 kHz offset requirement in the navigation glide path band.

[50 FR 29400, July 19, 1985]

§ 76.613 Interference from a multichannel video programming distributor (MVPD).

(a) Harmful interference is any emission, radiation or induction which endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs or repeatedly interrupts a radiocommunication service operating in accordance with this chapter.

(b) An MVPD that causes harmful interference shall promptly take appropriate measures to eliminate the harmful interference.

(c) If harmful interference to radio communications involving the safety of life and protection of property cannot be promptly eliminated by the application of suitable techniques, operation of the offending MVPD or appropriate elements thereof shall immediately be suspended upon notification by the Regional Director for the Commission's local field office, and shall not be resumed until the interference has been eliminated to the satisfaction of the Regional Director. When authorized by the Regional Director, short test operations may be made during the period of suspended operation to check the efficacy of remedial measures.

(d) The MVPD may be required by the Regional Director to prepare and submit a report regarding the cause(s) of the interference, corrective measures planned or taken, and the efficacy of the remedial measures.

[42 FR 41296, Aug. 16, 1977, as amended at 62 FR 61031, Nov. 14, 1997; 80 FR 53751, Sept. 8, 2015]

§ 76.614 Cable television system regular monitoring.

Cable television operators transmitting carriers in the frequency bands 108–137 and 225–400 MHz shall provide for a program of regular monitoring for signal leakage by substantially covering the plant every three months. The incorporation of this monitoring program into the daily activities of existing service personnel in the discharge of their normal duties will generally cover all portions of the system and will therefore meet this requirement. Monitoring equipment and procedures utilized by a cable operator shall be adequate to detect a leakage source which produces a field strength in these bands of 20 uV/m or greater at a distance of 3 meters. During regular monitoring, any leakage source which produces a field strength of 20 uV/m or greater at a distance of 3 meters in the aeronautical radio frequency bands shall be noted and such leakage sources shall be repaired within a reasonable period of time.

NOTE 1 TO § 76.614: Section 76.1706 contains signal leakage recordkeeping requirements applicable to cable operators.

[65 FR 53616, Sept. 5, 2000]

§ 76.616 Operation near certain aeronautical and marine emergency radio frequencies.

(a) The transmission of carriers or other signal components capable of delivering peak power levels equal to or greater than 10^{-5} watts at any point in a cable television system is prohibited within 100 kHz of the frequency 121.5 MHz, and is prohibited within 50 kHz of the two frequencies 156.8 MHz and 243.0 MHz.

(b) At any point on a cable system from 405.925 MHz to 406.176 MHz analog transmissions are prohibited from delivering peak power levels equal to or greater than 10^{-5} watts. The transmission of digital signals in this range is limited to power levels measured using a root-mean-square detector of less than 10^{-5} watts in any 30 kHz

bandwidth over any 2.5 millisecond interval.

[69 FR 57862, Sept. 28, 2004]

§ 76.617 Responsibility for interference.

Interference resulting from the use of cable system terminal equipment (including subscriber terminal, input selector switch and any other accessories) shall be the responsibility of the cable system terminal equipment operator in accordance with the provisions of part 15 of this chapter: provided, however, that the operator of a cable system to which the cable system terminal equipment is connected shall be responsible for detecting and eliminating any signal leakage where that leakage would cause interference outside the subscriber's premises and/or would cause the cable system to exceed the Part 76 signal leakage requirements. In cases where excessive signal leakage occurs, the cable operator shall be required only to discontinue service to the subscriber until the problem is corrected.

[53 FR 46619, Nov. 18, 1989]

§§ 76.618–76.620 [Reserved]

§ 76.630 Compatibility with consumer electronics equipment.

(a) Cable system operators shall not scramble or otherwise encrypt signals delivered to a subscriber on the basic service tier.

(1) This prohibition shall not apply in systems in which:

(i) No encrypted signals are carried using the NTSC system; and

(ii) The cable system operator offers to its existing subscribers who subscribe only to the basic service tier without use of a set-top box or CableCARD at the time of encryption the equipment necessary to descramble or decrypt the basic service tier signals (the subscriber's choice of a set-top box or CableCARD) on up to two television sets without charge or service fee for two years from the date encryption of the basic service tier commences; and

(iii) The cable system operator offers to its existing subscribers who subscribe to a level of service above ''basic only'' but use a digital television or other device with a clear-QAM tuner to receive only the basic service tier without use of a set-top box or CableCARD at the time of encryption, the equipment necessary to descramble or decrypt the basic service tier signals (the subscriber's choice of a set-top box or CableCARD) on one television set without charge or service fee for one year from the date encryption of the basic service tier commences; and

(iv) The cable system operator offers to its existing subscribers who receive Medicaid and also subscribe only to the basic service tier without use of a set-top box or CableCARD at the time of encryption the equipment necessary to descramble or decrypt the basic service tier signals (the subscriber's choice of a set-top box or CableCARD) on up to two television sets without charge or service fee for five years from the date encryption of the basic service tier commences;

(v) The cable system operator notifies its existing subscribers of the availability of the offers described in paragraphs (ii) through (iv) of this section at least 30 days prior to the date encryption of the basic service tier commences and makes the offers available for at least 30 days prior to and 120 days after the date encryption of the basic service tier commences. The notification to subscribers must state:

On (DATE), (NAME OF CABLE OPERATOR) will start encrypting (INSERT NAME OF CABLE BASIC SERVICE TIER OFFERING) on your cable system. If you have a set-top box, digital transport adapter (DTA), or a retail CableCARD device connected to each of your TVs, you will be unaffected by this change. However, if you are currently receiving (INSERT NAME OF CABLE BASIC SERVICE TIER OFFERING) on any TV without equipment supplied by (NAME OF CABLE OPERATOR), you will lose the ability to view any channels on that TV.

If you are affected, you should contact (NAME OF CABLE OPERATOR) to arrange for the equipment you need to continue receiving your services. In such case, you are entitled to receive equipment at no additional charge or service fee for a limited period of time. The number and type of devices you are entitled to receive and for how long will vary depending on your situation. If you are a (INSERT NAME OF CABLE BASIC SERVICE TIER OFFERING) customer and receive the service on your TV without (NAME OF CABLE OPERATOR)-supplied

equipment, you are entitled to up to two devices for two years (five years if you also receive Medicaid). If you subscribe to a higher level of service and receive (INSERT NAME OF CABLE BASIC SERVICE TIER OFFERING) on a secondary TV without (NAME OF CABLE OPERATOR)-supplied equipment, you are entitled to one device for one year.

You can learn more about this equipment offer and eligibility at (WEBPAGE ADDRESS) or by calling (PHONE NUMBER). To qualify for any equipment at no additional charge or service fee, you must request the equipment between (DATE THAT IS 30 DAYS BEFORE ENCRYPTION) and (DATE THAT IS 120 DAYS AFTER ENCRYPTION) and satisfy all other eligibility requirements.

(vi) The cable system operator notifies its subscribers who have received equipment described in paragraphs (a)(1)(ii) through (iv) of this section at least 30 days, but no more than 60 days, before the end of the free device transitional period that the transitional period will end. This notification must state:

You currently receive equipment necessary to descramble or decrypt the basic service tier signals (either a set-top box or CableCARD) free of charge. Effective with the (MONTH/YEAR) billing cycle, (NAME OF CABLE OPERATOR) will begin charging you for the equipment you received to access (INSERT NAME OF CABLE BASIC SERVICE TIER OFFERING) when (NAME OF CABLE OPERATOR) started encrypting those channels on your cable system. The monthly charge for the (TYPE OF DEVICE) will be (AMOUNT OF CHARGE).

(2) Requests for waivers of this prohibition must demonstrate either a substantial problem with theft of basic tier service or a strong need to scramble basic signals for other reasons. As part of this showing, cable operators are required to notify subscribers by mail of waiver requests. The notice to subscribers must be mailed no later than 30 calendar days from the date the request for waiver was filed with the Commission, and cable operators must inform the Commission in writing, as soon as possible, of that notification date. The notification to subscribers must state:

On (date of waiver request was filed with the Commission), (cable operator's name) filed with the Federal Communications Commission a request for waiver of the rule prohibiting scrambling of channels on the basic tier of service. 47 CFR 76.630(a). The request for waiver states (a brief summary of the waiver request). A copy of the request for waiver shall be available for public inspection at *www.fcc.gov*.

Individuals who wish to comment on this request for waiver should mail comments to the Federal Communications Commission by no later than 30 days from (the date the notification was mailed to subscribers). Those comments should be addressed to the: Federal Communications Commission, Media Bureau, Washington, DC 20554, and should include the name of the cable operator to whom the comments are applicable. Individuals should also send a copy of their comments to (the cable operator at its local place of business).

Cable operators may file comments in reply no later than 7 days from the date subscriber comments must be filed.

(b) Cable system operators that provide their subscribers with cable system terminal devices and other customer premises equipment that incorporates remote control capability shall permit the remote operation of such devices with commercially available remote control units or otherwise take no action that would prevent the devices from being operated by a commercially available remote control unit. Cable system operators are advised that this requirement obliges them to actively enable the remote control functions of customer premises equipment where those functions do not operate without a special activation procedure. Cable system operators may, however, disable the remote control functions of a subscriber's customer premises equipment where requested by the subscriber.

NOTE 1 TO §76.630: 47 CFR 76.1621 contains certain requirements pertaining to a cable operator's offer to supply subscribers with special equipment that will enable the simultaneous reception of multiple signals.

NOTE 2 TO §76.630: 47 CFR 76.1622 contains certain requirements pertaining to the provision of a consumer education program on compatibility matters to subscribers.

[59 FR 25342, May 16, 1994, as amended at 61 FR 18510, Apr. 26, 1996; 65 FR 53616, Sept. 5, 2000; 67 FR 1650, Jan. 14, 2002; 67 FR 13235, Mar. 21, 2002; 77 FR 67301, Dec. 10, 2012; 81 FR 10125, Feb. 29, 2016]

§ 76.640 Support for unidirectional digital cable products on digital cable systems.

(a) The requirements of this section shall apply to digital cable systems. For purposes of this section, digital cable systems shall be defined as a cable system with one or more channels utilizing QAM modulation for transporting programs and services from its headend to receiving devices. Cable systems that only pass through 8 VSB broadcast signals shall not be considered digital cable systems.

(b) No later than July 1, 2004, cable operators shall support unidirectional digital cable products, as defined in § 15.123 of this chapter, through the provisioning of Point of Deployment modules (PODs) and services, as follows:

(1) Digital cable systems with an activated channel capacity of 750 MHz or greater shall comply with the following technical standards and requirements:

(i) SCTE 40 2003 (formerly DVS 313): ''Digital Cable Network Interface Standard'' (incorporated by reference, *see* § 76.602), provided however that with respect to Table B.11, the Phase Noise requirement shall be −86 dB/Hz, and also provided that the ''transit delay for most distant customer'' requirement in Table B.3 is not mandatory.

(ii) ANSI/SCTE 65 2002 (formerly DVS 234): ''Service Information Delivered Out-of-Band for Digital Cable Television'' (incorporated by reference, *see* § 76.602), provided however that the referenced Source Name Subtable shall be provided for Profiles 1, 2, and 3.

(iii) ANSI/SCTE 54 2003 (formerly DVS 241): ''Digital Video Service Multiplex and Transport System Standard for Cable Television'' (incorporated by reference, *see* § 76.602).

(iv) For each digital transport stream that includes one or more services carried in-the-clear, such transport stream shall include virtual channel data in-band in the form of ATSC A/65B: ''ATSC Standard: Program and System Information Protocol for Terrestrial Broadcast and Cable (Revision B)'' (incorporated by reference, *see* § 76.602), when available from the content provider. With respect to in-band transport:

(A) The data shall, at minimum, describe services carried within the transport stream carrying the PSIP data itself;

(B) PSIP data describing a twelve-hour time period shall be carried for each service in the transport stream. This twelve-hour period corresponds to delivery of the following event information tables: EIT–0, –1, –2 and –3;

(C) The format of event information data format shall conform to ATSC A/65B: ''ATSC Standard: Program and System Information Protocol for Terrestrial Broadcast and Cable (Revision B)'' (incorporated by reference, *see* § 76.602);

(D) Each channel shall be identified by a one- or two-part channel number and a textual channel name; and

(E) The total bandwidth for PSIP data may be limited by the cable system to 80 kbps for a 27 Mbits multiplex and 115 kbps for a 38.8 Mbits multiplex.

(v) When service information tables are transmitted out-of-band for scrambled services:

(A) The data shall, at minimum, describe services carried within the transport stream carrying the PSIP data itself;

(B) A virtual channel table shall be provided via the extended channel interface from the POD module. Tables to be included shall conform to ANSI/SCTE 65 2002 (formerly DVS 234): ''Service Information Delivered Out-of-Band for Digital Cable Television'' (incorporated by reference, *see* § 76.602).

(C) Event information data when present shall conform to ANSI/SCTE 65 2002 (formerly DVS 234): ''Service Information Delivered Out-of-Band for Digital Cable Television'' (incorporated by reference, *see* § 76.602) (profiles 4 or higher).

(D) Each channel shall be identified by a one-or two-part channel number and a textual channel name; and

(E) The channel number identified with out-of-band signaling information data should match the channel identified with in-band PSIP data for all unscrambled in-the-clear services.

(2) All digital cable systems shall comply with:

(i) SCTE 28 2003 (formerly DVS 295): ''Host-POD Interface Standard'' (incorporated by reference, *see* § 76.602).

(ii) SCTE 41 2003 (formerly DVS 301): ''POD Copy Protection System'' (incorporated by reference, *see* § 76.602).

(3) Cable operators shall ensure, as to all digital cable systems, an adequate supply of PODs that comply with the standards specified in paragraph (b)(2) of this section to ensure convenient access to such PODS by customers. Without limiting the foregoing, cable operators may provide more advanced PODs (*i.e.*, PODs that are based on successor standards to those specified in paragraph (b)(2) of this section) to customers whose unidirectional digital cable products are compatible with the more advanced PODs.

(4) Cable operators shall:

(i) Effective April 1, 2004, upon request of a customer, replace any leased high definition set-top box, which does not include a functional IEEE 1394 interface, with one that includes a functional IEEE 1394 interface or upgrade the customer's set-top box by download or other means to ensure that the IEEE 1394 interface is functional.

(ii) Effective July 1, 2011, include both:

(A) A DVI or HDMI interface and

(B) A connection capable of delivering recordable high definition video and closed captioning data in an industry standard format on all high definition set-top boxes, except unidirectional set-top boxes without recording functionality, acquired by a cable operator for distribution to customers.

(iii) Effective December 1, 2012, ensure that the cable-operator-provided high definition set-top boxes, except unidirectional set-top boxes without recording functionality, shall comply with an open industry standard that provides for audiovisual communications including service discovery, video transport, and remote control command pass-through standards for home networking.

[68 FR 66734, Nov. 28, 2003, as amended at 76 FR 40279, July 8, 2011]

Subpart L—Cable Television Access

§ 76.701 Leased access channels.

(a) Notwithstanding 47 U.S.C. 532(b)(2) (Communications Act of 1934, as amended, section 612), a cable operator, in accordance with 47 U.S.C. 532(h) (Cable Consumer Protection and Competition Act of 1992, section 10(a)), may adopt and enforce prospectively a written and published policy of prohibiting programming which, it reasonably believes, describes or depicts sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards.

(b) A cable operator may refuse to transmit any leased access program or portion of a leased access program that the operator reasonably believes contains obscenity, indecency or nudity.

NOTE TO PARAGRAPH (b): ''Nudity'' in paragraph (b) is interpreted to mean nudity that is obscene or indecent.

[62 FR 28373, May 23, 1997, as amended at 64 FR 35950, July 2, 1999]

§ 76.702 Public access.

A cable operator may refuse to transmit any public access program or portion of a public access program that the operator reasonably believes contains obscenity.

[62 FR 28373, May 23, 1997]

Subpart M—Cable Inside Wiring

§ 76.800 Definitions.

(a) *MDU*. A multiple dwelling unit building (e.g., an apartment building, condominium building or cooperative).

(b) *MDU owner*. The entity that owns or controls the common areas of a multiple dwelling unit building.

(c) *MVPD*. A multichannel video programming distributor, as that term is defined in Section 602(13) of the Communications Act, 47 U.S.C. 522(13).

(d) *Home run wiring*. The wiring from the demarcation point to the point at which the MVPD's wiring becomes devoted to an individual subscriber or individual loop.

[62 FR 61031, Nov. 14, 1997]

§ 76.801 Scope.

The provisions of this subpart set forth rules and regulations for the disposition, after a subscriber voluntarily terminates cable service, of that cable home wiring installed by the cable system operator or its contractor within the premises of the subscriber. The provisions do not apply where the cable home wiring belongs to the subscriber, such as where the operator has transferred ownership to the subscriber, the operator has been treating the wiring as belonging to the subscriber for tax purposes, or the wiring is considered to be a fixture by state or local law in the subscriber's jurisdiction. Nothing in this subpart shall affect the cable system operator's rights and responsibilities under § 76.617 to prevent excessive signal leakage while providing cable service, or the cable operator's right to access the subscriber's property or premises.

[58 FR 11971, Mar. 2, 1993]

§ 76.802 Disposition of cable home wiring.

(a)(1) Upon voluntary termination of cable service by a subscriber in a single unit installation, a cable operator shall not remove the cable home wiring unless it gives the subscriber the opportunity to purchase the wiring at the replacement cost, and the subscriber declines. If the subscriber declines to purchase the cable home wiring, the cable system operator must then remove the cable home wiring within seven days of the subscriber's decision, under normal operating conditions, or make no subsequent attempt to remove it or to restrict its use.

(2) Upon voluntary termination of cable service by an individual subscriber in a multiple-unit installation, a cable operator shall not be entitled to remove the cable home wiring unless: it gives the subscriber the opportunity to purchase the wiring at the replacement cost; the subscriber declines, and neither the MDU owner nor an alternative MVPD, where permitted by the MDU owner, has provided reasonable advance notice to the incumbent provider that it would purchase the cable home wiring pursuant to this section if and when a subscriber declines. If the cable system operator is entitled to remove the cable home wiring, it must then remove the wiring within seven days of the subscriber's decision, under normal operating conditions, or make no subsequent attempt to remove it or to restrict its use.

(3) The cost of the cable home wiring is to be based on the replacement cost per foot of the wiring on the subscriber's side of the demarcation point multiplied by the length in feet of such wiring, and the replacement cost of any passive splitters located on the subscriber's side of the demarcation point.

(b) During the initial telephone call in which a subscriber contacts a cable operator to voluntarily terminate cable service, the cable operator—if it owns and intends to remove the home wiring—must inform the subscriber:

(1) That the cable operator owns the home wiring;

(2) That the cable operator intends to remove the home wiring;

(3) That the subscriber has the right to purchase the home wiring; and

(4) What the per-foot replacement cost and total charge for the wiring would be (the total charge may be based on either the actual length of cable wiring and the actual number of passive splitters on the customer's side of the demarcation point, or a reasonable approximation thereof; in either event, the information necessary for calculating the total charge must be available for use during the initial phone call).

(c) If the subscriber voluntarily terminates cable service in person, the procedures set forth in paragraph (b) of this section apply.

(d) If the subscriber requests termination of cable service in writing, it is the operator's responsibility—if it wishes to remove the wiring—to make reasonable efforts to contact the subscriber prior to the date of service termination and follow the procedures set forth in paragraph (b) of this section.

(e) If the cable operator fails to adhere to the procedures described in paragraph (b) of this section, it will be deemed to have relinquished immediately any and all ownership interests in the home wiring; thus, the operator

will not be entitled to compensation for the wiring and shall make no subsequent attempt to remove it or restrict its use.

(f) If the cable operator adheres to the procedures described in paragraph (b) of this section, and, at that point, the subscriber agrees to purchase the wiring, constructive ownership over the home wiring will transfer to the subscriber immediately, and the subscriber will be permitted to authorize a competing service provider to connect with and use the home wiring.

(g) If the cable operator adheres to the procedures described in paragraph (b) of this section, and the subscriber asks for more time to make a decision regarding whether to purchase the home wiring, the seven (7) day period described in paragraph (b) of this section will not begin running until the subscriber declines to purchase the wiring; in addition, the subscriber may not use the wiring to connect to an alternative service provider until the subscriber notifies the operator whether or not the subscriber wishes to purchase the wiring.

(h) If an alternative video programming service provider connects its wiring to the home wiring before the incumbent cable operator has terminated service and has capped off its line to prevent signal leakage, the alternative video programming service provider shall be responsible for ensuring that the incumbent's wiring is properly capped off in accordance with the Commission's signal leakage requirements. See Subpart K (technical standards) of the Commission's Cable Television Service rules (47 CFR 76.605(a)(13) and 76.610 through 76.617).

(i) Where the subscriber terminates cable service but will not be using the home wiring to receive another alternative video programming service, the cable operator shall properly cap off its own line in accordance with the Commission's signal leakage requirements. See subpart K (technical standards) of the Commission's Cable Television Service rules (47 CFR 76.605(a)(13) and 76.610 through 76.617).

(j) Cable operators are prohibited from using any ownership interests they may have in property located on the subscriber's side of the demarcation point, such as molding or conduit, to prevent, impede, or in any way interfere with, a subscriber's right to use his or her home wiring to receive an alternative service. In addition, incumbent cable operators must take reasonable steps within their control to ensure that an alternative service provider has access to the home wiring at the demarcation point. Cable operators and alternative multichannel video programming delivery service providers are required to minimize the potential for signal leakage in accordance with the guidelines set forth in 47 CFR 76.605(a)(13) and 76.610 through 76.617, theft of service and unnecessary disruption of the consumer's premises.

(k) Definitions—Normal operating conditions—The term ''normal operating conditions'' shall have the same meaning as at 47 CFR 76.309(c)(4)(ii).

(l) The provisions of § 76.802 shall apply to all MVPDs in the same manner that they apply to cable operators.

[61 FR 6137, Feb. 16, 1996, as amended at 62 FR 61031, Nov. 14, 1997; 68 FR 13855, Mar. 21, 2003]

§ 76.804 Disposition of home run wiring.

(a) *Building-by-building disposition of home run wiring.* (1) Where an MVPD owns the home run wiring in an MDU and does not (or will not at the conclusion of the notice period) have a legally enforceable right to remain on the premises against the wishes of the MDU owner, the MDU owner may give the MVPD a minimum of 90 days' written notice that its access to the entire building will be terminated to invoke the procedures in this section. The MVPD will then have 30 days to notify the MDU owner in writing of its election for all the home run wiring inside the MDU building: to remove the wiring and restore the MDU building consistent with state law within 30 days of the end of the 90-day notice period or within 30 days of actual service termination, whichever occurs first; to abandon and not disable the wiring at the end of the 90-day notice period; or to sell the wiring to the MDU building owner. If the incumbent provider elects to remove or abandon the wiring, and it intends to terminate service before the end of the 90-day notice period, the

incumbent provider shall notify the MDU owner at the time of this election of the date on which it intends to terminate service. If the incumbent provider elects to remove its wiring and restore the building consistent with state law, it must do so within 30 days of the end of the 90-day notice period or within 30 days of actual service termination, which ever occurs first. For purposes of abandonment, passive devices, including splitters, shall be considered part of the home run wiring. The incumbent provider that has elected to abandon its home run wiring may remove its amplifiers or other active devices used in the wiring if an equivalent replacement can easily be reattached. In addition, an incumbent provider removing any active elements shall comply with the notice requirements and other rules regarding the removal of home run wiring. If the MDU owner declines to purchase the home run wiring, the MDU owner may permit an alternative provider that has been authorized to provide service to the MDU to negotiate to purchase the wiring.

(2) If the incumbent provider elects to sell the home run wiring under paragraph (a)(1) of this section, the incumbent and the MDU owner or alternative provider shall have 30 days from the date of election to negotiate a price. If the parties are unable to agree on a price within that 30-day time period, the incumbent must elect: to abandon without disabling the wiring; to remove the wiring and restore the MDU consistent with state law; or to submit the price determination to binding arbitration by an independent expert. If the incumbent provider chooses to abandon or remove its wiring, it must notify the MDU owner at the time of this election if and when it intends to terminate service before the end of the 90-day notice period. If the incumbent service provider elects to abandon its wiring at this point, the abandonment shall become effective at the end of the 90-day notice period or upon service termination, whichever occurs first. If the incumbent elects at this point to remove its wiring and restore the building consistent with state law, it must do so within 30 days of the end of the 90-day notice period or within 30 days of actual service termination, which ever occurs first.

(3) If the incumbent elects to submit to binding arbitration, the parties shall have seven days to agree on an independent expert or to each designate an expert who will pick a third expert within an additional seven days. The independent expert chosen will be required to assess a reasonable price for the home run wiring by the end of the 90-day notice period. If the incumbent elects to submit the matter to binding arbitration and the MDU owner (or the alternative provider) refuses to participate, the incumbent shall have no further obligations under the Commission's home run wiring disposition procedures. If the incumbent fails to comply with any of the deadlines established herein, it shall be deemed to have elected to abandon its home run wiring at the end of the 90-day notice period.

(4) The MDU owner shall be permitted to exercise the rights of individual subscribers under this subsection for purposes of the disposition of the cable home wiring under § 76.802. When an MDU owner notifies an incumbent provider under this section that the incumbent provider's access to the entire building will be terminated and that the MDU owner seeks to use the home run wiring for another service, the incumbent provider shall, in accordance with our current home wiring rules: offer to sell to the MDU owner any home wiring within the individual dwelling units that the incumbent provider owns and intends to remove; and provide the MDU owner with the total per-foot replacement cost of such home wiring. This information must be provided to the MDU owner within 30 days of the initial notice that the incumbent's access to the building will be terminated. If the MDU owner declines to purchase the cable home wiring, the MDU owner may allow the alternative provider to purchase the home wiring upon service termination under the terms and conditions of § 76.802. If the MDU owner or the alternative provider elects to purchase the home wiring under these rules, it must so notify the incumbent MVPD provider not later than 30 days before the incumbent's termination of access to

the building will become effective. If the MDU owner and the alternative provider fail to elect to purchase the home wiring, the incumbent provider must then remove the cable home wiring, under normal operating conditions, within 30 days of actual service termination, or make no subsequent attempt to remove it or to restrict its use.

(5) The parties shall cooperate to avoid disruption in service to subscribers to the extent possible.

(b) *Unit-by-unit disposition of home run wiring:* (1) Where an MVPD owns the home run wiring in an MDU and does not (or will not at the conclusion of the notice period) have a legally enforceable right to maintain any particular home run wire dedicated to a particular unit on the premises against the MDU owner's wishes, the MDU owner may permit multiple MVPDs to compete for the right to use the individual home run wires dedicated to each unit in the MDU. The MDU owner must provide at least 60 days' written notice to the incumbent MVPD of the MDU owner's intention to invoke this procedure. The incumbent MVPD will then have 30 days to provide a single written election to the MDU owner as to whether, for each and every one of its home run wires dedicated to a subscriber who chooses an alternative provider's service, the incumbent MVPD will: remove the wiring and restore the MDU building consistent with state law; abandon the wiring without disabling it; or sell the wiring to the MDU owner. If the MDU owner refuses to purchase the home run wiring, the MDU owner may permit the alternative provider to purchase it. If the alternative provider is permitted to purchase the wiring, it will be required to make a similar election within this 30-day period for each home run wire solely dedicated to a subscriber who switches back from the alternative provider to the incumbent MVPD.

(2) If the incumbent provider elects to sell the home run wiring under paragraph (b)(1), the incumbent and the MDU owner or alternative provider shall have 30 days from the date of election to negotiate a price. During this 30-day negotiation period, the parties may arrange for an up-front lump sum payment in lieu of a unit-by-unit payment. If the parties are unable to agree on a price during this 30-day time period, the incumbent must elect: to abandon without disabling the wiring; to remove the wiring and restore the MDU consistent with state law; or to submit the price determination to binding arbitration by an independent expert. If the incumbent elects to submit to binding arbitration, the parties shall have seven days to agree on an independent expert or to each designate an expert who will pick a third expert within an additional seven days. The independent expert chosen will be required to assess a reasonable price for the home run wiring within 14 days. If subscribers wish to switch service providers after the expiration of the 60-day notice period but before the expert issues its price determination, the procedures set forth in paragraph (b)(3) of this section shall be followed, subject to the price established by the arbitrator. If the incumbent elects to submit the matter to binding arbitration and the MDU owner (or the alternative provider) refuses to participate, the incumbent shall have no further obligations under the Commission's home run wiring disposition procedures.

(3) When an MVPD that is currently providing service to a subscriber is notified either orally or in writing that that subscriber wishes to terminate service and that another service provider intends to use the existing home run wire to provide service to that particular subscriber, a provider that has elected to remove its home run wiring pursuant to paragraph (b)(1) or (b)(2) of this section will have seven days to remove its home run wiring and restore the building consistent with state law. If the subscriber has requested service termination more than seven days in the future, the seven-day removal period shall begin on the date of actual service termination (and, in any event, shall end no later than seven days after the requested date of termination). If the provider has elected to abandon or sell the wiring pursuant to paragraph (b)(1) or (b)(2) of this section, the abandonment or sale will become effective upon actual service termination or

upon the requested date of termination, whichever occurs first. For purposes of abandonment, passive devices, including splitters, shall be considered part of the home run wiring. The incumbent provider may remove its amplifiers or other active devices used in the wiring if an equivalent replacement can easily be reattached. In addition, an incumbent provider removing any active elements shall comply with the notice requirements and other rules regarding the removal of home run wiring. If the incumbent provider intends to terminate service prior to the end of the seven-day period, the incumbent shall inform the party requesting service termination, at the time of such request, of the date on which service will be terminated. The incumbent provider shall make the home run wiring accessible to the alternative provider within the 24-hour period prior to actual service termination.

(4) If the incumbent provider fails to comply with any of the deadlines established herein, the home run wiring shall be considered abandoned, and the incumbent may not prevent the alternative provider from using the home run wiring immediately to provide service. The alternative provider or the MDU owner may act as the subscriber's agent in providing notice of a subscriber's desire to change services, consistent with state law. If a subscriber's service is terminated without notification that another service provider intends to use the existing home run wiring to provide service to that particular subscriber, the incumbent provider will not be required to carry out its election to sell, remove or abandon the home run wiring; the incumbent provider will be required to carry out its election, however, if and when it receives notice that a subscriber wishes to use the home run wiring to receive an alternative service. Section 76.802 of the Commission's rules regarding the disposition of cable home wiring will apply where a subscriber's service is terminated without notifying the incumbent provider that the subscriber wishes to use the home run wiring to receive an alternative service.

(5) The parties shall cooperate to avoid disruption in service to subscribers to the extent possible.

(6) Section 76.802 of the Commission's rules regarding the disposition of cable home wiring will continue to apply to the wiring on the subscriber's side of the cable demarcation point.

(c) The procedures set forth in paragraphs (a) and (b) of this section shall apply unless and until the incumbent provider obtains a court ruling or an injunction within forty-five (45) days following the initial notice enjoining its displacement.

(d) After the effective date of this rule, MVPDs shall include a provision in all service contracts entered into with MDU owners setting forth the disposition of any home run wiring in the MDU upon the termination of the contract.

(e) Incumbents are prohibited from using any ownership interest they may have in property located on or near the home run wiring, such as molding or conduit, to prevent, impede, or in any way interfere with, the ability of an alternative MVPD to use the home run wiring pursuant to this section.

(f) Section 76.804 shall apply to all MVPDs.

[62 FR 61032, Nov. 14, 1997, as amended at 68 FR 13855, Mar. 21, 2003]

§ 76.805 Access to molding.

(a) An MVPD shall be permitted to install one or more home run wires within the existing molding of an MDU where the MDU owner finds that there is sufficient space to permit the installation of the additional wiring without interfering with the ability of an existing MVPD to provide service, and gives its affirmative consent to such installation. This paragraph shall not apply where the incumbent provider has an exclusive contractual right to occupy the molding.

(b) If an MDU owner finds that there is insufficient space in existing molding to permit the installation of the new wiring without interfering with the ability of an existing MVPD to provide service, but gives its affirmative consent to the installation of larger molding and additional wiring, the MDU owner (with or without the assistance of the incumbent and/or the

alternative provider) shall be permitted to remove the existing molding, return such molding to the incumbent, if appropriate, and install additional wiring and larger molding in order to contain the additional wiring. This paragraph shall not apply where the incumbent provider possesses a contractual right to maintain its molding on the premises without alteration by the MDU owner.

(c) The alternative provider shall be required to pay any and all installation costs associated with the implementation of paragraphs (a) or (b) of this section, including the costs of restoring the MDU owner's property to its original condition, and the costs of repairing any damage to the incumbent provider's wiring or other property.

[62 FR 61033, Nov. 14, 1997]

§ 76.806 Pre-termination access to cable home wiring.

(a) Prior to termination of service, a customer may: install or provide for the installation of their own cable home wiring; or connect additional home wiring, splitters or other equipment within their premises to the wiring owned by the cable operator, so long as no electronic or physical harm is caused to the cable system and the physical integrity of the cable operator's wiring remains intact.

(b) Cable operators may require that home wiring (including passive splitters, connectors and other equipment used in the installation of home wiring) meets reasonable technical specifications, not to exceed the technical specifications of such equipment installed by the cable operator; provided however, that if electronic or physical harm is caused to the cable system, the cable operator may impose additional technical specifications to eliminate such harm. To the extent a customer's installations or rearrangements of wiring degrade the signal quality of or interfere with other customers' signals, or cause electronic or physical harm to the cable system, the cable operator may discontinue service to that subscriber until the degradation or interference is resolved.

(c) Customers shall not physically cut, substantially alter, improperly terminate or otherwise destroy cable operator-owned home wiring.

(d) Section 76.806 shall apply to all MVPDs.

[62 FR 61034, Nov. 14, 1997, as amended at 68 FR 13855, Mar. 21, 2003]

Subpart N—Cable Rate Regulation

SOURCE: 58 FR 29753, May 21, 1993, unless otherwise noted.

EFFECTIVE DATE NOTE: The effective date of the amendments to part 76, published at 58 FR 29737 (May 21, 1993), extended to October 1, 1993, by an order published at 58 FR 33560 (June 18, 1993), and moved to September 1, 1993, by an order published at 58 FR 41042 (August 2, 1993), is temporarily stayed for those cable systems that have 1,000 or fewer subscribers. This limited, temporary stay is effective September 1, 1993, and will remain in effect until the Commission terminates the stay and establishes a new effective date in an order on reconsideration addressing the administrative burdens and costs of compliance for small cable systems. The Commission will publish in the FEDERAL REGISTER the new effective date of the rules with respect to small cable systems at that time.

§ 76.901 Definitions.

(a) *Basic service.* The basic service tier shall, at a minimum, include all signals of domestic television broadcast stations provided to any subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the cable system) any public, educational, and governmental programming required by the franchise to be carried on the basic tier, and any additional video programming signals a service added to the basic tier by the cable operator.

(b) *Cable programming service.* Cable programming service includes any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:

(1) Video programming carried on the basic service tier as defined in this section;

(2) Video programming offered on a pay-per-channel or pay-per-program basis; or

(3) A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service:

(i) Consists of commonly-identified video programming; and

(ii) Is not bundled with any regulated tier of service.

(c) *Small system.* A small system is a cable television system that serves 15,000 or fewer subscribers. The service area of a small system shall be determined by the number of subscribers that are served by the system's principal headend, including any other headends or microwave receive sites that are technically integrated to the principal headend.

(d) *New Product Tier.* A new product tier (''NPT'') is a cable programming service tier meeting the conditions set forth in § 76.987.

(e) *Small cable company.* A small cable company is a cable television operator that serves a total of 400,000 or fewer subscribers over one or more cable systems.

(f) *Small cable operator.* A small cable operator is an operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000. For purposes of this definition, an operator shall be deemed affiliated with another entity if that entity holds a 20 percent or greater equity interest (not including truly passive investment) in the operator or exercises de jure or de facto control over the operator.

NOTE 1 TO PARAGRAPH (f): Using the most reliable sources publicly available, the Commission periodically will determine and give public notice of the subscriber count that will serve as the 1 percent threshold until a new number is calculated.

NOTE 2 TO PARAGRAPH (f): For a discussion of passive interests with respect to small cable operators, see Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, Report and Order in CS Docket No. 96–85, FCC 99–57 (released March 29, 1999).

NOTE 3 TO PARAGRAPH (f): If two or more entities unaffiliated with each other each hold an equity interest in the small cable operator, the equity interests of the unaffiliated entities will not be aggregated with each other for the purpose of determining whether an entity meets or passes the 20 percent affiliation threshold.

[58 FR 29753, May 21, 1993, as amended at 59 FR 62623, Dec. 6, 1994; 60 FR 35864, July 12, 1995; 64 FR 35950, July 2, 1999]

§ 76.905 Standards for identification of cable systems subject to effective competition.

(a) Only the rates of cable systems that are not subject to effective competition may be regulated.

(b) A cable system is subject to effective competition when any one of the following conditions is met:

(1) Fewer than 30 percent of the households in its franchise area subscribe to the cable service of a cable system.

(2) The franchise area is:

(i) Served by at least two unaffiliated multichannel video programming distributors each of which offers comparable programming to at least 50 percent of the households in the franchise area; and

(ii) the number of households subscribing to multichannel video programming other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area.

(3) A multichannel video programming distributor, operated by the franchising authority for that franchise area, offers video programming to at least 50 percent of the households in the franchise area.

(4) A local exchange carrier or its affiliate (or any multichannel video programming distributor using the facilities of such carrier or its affiliate) offers video programming services directly to subscribers by any means (other than direct-to-home satellite services) in the franchise area of an unaffiliated cable operator which is providing cable service in that franchise area, but only if the video programming services so offered in that area are comparable to the video programming services provided by the unaffiliated cable operator in that area.

(c) For purposes of paragraphs (b)(1) through (b)(3) of this section, each separately billed or billable customer will count as a household subscribing to or being offered video programming services, with the exception of multiple

dwelling buildings billed as a single customer. Individual units of multiple dwelling buildings will count as separate households. The term ''households'' shall not include those dwellings that are used solely for seasonal, occasional, or recreational use.

(d) A multichannel video program distributor, for purposes of this section, is an entity such as, but not limited to, a cable operator, a BRS/EBS provider, a direct broadcast satellite service, a television receive-only satellite program distributor, a video dialtone service provider, or a satellite master antenna television service provider that makes available for purchase, by subscribers or customers, multiple channels of video programming.

(e) Service of a multichannel video programming distributor will be deemed offered:

(1) When the multichannel video programming distributor is physically able to deliver service to potential subscribers, with the addition of no or only minimal additional investment by the distributor, in order for an individual subscriber to receive service; and

(2) When no regulatory, technical or other impediments to households taking service exist, and potential subscribers in the franchise area are reasonably aware that they may purchase the services of the multichannel video programming distributor.

(f) For purposes of determining the number of households subscribing to the services of a multichannel video programming distributor other than the largest multichannel video programming distributor, under paragraph (b)(2)(ii) of this section, the number of subscribers of all multichannel video programming distributors that offer service in the franchise area will be aggregated.

(g) In order to offer comparable programming as that term is used in this section, a competing multichannel video programming distributor must offer at least 12 channels of video programming, including at least one channel of nonbroadcast service programming.

(h) For purposes of paragraph (b)(2) of this section, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities. Attributable interest shall be defined by reference to the criteria set forth in Notes 1 through 5 to § 76.501.

(i) For purposes of paragraph (b)(4) of this section, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities. Attributable interest shall be defined as follows:

(1) A 10% partnership or voting equity interest in a corporation will be cognizable.

(2) Subject to paragraph (i)(3), a limited partnership interest of 10% or more 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 relevant entity 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 relevant entity so certifies. Certifications must be made pursuant to the guidelines set forth in Note 2(f) to § 76.501.

(3) Notwithstanding paragraph (i)(2), the holder of an equity or debt interest or interests in an entity covered by this rule shall have that interest attributed if the equity (including all stockholdings, whether voting or nonvoting, common or preferred, and partnership interests) and debt interest or interests, in the aggregate, exceed 33 percent of the total asset value (all equity plus all debt) of that entity.

(4) Discrete ownership interests held by the same individual or entity 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 the sum of the interests other

than those held by or through ''passive investors'' is equal to or exceeds 10%.

[58 FR 29753, May 21, 1993, as amended at 59 FR 17972, Apr. 15, 1994; 61 FR 18978, Apr. 30, 1996; 62 FR 6495, Feb. 12, 1997; 64 FR 35950, July 2, 1999; 64 FR 67196, Dec. 1, 1999; 69 FR 72046, Dec. 10, 2004]

§ 76.906 Presumption of effective competition.

In the absence of a demonstration to the contrary cable systems are presumed: (a) To be subject to effective competition pursuant to section 76.905(b)(2); and (b) Not to be subject to effective competition pursuant to section 76.905(b)(1), (3) or (4).

[80 FR 38012, July 2, 2015]

§ 76.907 Petition for a determination of effective competition.

(a) A cable operator (or other interested party) may file a petition for a determination of effective competition with the Commission pursuant to the Commission's procedural rules in § 76.7.

(b) If the cable operator seeks to demonstrate that effective competition as defined in § 76.905(b)(1), (3), or (4) exists in the franchise area, it bears the burden of demonstrating the presence of such effective competition. Effective competition as defined in § 76.905(b)(2) is governed by the presumption in § 76.906, except that where a franchising authority has rebutted the presumption of competing provider effective competition as defined in § 76.905(b)(2) and is certified, the cable operator must demonstrate that circumstances have changed and effective competition is present in the franchise area.

NOTE TO PARAGRAPH (b): The criteria for determining effective competition pursuant to § 76.905(b)(4) are described in Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, Report and Order in CS Docket No. 96–85, FCC 99–57 (released March 29, 1999).

(c) If the evidence establishing effective competition is not otherwise available, cable operators may request from a competitor information regarding the competitor's reach and number of subscribers. A competitor must respond to such request within 15 days. Such responses may be limited to numerical totals. In addition, with respect to petitions filed seeking to demonstrate the presence of effective competition pursuant to § 76.905(b)(4), the Commission may issue an order directing one or more persons to produce information relevant to the petition's disposition.

[64 FR 35950, July 2, 1999, as amended at 80 FR 38013, July 2, 2015]

§ 76.910 Franchising authority certification.

(a) A franchising authority must be certified by the Commission in order to regulate the basic service tier and associated equipment of a cable system within its jurisdiction.

(b) To be certified, the franchising authority must file with the Commission a written certification that:

(1) The franchising authority will adopt and administer regulations with respect to the rates for the basic service tier that are consistent with the regulations prescribed by the Commission for regulation of the basic service tier;

(2) The franchising authority has the legal authority to adopt, and the personnel to administer, such regulations;

(3) Procedural laws and regulations applicable to rate regulation proceedings by such authority provide a reasonable opportunity for consideration of the views of interested parties; and

(4) The cable system in question is not subject to effective competition. The franchising authority must submit specific evidence demonstrating its rebuttal of the presumption in § 76.906 that the cable operator is subject to effective competition pursuant to section 76.905(b)(2). Unless a franchising authority has actual knowledge to the contrary, the franchising authority may rely on the presumption in § 76.906 that the cable operator is not subject to effective competition pursuant to section 76.905(b)(1), (3), or (4). The franchising authority bears the burden of submitting evidence rebutting the presumption that competing provider effective competition, as defined in § 76.905(b)(2), exists in the franchise area. If the evidence establishing the lack of effective competition is not otherwise available, franchising authorities may request from a multichannel video programming distributor

information regarding the multichannel video programming distributor's reach and number of subscribers. A multichannel video programming distributor must respond to such request within 15 days. Such responses may be limited to numerical totals.

(c) The written certification described in paragraph (b) of this section shall be made by filing the FCC form designated for that purpose. The form must be filed by

(1) Registered mail, return receipt requested, or

(2) Hand-delivery to the Commission and a date-stamped copy obtained. The date on the return receipt or on the date-stamped copy is the date filed.

(d) A copy of the certification form described in paragraph (c) of this section must be served on the cable operator before or on the same day it is filed with the Commission.

(e) Unless the Commission notifies the franchising authority otherwise, the certification will become effective 30 days after the date filed, *provided, however*, That the franchising authority may not regulate the rates of a cable system unless it:

(1) Adopts regulations:

(i) Consistent with the Commission's regulations governing the basic tier; and

(ii) Providing a reasonable opportunity for consideration of the views of interested parties, within 120 days of the effective date of certification; and

(2) Notifies the cable operator that the authority has been certified and has adopted the regulations required by paragraph (e)(1) of this section.

(f) If the Commission denies a franchising authority's certification, the Commission will notify the franchising authority of any revisions or modifications necessary to obtain approval.

[58 FR 29753, May 21, 1993, as amended at 80 FR 38013, July 2, 2015]

§ 76.911 Petition for reconsideration of certification.

(a) A cable operator (or other interested party) may challenge a franchising authority's certification by filing a petition for reconsideration pursuant to §1.106. The petition may allege either of the following:

(1) The cable operator is not subject to rate regulation because effective competition exists as defined in §76.905. Sections 76.907(b) and (c) apply to petitions filed under this section.

(2) The franchising authority does not meet the certification standards set forth in 47 U.S.C. 543(a)(3).

(b) Stay of rate regulation. (1) The filing of a petition for reconsideration pursuant to paragraph (a)(1) of this section will automatically stay the imposition of rate regulation pending the outcome of the reconsideration proceeding.

(2) A petitioner filing pursuant to paragraph (a)(2) of this section may request a stay of rate regulation.

(3) In any case in which a stay of rate regulation has been granted, if the petition for reconsideration is denied, the cable operator may be required to refund any rates or portion of rates above the permitted tier charge or permitted equipment charge which were collected from the date the operator implements a prospective rate reduction back in time to September 1, 1993, or one year, whichever is shorter.

(c) The filing of a petition for reconsideration alleging the presence of effective competition based on frivolous grounds is prohibited, and may be subject to forfeitures.

(d) If the Commission upholds a challenge to a certification filed pursuant to paragraph (a)(2) of this section, the Commission will notify the franchising authority of the revisions necessary to secure approval and provide the authority an opportunity to amend its certification however necessary to secure approval. *Provided, however*, That pending approval of certification, the Commission will assume jurisdiction over basic cable service rates in that franchise area.

[58 FR 29753, May 21, 1993, as amended at 58 FR 46735, Sept. 2, 1993; 64 FR 35950, July 2, 1999]

§ 76.912 Joint certification.

(a) Franchising authorities may apply for joint certification and may engage in joint regulation, including, but not limited to, joint hearings, data collection, and ratemaking. Franchising authorities jointly certified to

regulate their cable system(s) may make independent rate decisions.

(b) Franchising authorities may apply for joint certification regardless of whether the authorities are served by the same cable system or by different cable systems and regardless of whether the rates in each franchising area are uniform.

§ 76.913 Assumption of jurisdiction by the Commission.

(a) Upon denial or revocation of the franchising authority's certification, the Commission will regulate rates for cable services and associated equipment of a cable system not subject to effective competition, as defined in § 76.905, in a franchise area. Such regulation by the Commission will continue until the franchising authority has obtained certification or recertification.

(b) A franchising authority unable to meet certification standards may petition the Commission to regulate the rates for basic cable service and associated equipment of its franchisee when:

(1) The franchising authority lacks the resources to administer rate regulation.

(2) The franchising authority lacks the legal authority to regulate basic service rates; *Provided, however,* That the authority must submit with its request a statement detailing the nature of the legal infirmity.

(c) The Commission will regulate basic service rates pursuant to this Section until the franchising authority qualifies to exercise jurisdiction pursuant to § 76.916.

[58 FR 29753, May 21, 1993, as amended at 62 FR 6495, Feb. 12, 1997]

§ 76.914 Revocation of certification.

(a) A franchising authority's certification shall be revoked if:

(1) After the franchising authority has been given a reasonable opportunity to comment and cure any minor nonconformance, it is determined that state and local laws and regulations are in substantial and material conflict with the Commission's regulations governing cable rates.

(2) After being given an opportunity to cure the defect, a franchising authority fails to fulfill one of the three conditions for certification, set forth in 47 U.S.C. 543(a)(3), or any of the provisions of § 76.910(b).

(b) In all cases of revocation, the Commission will assume jurisdiction over basic service rates until an authority becomes recertified. The Commission will also notify the franchising authority regarding the corrective action that may be taken.

(c) A cable operator may file a petition for special relief pursuant to § 76.7 of this part seeking revocation of a franchising authority's certification.

(d) While a petition for revocation is pending, and absent grant of a stay, the franchising authority may continue to regulate the basic service rates of its franchisees.

[58 FR 29753, May 21, 1993, as amended at 59 FR 17972, Apr. 15, 1994; 64 FR 6572, Feb. 10, 1999]

§ 76.916 Petition for recertification.

(a) After its request for certification has been denied or its existing certification has been revoked, a franchising authority wishing to assume jurisdiction to regulate basic service and associated equipment rates must file a ''Petition for Recertification'' accompanied by a copy of the earlier decision denying or revoking certification.

(b) The petition must:

(1) Meet the requirements set forth in 47 U.S.C. 543(a)(3);

(2) State that the cable system is not subject to effective competition; and

(3) Contain a clear showing, supported by either objectively verifiable data such as a state statute, or by affidavit, that the reasons for the earlier denial or revocation no longer pertain.

(c) The petition must be served on the cable operator and on any interested party that participated in the proceeding denying or revoking the original certification.

(d) Oppositions may be filed within 15 days after the petition is filed, and must be served on the petitioner. Replies may be filed within seven days of filing of oppositions, and must be served on the opposing party(ies).

§ 76.917 Notification of certification withdrawal.

A franchising authority that has been certified to regulate rates may, at any time, notify the Commission that

it no longer intends to regulate basic cable rates. Such notification shall include the franchising authority's determination that rate regulation no longer serves the interests of cable subscribers served by the cable system within the franchising authority's jurisdiction, and that it has received no consideration for its withdrawal of certification. Such notification shall be served on the cable operator. The Commission retains the right to review such determinations and to request the factual finding of the franchising authority underlying its decision to withdraw certification. The franchising authority's withdrawal becomes effective upon notification to the Commission.

[59 FR 17972, Apr. 15, 1994]

§ 76.920 Composition of the basic tier.

Every subscriber of a cable system must subscribe to the basic tier in order to subscribe to any other tier of video programming or to purchase any other video programming.

§ 76.921 Buy-through of other tiers prohibited.

(a) No cable system operator, other than an operator subject to effective competition, may require the subscription to any tier other than the basic service tier as a condition of subscription to video programming offered on a per channel or per program charge basis. A cable operator may, however, require the subscription to one or more tiers of cable programming services as a condition of access to one or more tiers of cable programming services.

(b) A cable operator not subject to effective competition may not discriminate between subscribers to the basic service tier and other subscribers with regard to the rates charged for video programming offered on a per-channel or per-program charge basis.

(c) With respect to cable systems not subject to effective competition, prior to October 5, 2002, the provisions of paragraph (a) of this section shall not apply to any cable system that lacks the capacity to offer basic service and all programming distributed on a per channel or per program basis without also providing other intermediate tiers of service:

(1) By controlling subscriber access to nonbasic channels of service through addressable equipment electronically controlled from a central control point; or

(2) Through the installation, noninstallation, or removal of frequency filters (traps) at the premises of subscribers without other alteration in system configuration or design and without causing degradation in the technical quality of service provided.

(d) With respect to cable systems not subject to effective competition, any retiering of channels or services that is not undertaken in order to accomplish legitimate regulatory, technical, or customer service objectives and that is intended to frustrate or has the effect of frustrating compliance with paragraphs (a) through (c) of this section is prohibited.

[62 FR 6495, Feb. 12, 1997]

§ 76.922 Rates for the basic service tier and cable programming services tiers.

(a) *Basic and cable programming service tier rates.* Basic service tier and cable programming service rates shall be subject to regulation by the Commission and by state and local authorities, as is appropriate, in order to assure that they are in compliance with the requirements of 47 U.S.C. 543. Rates that are demonstrated, in accordance with this part, not to exceed the ''Initial Permitted Per Channel Charge'' or the ''Subsequent Permitted Per Channel Charge'' as described in this section, or the equipment charges as specified in § 76.923, will be accepted as in compliance. The maximum monthly charge per subscriber for a tier of regulated programming services offered by a cable system shall consist of a permitted per channel charge multiplied by the number of channels on the tier, plus a charge for franchise fees. The maximum monthly charges for regulated programming services shall not include any charges for equipment or installations. Charges for equipment and installations are to be calculated separately pursuant to § 76.923. The same rate-making methodology (either the benchmark methodology found in paragraph (b) of this section, or a cost-of-service showing) shall be used to set

initial rates on all rate regulated tiers, and shall continue to provide the basis for subsequent permitted charges.

(b) *Permitted charge on May 15, 1994.* (1) The permitted charge for a tier of regulated program service shall be, at the election of the cable system, either:

(i) A rate determined pursuant to a cost-of-service showing;

(ii) The full reduction rate;

(iii) The transition rate, if the system is eligible for transition relief; or

(iv) A rate based on a streamlined rate reduction, if the system is eligible to implement such a rate reduction. Except where noted, the term ''rate'' in this subsection means a rate measured on an average regulated revenue per subscriber basis.

(2) *Full reduction rate.* The ''full reduction rate'' on May 15, 1994 is the system's September 30, 1992 rate, measured on an average regulated revenue per subscriber basis, reduced by 17 percent, and then adjusted for the following:

(i) The establishment of permitted equipment rates as required by § 76.923;

(ii) Inflation measured by the GNP-PI between October 1, 1992 and September 30, 1993;

(iii) Changes in the number of program channels subject to regulation that are offered on the system's program tiers between September 30, 1992 and the earlier of the initial date of regulation for any tier or February 28, 1994; and

(iv) Changes in external costs that have occurred between the earlier of the initial date of regulation for any tier or February 28, 1994, and March 31, 1994.

(3) *March 31, 1994 benchmark rate.* The ''March 31, 1994 benchmark rate'' is the rate so designated using the calculations in Form 1200.

(4) *Transition rates*—(i) *Termination of transition relief for systems other than low price systems.* Systems other than low-price systems that already have established a transition rate as of the effective date of this rule may maintain their current rates, as adjusted under the price cap requirements of § 76.922(d), until two years from the effective date of this rule. These systems must begin charging reasonable rates in accordance with applicable rules, other than transition relief, no later than that date.

(ii) *Low-price systems.* Low price systems shall be eligible to establish a transition rate for a tier.

(A) A low-price system is a system:

(*1*) Whose March 31, 1994 rate is below its March 31, 1994 benchmark rate, or

(*2*) Whose March 31, 1994 rate is above its March 31, 1994 benchmark rate, but whose March 31, 1994 full reduction rate is below its March 31, 1994 benchmark rate, as defined in § 76.922(b)(2), above.

(B) The transition rate on May 15, 1994 for a system whose March 31, 1994 rate is below its March 31, 1994 benchmark rate is the system's March 31, 1994 rate. The March 31, 1994 rate is in both cases adjusted:

(*1*) To establish permitted rates for equipment as required by § 76.923 if such rates have not already been established; and

(*2*) For changes in external costs incurred between the earlier of initial date of regulation of any tier or February 28, 1994, and March 31, 1994, to the extent changes in such costs are not already reflected in the system's March 31, 1994 rate. The transition rate on May 15, 1994 for a system whose March 31, 1994 adjusted rate is above its March 31, 1994 benchmark rate, but whose March 31, 1994 full reduction rate is below its March 31, 1994 benchmark rate, is the March 31, 1994 benchmark rate, adjusted to establish permitted rates for equipment as required by § 76.923 if such rates have not already been established.

(iii) Notwithstanding the foregoing, the transition rate for a tier shall be adjusted to reflect any determination by a local franchising authority and/or the Commission that the rate in effect on March 31, 1994 was higher (or lower) than that permitted under applicable Commission regulations. A filing reflecting the adjusted rate shall be submitted to all relevant authorities within 30 days after issuance of the local franchising authority and/or Commission determination. A system whose March 31, 1994 rate is determined by a local franchising authority or the Commission to be too high under the Commission's rate regulations in effect before May 15, 1994 will be subject to any

refund liability that may accrue under those rules. In addition, the system will be liable for refund liability under the rules in effect on and after May 15, 1994. Such refund liability will be measured by the difference in the system's March 31, 1994 rate and its permitted March 31, 1994 rate as calculated under the Commission's rate regulations in effect before May 15, 1994. The refund liability will accrue according to the time periods set forth in §§ 76.942, and 76.961 of the Commission's rules.

(5) *Streamlined rate reductions.* (i) Upon becoming subject to rate regulation, a small system owned by a small cable company may make a streamlined rate reduction, subject to the following conditions, in lieu of establishing initial rates pursuant to the other methods of rate regulation set forth in this subpart:

(A) Small systems that are owned by small cable companies and that have not already restructured their rates to comply with the Commission's rules may establish rates for regulated program services and equipment by making a streamlined rate reduction. Small systems owned by small cable companies shall not be eligible for streamlined rate reductions if they are owned or controlled by, or are under common control or affiliated with, a cable operator that exceeds these subscriber limits. For purposes of this rule, a small system will be considered ''affiliated with'' such an operator if the operator has a 20 percent or greater equity interest in the small system.

(B) The streamlined rate for a tier on May 15, 1994 shall be the system's March 31, 1994 rate for the tier, reduced by 14 percent. A small system that elects to establish its rate for a tier by implementing this streamlined rate reduction must also reduce, at the same time, each billed item of regulated cable service, including equipment, by 14 percent. Regulated rates established using the streamlined rate reduction process shall remain in effect until:

(*1*) Adoption of a further order by the Commission establishing a schedule of average equipment costs;

(*2*) The system increases its rates using the calculations and time periods set forth in FCC Form 1211; or

(*3*) The system elects to establish permitted rates under another available option set forth in paragraph (b)(1) of this section.

(C) *Implementation and notification.* An eligible small system that elects to use the streamlined rate reduction process must implement the required rate reductions and provide written notice of such reductions to subscribers, the local franchising authority and the Commission according to the following schedule:

(*1*) Within 60 days from the date it receives the initial notice of regulation from the franchising authority or the Commission, the small system must provide written notice to subscribers and the franchising authority, or to the Commission if the Commission is regulating the basic tier, that it is electing to set its regulated rates by the streamlined rate reduction process. The system must then implement the streamlined rate reductions within 30 days after the written notification has been provided to subscribers and the local franchise authority or Commission.

(*2*) If a cable programming services complaint is filed against the system, the system must provide the required written notice, described in paragraph (b)(5)(iii)(C)(*1*) of this section, to subscribers, the local franchising authority or the Commission within 60 days after the complaint is filed. The system must then implement the streamlined rate reductions within 30 days after the written notification has been provided.

(*3*) A small system is required to give written notice of, and to implement, the rates that are produced by the streamlined rate reduction process only once. If a system has already provided notice of, and implemented, the streamlined rate reductions when a given tier becomes subject to regulation, it must report to the relevant regulator (either the franchising authority or the Commission) in writing within 30 days of becoming subject to regulation that it has already provided the required notice and implemented the required rate reductions.

(ii) The stremlined rate for a tier on May 15, 1994 shall be the system's March 31, 1994 rate for the tier, reduced by 14 percent. A small system that

elects to establish its rate for a tier by implementing this streamlined rate reduction must also reduce, at the same time, each billed item of regulated cable service, including equipment, by 14 percent. Regulated rates established using the streamlined rate reduction process shall remain in effect until:

(A) Adoption of a further order by the Commission establishing a schedule of average equipment costs;

(B) The system increases its rates using the calculations and time periods set forth in FCC Form 1211; or

(C) The system elects to establish permitted rates under another available option set forth in paragraph (b)(1) of this section.

(iii) *Implementation and notification.* An eligible small system that elects to use the streamlined rate reduction process must implement the required rate reductions and provide written notice of such reductions to subscribers, the local franchising authority and the Commission according to the following schedule:

(A) Where the franchising authority has been certified by the Commission to regulate the small system's basic service tier rates as of May 15, 1994, the system must notify the franchising authority and its subscribers in writing that it is electing to set its regulated rates by the streamline rate reduction process. Such notice must be given by June 15, 1994, and must also describe the new rates that will result from the streamlined rate reduction process. Those rates must then be implemented within 30 days after the written notification has been provided to subscribers and the local franchising authority.

(B) Where the franchising authority has not been certified to regulate basic service tier rates by May 15, 1994, the small system must provide the written notice to subscribers and the franchising authority, described in paragraph (b)(5)(iii)(A) of this section, within 30 days from the date it receives the initial notice of regulation from the franchising authority. The system must then implement the streamlined rate reductions within 30 days after the written notification has been provided to subscribers and the local franchise authority.

(C) Where the Commission is regulating the small system's basic service tier rates as of May 15, 1994, the system must notify the Commission and its subscribers in writing that it is electing to set its regulated rates by the streamlined rate reduction process. Such notice must be given by June 15, 1994, and must also describe the new rates that will result from the streamlined rate reduction process. Those rates must then be implemented within 30 days after the written notification has been provided to subscribers and the Commission.

(D) Where the Commission begins regulating basic service rates after May 15, 1994, the small system must provide the written notice to subscribers and the Commission, described in paragraph (b)(5)(iii)(C) of this section, within 30 days from the date it receives an initial notice of regulation. The system must then implement the streamlined rate reductions within 30 days after the written notification has been provided to subscribers and the Commission.

(E) If a complaint about its cable programming service rates has been filed with the Commission on or before May 15, 1994, the small system must provide the written notice described in paragraph (b)(5)(iii)(A) of this section, to subscribers, the local franchising authority and the Commission by June 15, 1994. If a cable programming services complaint is filed against the system after May 15, 1994, the system must provide the required written notice to subscribers, the local franchising authority or the Commission within 30 days after the complaint is filed. The system must then implement the streamlined rate reductions within 30 days after the written notification has been provided.

(F) A small system is required to give written notice of, and to implement, the rates that are produced by the streamlined rate reduction process only once. If a system has already provided notice of, and implemented, the streamlined rate reductions when a given tier becomes subject to regulation, it must report to the relevant regulator (either the franchising authority or the Commission) in writing within 30 days of becoming subject to

regulation that it has already provided the required notice and implemented the required rate reductions.

(6) *Establishment of initial regulated rates.* (i) Cable systems, other than those eligible for streamlined rate reductions, shall file FCC Forms 1200, 1205, and 1215 for a tier that is regulated on May 15, 1994 by June 15, 1994, or thirty days after the initial date of regulation for the tier. A system that becomes subject to regulation for the first time on or after July 1, 1994 shall also file FCC Form 1210 at the time it files FCC Forms 1200, 1205 and 1215.

(ii) A cable system will not incur refund liability under the Commission's rules governing regulated cable rates on and after May 15, 1994 if:

(A) Between March 31, 1994 and July 14, 1994, the system does not change the rate for, or restructure in any fashion, any program service or equipment offering that is subject to regulation under the 1992 Cable Act; and

(B) The system establishes a permitted rate defined in paragraph (b) of this section by July 14, 1994. The deferral of refund liability permitted by this subsection will terminate if, after March 31, 1994, the system changes any rate for, or restructures, any program service or equipment offering subject to regulation, and in all events will expire on July 14, 1994. Moreover, the deferral of refund liability permitted by this paragraph does not apply to refund liability that occurs because the system's March 31, 1994 rates for program services and equipment subject to regulation are higher than the levels permitted under the Commission's rules in effect before May 15, 1994.

(7) For purposes of this section, the initial date of regulation for the basic service tier shall be the date on which notice is given pursuant to §76.910, that the provision of the basic service tier is subject to regulation. For a cable programming services tier, the initial date of regulation shall be the first date on which a complaint on the appropriate form is filed with the Commission concerning rates charged for the cable programming services tier.

(8) For purposes of this section, rates in effect on the initial date of regulation or on September 30, 1992 shall be the rates charged to subscribers for service received on that date.

(9) *Updating data calculations.* (i) For purposes of this section, if:

(A) A cable operator, prior to becoming subject to regulation, revised its rates to comply with the Commission's rules; and

(B) The data on which the cable operator relied was current and accurate at the time of revision, and the rate is accurate and justified by the prior data; and

(C) Through no fault of the cable operator, the rates that resulted from using such data differ from the rates that would result from using data current and accurate at the time the cable operator's system becomes subject to regulation; then the cable operator is not required to change its rates to reflect the data current at the time it becomes subject to regulation.

(ii) Notwithstanding the above, any subsequent changes in a cable operator's rates must be made from rate levels derived from data [that was current as of the date of the rate change].

(iii) For purposes of this subsection, if the rates charged by a cable operator are not justified by an analysis based on the data available at the time it initially adjusted its rates, the cable operator must adjust its rates in accordance with the most accurate data available at the time of the analysis.

(c) *Subsequent permitted charge.* (1) The permitted charge for a tier after May 15, 1994 shall be, at the election of the cable system, either:

(i) A rate determined pursuant to a cost-of-service showing,

(ii) A rate determined by application of the Commission's price cap requirements set forth in paragraph (d) of this section to a permitted rate determined in accordance with paragraph (b) of this section, or

(iii) A rate determined by application of the Commission's price cap requirements set forth in paragraph (e) of this section to a permitted rate determined in accordance with paragraph (b) of this section.

(2) The Commission's price cap requirements allow a system to adjust its permitted charges for inflation, changes in the number of regulated

channels on tiers, or changes in external costs. After May 15, 1994, adjustments for changes in external costs shall be calculated by subtracting external costs from the system's permitted charge and making changes to that ''external cost component'' as necessary. The remaining charge, referred to as the ''residual component,'' will be adjusted annually for inflation. Cable systems may adjust their rates by using the price cap rules contained in either paragraph (d) or (e) of this section. In addition, cable systems may further adjust their rates using the methodologies set forth in paragraph (n) of this section.

(3) An operator may switch between the quarterly rate adjustment option contained in paragraph (d) of this section and the annual rate adjustment option contained in paragraph (e) of this section, provided that:

(i) Whenever an operator switches from the current quarterly system to the annual system, the operator may not file a Form 1240 earlier than 90 days after the operator proposed its last rate adjustment on a Form 1210; and

(ii) When an operator changes from the annual system to the quarterly system, the operator may not return to a quarterly adjustment using a Form 1210 until a full quarter after it has filed a true up of its annual rate on a Form 1240 for the preceding filing period.

(4) An operator that does not set its rates pursuant to a cost-of-service filing must use the quarterly rate adjustment methodology pursuant to paragraph (d) of this section or annual rate adjustment methodology pursuant to paragraph (e) of this section for both its basic service tier and its cable programming services tier(s).

(d) *Quarterly rate adjustment method*—(1) *Calendar year quarters.* All systems using the quarterly rate adjustment methodology must use the following calendar year quarters when adjusting rates under the price cap requirements. The first quarter shall run from January 1 through March 31 of the relevant year; the second quarter shall run from April 1 through June 30; the third quarter shall run from July 1 through September 30; and the fourth quarter shall run from October 1 through December 31.

(2) *Inflation adjustments.* The residual component of a system's permitted charge may be adjusted annually for inflation. The annual inflation adjustment shall be used on inflation occurring from June 30 of the previous year to June 30 of the year in which the inflation adjustment is made, except that the first annual inflation adjustment shall cover inflation from September 30, 1993 until June 30 of the year in which the inflation adjustment is made. The adjustment may be made after September 30, but no later than August 31, of the next calendar year. Adjustments shall be based on changes in the Gross National Product Price Index as published by the Bureau of Economic Analysis of the United States Department of Commerce. Cable systems that establish a transition rate pursuant to paragraph (b)(4) of this section may not begin adjusting rates on account of inflation before April 1, 1995. Between April 1, 1995 and August 31, 1995 cable systems that established a transition rate may adjust their rates to reflect the net of a 5.21% inflation adjustment minus any inflation adjustments they have already received. Low price systems that had their March 31, 1994 rates above the benchmark, but their full reduction rate below the benchmark will be permitted to adjust their rates to reflect the full 5.21% inflation factor unless the rate reduction was less than the inflation adjustment received on an FCC Form 393 for rates established prior to May 15, 1994. If the rate reduction established by a low price system that reduced its rate to the benchmark was less than the inflation adjustment received on an FCC Form 393, the system will be permitted to receive the 5.21% inflation adjustment minus the difference between the rate reduction and the inflation adjustment the system made on its FCC Form 393. Cable systems that established a transition rate may make future inflation adjustments on an annual basis with all other cable operators, no earlier than October 1 of each year and no later than August 31 of the following year to reflect the final GNP-PI through June 30 of the applicable year.

(3) *External costs.* (i) Permitted charges for a tier may be adjusted up to quarterly to reflect changes in external costs experienced by the cable system as defined by paragraph (f) of this section. In all events, a system must adjust its rates annually to reflect any decreases in external costs that have not previously been accounted for in the system's rates. A system must also adjust its rates annually to reflect any changes in external costs, inflation and the number of channels on regulated tiers that occurred during the year if the system wishes to have such changes reflected in its regulated rates. A system that does not adjust its permitted rates annually to account for those changes will not be permitted to increase its rates subsequently to reflect the changes.

(ii) A system must adjust its rates in the next calendar year quarter for any decrease in programming costs that results from the deletion of a channel or channels from a regulated tier.

(iii) Any rate increase made to reflect an increase in external costs must also fully account for all other changes in external costs, inflation and the number of channels on regulated tiers that occurred during the same period. Rate adjustments made to reflect changes in external costs shall be based on any changes in those external costs that occurred from the end of the last quarter for which an adjustment was previously made through the end of the quarter that has most recently closed preceding the filing of the FCC Form 1210 (or FCC Form 1211, where applicable). A system may adjust its rates after the close of a quarter to reflect changes in external costs that occurred during that quarter as soon as it has sufficient information to calculate the rate change.

(e) *Annual rate adjustment method*—(1) *Generally.* Except as provided for in paragraphs (e)(2)(iii)(B) and (e)(2)(iii)(C) of this section and Section 76.923(o), operators that elect the annual rate adjustment method may not adjust their rates more than annually to reflect inflation, changes in external costs, changes in the number of regulated channels, and changes in equipment costs. Operators that make rate adjustments using this method must file on the same date a Form 1240 for the purpose of making rate adjustments to reflect inflation, changes in external costs and changes in the number of regulated channels and a Form 1205 for the purpose of adjusting rates for regulated equipment and installation. Operators may choose the annual filing date, but they must notify the franchising authority of their proposed filing date prior to their filing. Franchising authorities or their designees may reject the annual filing date chosen by the operator for good cause. If the franchising authority finds good cause to reject the proposed filing date, the franchising authority and the operator should work together in an effort to reach a mutually acceptable date. If no agreement can be reached, the franchising authority may set the filing date up to 60 days later than the date chosen by the operator. An operator may change its filing date from year-to-year, but except as described in paragraphs (e)(2)(iii)(B) and (e)(2)(iii)(C) of this section, at least twelve months must pass before the operator can implement its next annual adjustment.

(2) *Projecting inflation, changes in external costs, and changes in number of regulated channels.* An operator that elects the annual rate adjustment method may adjust its rates to reflect inflation, changes in external costs and changes in the number of regulated channels that are projected for the 12 months following the date the operator is scheduled to make its rate adjustment pursuant to Section 76.933(g).

(i) *Inflation Adjustments.* The residual component of a system's permitted charge may be adjusted annually to project for the 12 months following the date the operator is scheduled to make a rate adjustment. The annual inflation adjustment shall be based on inflation that occurred in the most recently completed July 1 to June 30 period. Adjustments shall be based on changes in the Gross National Product Price Index as published by the Bureau of Economic Analysis of the United States Department of Commerce.

(ii) *External costs.* (A) Permitted charges for a tier may be adjusted annually to reflect changes in external

costs experienced but not yet accounted for by the cable system, as well as for projections in these external costs for the 12-month period on which the filing is based. In order that rates be adjusted for projections in external costs, the operator must demonstrate that such projections are reasonably certain and reasonably quantifiable. Projections involving copyright fees, retransmission consent fees, other programming costs, Commission regulatory fees, and cable specific taxes are presumed to be reasonably certain and reasonably quantifiable. Operators may project for increases in franchise related costs to the extent that they are reasonably certain and reasonably quantifiable, but such changes are not presumed reasonably certain and reasonably quantifiable. Operators may pass through increases in franchise fees pursuant to Section 76.933(g).

(B) In all events, a system must adjust its rates every twelve months to reflect any net decreases in external costs that have not previously been accounted for in the system's rates.

(C) Any rate increase made to reflect increases or projected increases in external costs must also fully account for all other changes and projected changes in external costs, inflation and the number of channels on regulated tiers that occurred or will occur during the same period. Rate adjustments made to reflect changes in external costs shall be based on any changes, plus projections, in those external costs that occurred or will occur in the relevant time periods since the periods used in the operator's most recent previous FCC Form 1240.

(iii) *Channel adjustments.* (A) Permitted charges for a tier may be adjusted annually to reflect changes not yet accounted for in the number of regulated channels provided by the cable system, as well as for projected changes in the number of regulated channels for the 12-month period on which the filing is based. In order that rates be adjusted for projected changes to the number of regulated channels, the operator must demonstrate that such projections are reasonably certain and reasonably quantifiable.

(B) An operator may make rate adjustments for the addition of required channels to the basic service tier that are required under federal or local law at any time such additions occur, subject to the filing requirements of Section 76.933(g)(2), regardless of whether such additions occur outside of the annual filing cycle. Required channels may include must-carry, local origination, public, educational and governmental access and leased access channels. Should the operator elect not to pass through the costs immediately, it may accrue the costs of the additional channels plus interest, as described in paragraph (e)(3) of this section.

(C) An operator may make one additional rate adjustment during the year to reflect channel additions to the cable programming services tiers or, where the operator offers only one regulated tier, the basic service tier. Operators may make this additional rate adjustment at any time during the year, subject to the filing requirements of Section 76.933(g)(2), regardless of whether the channel addition occurs outside of the annual filing cycle. Should the operator elect not to pass through the costs immediately, it may accrue the costs of the additional channels plus interest, as described in paragraph (e)(3) of this section.

(3) *True-up and accrual of charges not projected.* As part of the annual rate adjustment, an operator must ''true up'' its previously projected inflation, changes in external costs and changes in the number of regulated channels and adjust its rates for these actual cost changes. The operator must decrease its rates for overestimation of its projected cost changes, and may increase its rates to adjust for underestimation of its projected cost changes.

(i) Where an operator has underestimated costs, future rates may be increased to permit recovery of the accrued costs plus 11.25% interest between the date the costs are incurred and the date the operator is entitled to make its rate adjustment.

(ii) *Per channel adjustment.* Operators may increase rates by a per channel adjustment of up to 20 cents per subscriber per month, exclusive of programming costs, for each channel added to a CPST between May 15, 1994, and December 31, 1997, except that an

operator may take the per channel adjustment only for channel additions that result in an increase in the highest number of channels offered on all CPSTs as compared to May 14, 1994, and each date thereafter. Any revenues received from a programmer, or shared by a programmer and an operator in connection with the addition of a channel to a CPST shall first be deducted from programming costs for that channel pursuant to paragraph (d)(3)(x) of this section and then, to the extent revenues received from the programmer are greater than the programming costs, shall be deducted from the per channel adjustment. This deduction will apply on a channel by channel basis. With respect to the per channel adjustment only, this deduction shall not apply to revenues received by an operator from a programmer as commissions on sales of products or services offered through home shopping services.

(iii) If an operator has underestimated its cost changes and elects not to recover these accrued costs with interest on the date the operator is entitled to make its annual rate adjustment, the interest will cease to accrue as of the date the operator is entitled to make the annual rate adjustment, but the operator will not lose its ability to recover such costs and interest. An operator may recover accrued costs between the date such costs are incurred and the date the operator actually implements its rate adjustment.

(iv) Operators that use the annual methodology in their next filing after the release date of this Order may accrue costs and interest incurred since July 1, 1995 in that filing. Operators that file a Form 1210 in their next filing after the release date of this Order, and elect to use Form 1240 in a subsequent filing, may accrue costs incurred since the end of the last quarter to which a Form 1210 applies.

(4) *Sunset provision.* The Commission will review paragraph (e) of this section prior to December 31, 1998 to determine whether the annual rate adjustment methodology should be kept, and whether the quarterly system should be eliminated and replaced with the annual rate adjustment method.

(f) *External costs.* (1) External costs shall consist of costs in the following categories:

(i) State and local taxes applicable to the provision of cable television service;

(ii) Franchise fees;

(iii) Costs of complying with franchise requirements, including costs of providing public, educational, and governmental access channels as required by the franchising authority;

(iv) Retransmission consent fees and copyright fees incurred for the carriage of broadcast signals;

(v) Other programming costs; and

(vi) Commission cable television system regulatory fees imposed pursuant to 47 U.S.C. §159.

(vii) Headend equipment costs necessary for the carriage of digital broadcast signals.

(2) The permitted charge for a regulated tier shall be adjusted on account of programming costs, copyright fees and retransmission consent fees only for the program channels or broadcast signals offered on that tier.

(3) The permitted charge shall not be adjusted for costs of retransmission consent fees or changes in those fees incurred prior to October 6, 1994.

(4) The starting date for adjustments on account of external costs for a tier of regulated programming service shall be the earlier of the initial date of regulation for any basic or cable service tier or February 28, 1994. Except, for regulated FCC Form 1200 rates set on the basis of rates at September 30, 1992 (using either March 31, 1994 rates initially determined from FCC Form 393 Worksheet 2 or using Form 1200 Full Reduction Rates from Line J6), the starting date shall be September 30, 1992. Operators in this latter group may make adjustment for changes in external costs for the period between September 30, 1992, and the initial date of regulation or February 28, 1994, whichever is applicable, based either on changes in the GNP-PI over that period or on the actual change in the external costs over that period. Thereafter, adjustment for external costs may be made on the basis of actual changes in external costs only.

(5) Changes in franchise fees shall not result in an adjustment to permitted

charges, but rather shall be calculated separately as part of the maximum monthly charge per subscriber for a tier of regulated programming service.

(6) Adjustments to permitted charges to reflect changes in the costs of programming purchased from affiliated programmers, as defined in §76.901, shall be permitted as long as the price charged to the affiliated system reflects either prevailing company prices offered in the marketplace to third parties (where the affiliated program supplier has established such prices) or the fair market value of the programming.

(i) For purposes of this section, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities.

(ii) Attributable interest shall be defined by reference to the criteria set forth in Notes 1 through 5 to §76.501 provided, however, that:

(A) The limited partner and LLC/LLP/RLLP insulation provisions of Note 2(f) shall not apply; and

(B) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.

(7) Adjustments to permitted charges on account of increases in costs of programming shall be further adjusted to reflect any revenues received by the operator from the programmer. Such adjustments shall apply on a channel-by-channel basis.

(8) In calculating programming expense, operators may add a mark-up of 7.5% for increases in programming costs occurring after March 31, 1994, except that operators may not file for or take the 7.5% mark-up on programming costs for new channels added on or after May 15, 1994 for which the operator has used the methodology set forth in paragraph (g)(3) of this section for adjusting rates for channels added to cable programming service tiers. Operators shall reduce rates by decreases in programming expense plus an additional 7.5% for decreases occurring after May 15, 1994 except with respect to programming cost decreases on channels added after May 15, 1994 for which the rate adjustment methodology in paragraph (g)(3) of this section was used.

(g) *Changes in the number of channels on regulated tiers*—(1) *Generally.* A system may adjust the residual component of its permitted rate for a tier to reflect changes in the number of channels offered on the tier on a quarterly basis. Cable systems shall use FCC Form 1210 (or FCC Form 1211, where applicable) or FCC Form 1240 to justify rate changes made on account of changes in the number of channels on a basic service tier (''BST'') or a cable programming service tier (''CPST''). Such rate adjustments shall be based on any changes in the number of regulated channels that occurred from the end of the last quarter for which an adjustment was previously made through the end of the quarter that has most recently closed preceding the filing of the FCC Form 1210 (or FCC Form 1211, where applicable) or FCC Form 1240. However, when a system deletes channels in a calendar quarter, the system must adjust the residual component of the tier charge in the next calendar quarter to reflect that deletion. Operators must elect between the channel addition rules in paragraphs (g)(2) and (g)(3) of this section the first time they adjust rates after December 31, 1994, to reflect a channel addition to a CPST that occurred on or after May 15, 1994, and must use the elected methodology for all rate adjustments through December 31, 1997. A system that adjusted rates after May 15, 1994, but before January 1, 1995 on account of a change in the number of channels on a CPST that occurred after May 15, 1994, may elect to revise its rates to charge the rates permitted by paragraph (g)(3) of this section on or after January 1, 1995, but is not required to do so as a condition for using the methodology in paragraph (g)(3) of this section for rate adjustments after January 1, 1995. Rates for the BST will be governed exclusively by paragraph (g)(2) of this section, except that where a system offered only one tier on May 14, 1994, the cable operator will be allowed to elect between paragraphs (g)(2) and (g)(3) of this section as if the tier was a CPST.

(2) *Adjusting rates for increases in the number of channels offered between May 15, 1994, and December 31, 1997, on a basic*

service tier and at the election of the operator on a cable programming service tier. The following table shall be used to adjust permitted rates for increases in the number of channels offered between May 15, 1994, and December 31, 1997, on a basic service tier and subject to the conditions in paragraph (g)(1) of this section at the election of the operator on a CPST. The entries in the table provide the cents per channel per subscriber per month by which cable operators will adjust the residual component using FCC Form 1210 (or FCC Form 1211, where applicable) or FCC Form 1240.

Average No. of regulated channels	Per-channel adjustment factor
7	$0.52
7.5	0.45
8	0.40
8.5	0.36
9	0.33
9.5	0.29
10	0.27
10.5	0.24
11	0.22
11.5	0.20
12	0.19
12.5	0.17
13	0.16
13.5	0.15
14	0.14
14.5	0.13
15–15.5	0.12
16	0.11
16.5–17	0.10
17.5–18	0.09
18.5–19	0.08
19.5–21.5	0.07
22–23.5	0.06
24–26	0.05
26.5–29.5	0.04
30–35.5	0.03
36–46	0.02
46.5–99.5	0.01

In order to adjust the residual component of the tier charge when there is an increase in the number of channels on a tier, the operator shall perform the following calculations:

(i) Take the sum of the old total number of channels on tiers subject to regulation (*i.e.*, tiers that are, or could be, regulated but excluding New Product Tiers) and the new total number of channels and divide the resulting number by two;

(ii) Consult the above table to find the applicable per channel adjustment factor for the number of channels produced by the calculations in step (1). For each tier for which there has been an increase in the number of channels, multiply the per-channel adjustment factor times the change in the number of channels on that tier. The result is the total adjustment for that tier.

(3) *Alternative methodology for adjusting rates for changes in the number of channels offered on a cable programming service tier or a single tier system between May 15, 1994, and December 31, 1997*. This paragraph at the Operator's discretion as set forth in paragraph (g)(1) of this section shall be used to adjust permitted rates for a CPST after December 31, 1994, for changes in the number of channels offered on a CPST between May 15, 1994, and December 31, 1997. For purposes of paragraph (g)(3) of this section, a single tier system may be treated as if it were a CPST.

(i) *Operators cap attributable to new channels on all CPSTs through December 31, 1997*. Operators electing to use the methodology set forth in this paragraph may increase their rates between January 1, 1995, and December 31, 1997, by up to 20 cents per channel, exclusive of programming costs, for new channels added to CPSTs on or after May 15, 1994, except that they may not make rate adjustments totalling more than $1.20 per month, per subscriber through December 31, 1996, and by more than $1.40 per month, per subscriber through December 31, 1997 (the ''Operator's Cap''). Except to the extent that the programming costs of such channels are covered by the License Fee Reserve provided for in paragraph (g)(3)(iii) of this section, programming costs associated with channels for which a rate adjustment is made pursuant to this paragraph (g)(3) of this section must fall within the Operators' Cap if the programming costs (including any increases therein) are reflected in rates before January 1, 1997. Inflation adjustments pursuant to paragraph (d)(2) or (e)(2) of this section are not counted against the Operator's Cap.

(ii) *Per channel adjustment*. Operators may increase rates by a per channel adjustment of up to 20 cents per subscriber per month, exclusive of programming costs, for each channel added to a CPST between May 15, 1994, and December 31, 1997, except that an

operator may take the per channel adjustment only for channel additions that result in an increase in the highest number of channels offered on all CPSTs as compared to May 14, 1994, and each date thereafter. Any revenues received from a programmer, or shared by a programmer and an operator in connection with the addition of a channel to a CPST shall first be deducted from programming costs for that channel pursuant to paragraph (f)(7) of this section and then, to the extent revenues received from the programmer are greater than the programming costs, shall be deducted from the per channel adjustment. This deduction will apply on a channel by channel basis.

(iii) *License fee reserve.* In addition to the rate adjustments permitted in paragraphs (g)(3)(i) and (g)(3)(ii) of this section, operators that make channel additions on or after May 15, 1994 may increase their rates by a total of 30 cents per month, per subscriber between January 1, 1995, and December 31, 1996, for license fees associated with such channels (the ''License Fee Reserve''). The License Fee Reserve may be applied against the initial license fee and any increase in the license fee for such channels during this period. An operator may pass-through to subscribers more than the 30 cents between January 1, 1995, and December 31, 1996, for license fees associated with channels added after May 15, 1994, provided that the total amount recovered from subscribers for such channels, including the License Fee Reserve, does not exceed $1.50 per subscriber, per month. After December 31, 1996, license fees may be passed through to subscribers pursuant to paragraph (f) of this section, except that license fees associated with channels added pursuant to this paragraph (3) will not be eligible for the 7.5% mark-up on increases in programming costs.

(iv) *Timing.* For purposes of determining whether a rate increase counts against the maximum rate increases specified in paragraphs (g)(3)(i) through (g)(3)(ii) of this section, the relevant date shall be when rates are increased as a result of channel additions, not when the addition occurs.

(4) *Deletion of channels.* When dropping a channel from a BST or CPST, operators shall reflect the net reduction in external costs in their rates pursuant to paragraphs (d)(3)(i) and (d)(3)(ii) of this section, or paragraphs (e)(2)(ii)(A) and (e)(2)(ii)(B) of this section. With respect to channels to which the 7.5% mark-up on programming costs applied pursuant to paragraph (f)(8) of this section, the operator shall treat the mark-up as part of its programming costs and subtract the mark-up from its external costs. Operators shall also reduce the price of that tier by the ''residual'' associated with that channel. For channels that were on a BST or CPST on May 14, 1994, or channels added after that date pursuant to paragraph (g)(2) of this section, the per channel residual is the charge for their tier, minus the external costs for the tier, and any per channel adjustments made after that date, divided by the total number of channels on the tier minus the number of channels on the tier that received the per channel adjustment specified in paragraph (g)(3) of this section. For channels added to a CPST after May 14, 1994, pursuant to paragraph (g)(3) of this section, the residuals shall be the actual per channel adjustment taken for that channel when it was added to the tier.

(5) *Movement of Channels Between Tiers.* When a channel is moved from a CPST or a BST to another CPST or BST, the price of the tier from which the channel is dropped shall be reduced to reflect the decrease in programming costs and residual as described in paragraph (g)(4) of this section. The residual associated with the shifted channel shall then be converted from per subscriber to aggregate numbers to ensure aggregate revenues from the channel remain the same when the channel is moved. The aggregate residual associated with the shifted channel may be shifted to the tier to which the channel is being moved. The residual shall then be converted to per subscriber figures on the new tier, plus any subsequent inflation adjustment. The price of the tier to which the channel is shifted may then be increased to reflect this amount. The price of that tier may also be increased to reflect any increase in programming cost. An operator may not shift a channel for which

it received a per channel adjustment pursuant to paragraph (g)(3) of this section from a CPST to a BST.

(6) *Substitution of channels on a BST or CPST.* If an operator substitutes a new channel for an existing channel on a CPST or a BST, no per channel adjustment may be made. Operators substituting channels on a CPST or a BST shall be required to reflect any reduction in programming costs in their rates and may reflect any increase in programming costs pursuant to paragraphs (d)(3)(i) and (d)(3)(ii), or paragraphs (e)(2)(ii)(A) and (e)(2)(ii)(B) of this section. If the programming cost for the new channel is greater than the programming cost for the replaced channel, and the operator chooses to pass that increase through to subscribers, the excess shall count against the License Fee Reserve or the Operator Cap when the increased cost is passed through to subscribers. Where an operator substitutes a new channel for a channel on which a 7.5% mark-up on programming costs was taken pursuant to paragraph (f)(8) of this section, the operator may retain the 7.5% mark-up on the license fee of the dropped channel to the extent that it is no greater than 7.5% of programming cost of the new service.

(7) *Headend upgrades.* When adding channels to CPSTs and single-tier systems, cable systems that are owned by a small cable company and incur additional monthly per subscriber headend costs of one full cent or more for an additional channel may choose among the methodologies set forth in paragraphs (g)(2) and (g)(3) of this section. In addition, such systems may increase rates to recover the actual cost of the headend equipment required to add up to seven such channels to CPSTs and single-tier systems, not to exceed $5,000 per additional channel. Rate increases pursuant to this paragraph may occur between January 1, 1995, and December 31, 1997, as a result of additional channels offered on those tiers after May 14, 1994. Headend costs shall be depreciated over the useful life of the equipment. The rate of return on this investment shall not exceed 11.25 percent. In order to recover costs for headend equipment pursuant to this paragraph, systems must certify to the Commission their eligibility to use this paragraph, and the level of costs they have actually incurred for adding the headend equipment and the depreciation schedule for the equipment.

(8) *Sunset provision.* Paragraph (g) of this section shall cease to be effective on January 1, 1998 unless renewed by the Commission.

(h) Permitted charges for a tier shall be determined in accordance with forms and associated instructions established by the Commission.

(i) *Cost of service charge.* (1) For purposes of this section, a monthly cost-of-service charge for a basic service tier or a cable programming service tier is an amount equal to the annual revenue requirement for that tier divided by a number that is equal to 12 times the average number of subscribers to that tier during the test year, except that a monthly charge for a system or tier in service less than one year shall be equal to the projected annual revenue requirement for the first 12 months of operation or service divided by a number that is equal to 12 times the projected average number of subscribers during the first 12 months of operation or service. The calculation of the average number of subscribers shall include all subscribers, regardless of whether they receive service at full rates or at discounts.

(2) A test year for an initial regulated charge is the cable operator's fiscal year preceding the initial date of regulation. A test year for a change in the basic service charge that is after the initial date of regulation is the cable operator's fiscal year preceding the mailing or other delivery of written notice pursuant to Section 76.932. A test year for a change in a cable programming service charge after the initial date of regulation is the cable operator's fiscal year preceding the filing of a complaint regarding the increase.

(3) The annual revenue requirement for a tier is the sum of the return component and the expense component for that tier.

(4) The return component for a tier is the average allowable test year ratebase allocable to the tier adjusted for known and measurable changes occurring between the end of the test year and the effective date of the rate

multiplied by the rate of return specified by the Commission or franchising authority.

(5) The expense component for a tier is the sum of allowable test year expenses allocable to the tier adjusted for known and measurable changes occurring between the end of the test year and the effective date of the rate.

(6) The ratebase may include the following:

(i) Prudent investment by a cable operator in tangible plant that is used and useful in the provision of regulated cable services less accumulated depreciation. Tangible plant in service shall be valued at the actual money cost (or the money value of any consideration other than money) at the time it was first used to provide cable service, except that in the case of systems purchased before May 15, 1994 shall be presumed to equal 66% of the total purchase price allocable to assets (including tangible and intangible assets) used to provide regulated services. The 66% allowance shall not be used to justify any rate increase taken after the effective date of this rule. The actual money cost of plant may include an allowance for funds used during construction at the prime rate or the operator's actual cost of funds during construction. Cost overruns are presumed to be imprudent investment in the absence of a showing that the overrun occurred through no fault of the operator.

(ii) An allowance for start-up losses including depreciation, amortization and interest expenses related to assets that are included in the ratebase. Capitalized start-up losses, may include cumulative net losses, plus any unrecovered interest expenses connected to funding the regulated ratebase, amortized over the unexpired life of the franchise, commencing with the end of the loss accumulation phase. However, losses attributable to accelerated depreciation methodologies are not permitted.

(iii) An allowance for start-up losses, if any, that is equal to the lesser of the first two years of operating costs or accumulated losses incurred until the system reached the end of its prematurity stage as defined in Financial Accounting Standards Board Standard 51 (''FASB 51'') less straight-line amortization over a reasonable period not exceeding 15 years that commences at the end of the prematurity phase of operation.

(iv) Intangible assets less amortization that reflect the original costs prudently incurred by a cable operator in organizing and incorporating a company that provides regulated cable services, obtaining a government franchise to provide regulated cable services, or obtaining patents that are used and useful in the provision of cable services.

(v) The cost of customer lists if such costs were capitalized during the prematurity phase of operations less amortization.

(vi) An amount for working capital to the extent that an allowance or disallowance for funds needed to sustain the ongoing operations of the regulated cable service is demonstrated.

(vii) Other intangible assets to the extent the cable operator demonstrates that the asset reflects costs incurred in an activity or transaction that produced concrete benefits or savings for subscribers to regulated cable services that would not have been realized otherwise and the cable operator demonstrates that a return on such an asset does not exceed the value of such a subscriber benefit.

(viii) The portion of the capacity of plant not currently in service that will be placed in service within twelve months of the end of the test year.

(7) Deferred income taxes accrued after the date upon which the operator became subject to regulation shall be deducted from items included in the ratebase.

(8) Allowable expenses may include the following:

(i) All regular expenses normally incurred by a cable operator in the provision of regulated cable service, but not including any lobbying expense, charitable contributions, penalties and fines paid on account of violations of statutes or rules, or membership fees in social, service, recreational or athletic clubs or organizations.

(ii) Reasonable depreciation expense attributable to tangible assets allowable in the ratebase.

(iii) Reasonable amortization expense for prematurely abandoned tangible assets formerly includable in the ratebase that are amortized over the remainder of the original expected life of the asset.

(iv) Reasonable amortization expense for start-up losses and capitalized intangible assets that are includable in ratebase.

(v) Taxes other than income taxes attributable to the provision of regulated cable services.

(vi) An income tax allowance.

(j) *Network upgrade rate increase.* (1) Cable operators that undertake significant network upgrades requiring added capital investment may justify an increase in rates for regulated services by demonstrating that the capital investment will benefit subscribers, including providing television broadcast programming in a digital format.

(2) A rate increase on account of upgrades shall not be assessed on customers until the upgrade is complete and providing benefits to customers of regulated services.

(3) Cable operators seeking an upgrade rate increase have the burden of demonstrating the amount of the net increase in costs, taking into account current depreciation expense, likely changes in maintenance and other costs, changes in regulated revenues and expected economies of scale.

(4) Cable operators seeking a rate increase for network upgrades shall allocate net cost increases in conformance with the cost allocation rules as set forth in § 76.924.

(5) Cable operators that undertake significant upgrades shall be permitted to increase rates by adding the benchmark/price cap rate to the rate increment necessary to recover the net increase in cost attributable to the upgrade.

(k) *Hardship rate relief.* A cable operator may adjust charges by an amount specified by the Commission for the cable programming service tier or the franchising authority for the basic service tier if it is determined that:

(1) Total revenues from cable operations, measured at the highest level of the cable operator's cable service organization, will not be sufficient to enable the operator to attract capital or maintain credit necessary to enable the operator to continue to provide cable service;

(2) The cable operator has prudent and efficient management; and

(3) Adjusted charges on account of hardship will not result in total charges for regulated cable services that are excessive in comparison to charges of similarly situated systems.

(l) *Cost of service showing.* A cable operator that elects to establish a charge, or to justify an existing or changed charge for regulated cable service, based on a cost-of-service showing must submit data to the Commission or the franchising authority in accordance with forms established by the Commission. The cable operator must also submit any additional information requested by franchising authorities or the Commission to resolve questions in cost-of-service proceedings.

(m) *Subsequent cost of service charges.* No cable operator may use a cost-of-service showing to justify an increase in any charge established on a cost-of-service basis for a period of 2 years after that rate takes effect, except that the Commission or the franchising authority may waive this prohibition upon a showing of unusual circumstances that would create undue hardship for a cable operator.

(n) *Further rate adjustments—Uniform rates.* A cable operator that has established rates in accordance with this section may then be permitted to establish a uniform rate for uniform services offered in multiple franchise areas. This rate shall be determined in accordance with the Commission's procedures and requirements set forth in CS Docket No. 95–174.

[58 FR 29753, May 21, 1993]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 76.922, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov.*

§ 76.923 Rates for equipment and installation used to receive the basic service tier.

(a) *Scope.* (1) The equipment regulated under this section consists of all equipment in a subscriber's home, provided and maintained by the operator, that is used to receive the basic service

tier, regardless of whether such equipment is additionally used to receive other tiers of regulated programming service and/or unregulated service. Such equipment shall include, but is not limited to:

(i) Converter boxes;

(ii) Remote control units; and

(iii) Inside wiring.

(2) Subscriber charges for such equipment shall not exceed charges based on actual costs in accordance with the requirements set forth in this section.

Subscriber charges for such equipment shall not exceed charges based on actual costs in accordance with the requirements set forth below.

(b) *Unbundling.* A cable operator shall establish rates for remote control units, converter boxes, other customer equipment, installation, and additional connections separate from rates for basic tier service. In addition, the rates for such equipment and installations shall be unbundled one from the other.

(c) *Equipment basket.* A cable operator shall establish an Equipment Basket, which shall include all costs associated with providing customer equipment and installation under this section. Equipment Basket costs shall be limited to the direct and indirect material and labor costs of providing, leasing, installing, repairing, and servicing customer equipment, as determined in accordance with the cost accounting and cost allocation requirements of § 76.924, except that operators do not have to aggregate costs in a manner consistent with the accounting practices of the operator on April 3, 1993. The Equipment Basket shall not include general administrative overhead including marketing expenses. The Equipment Basket shall include a reasonable profit.

(1) *Customer equipment.* Costs of customer equipment included in the Equipment Basket may be aggregated, on a franchise, system, regional, or company level, into broad categories. Except to the extent indicated in paragraph (c)(2) of this section, such categorization may be made, provided that each category includes only equipment of the same type, regardless of the levels of functionality of the equipment within each such broad category. When submitting its equipment costs based on average charges, the cable operator must provide a general description of the averaging methodology employed and a justification that its averaging methodology produces reasonable equipment rates. Equipment rates should be set at the same organizational level at which an operator aggregates its costs.

(2) *Basic service tier only equipment.* Costs of customer equipment used by basic-only subscribers may not be aggregated with the costs of equipment used by non-basic-only subscribers. Costs of customer equipment used by basic-only subscribers may, however, be aggregated, consistent with an operator's aggregation under paragraph (c)(1) of this section, on a franchise, system, regional, or company level. The prohibition against aggregation applies to subscribers, not to a particular type of equipment. Alternatively, operators may base its basic-only subscriber cost aggregation on the assumption that all basic-only subscribers use equipment that is the lowest level and least expensive model of equipment offered by the operator, even if some basic-only subscribers actually have higher level, more expensive equipment.

(3) *Installation costs.* Installation costs, consistent with an operator's aggregation under paragraph (c)(1) of this section, may be aggregated, on a franchise, system, regional, or company level. When submitting its installation costs based on average charges, the cable operator must provide a general description of the averaging methodology employed and a justification that its averaging methodology produces reasonable equipment rates. Installation rates should be set at the same organizational level at which an operator aggregates its costs.

(d) *Hourly service charge.* A cable operator shall establish charges for equipment and installation using the Hourly Service Charge (HSC) methodology. The HSC shall equal the operator's annual Equipment Basket costs, excluding the purchase cost of customer equipment, divided by the total person hours involved in installing, repairing, and servicing customer equipment during the same period. The HSC

is calculated according to the following formula:

$$HSC = \frac{EB - CE}{H}$$

Where, EB = annual Equipment Basket Cost; CE = annual purchase cost of all customer equipment; and H = person hours involved in installing and repairing equipment per year. The purchase cost of customer equipment shall include the cable operator's invoice price plus all other costs incurred with respect to the equipment until the time it is provided to the customer.

(e) *Installation charges.* Installation charges shall be either:

(1) The HSC multiplied by the actual time spent on each individual installation; or

(2) The HSC multiplied by the average time spent on a specific type of installation.

(f) *Remote charges.* Monthly charges for rental of a remote control unit shall consist of the average annual unit purchase cost of remotes leased, including acquisition price and incidental costs such as sales tax, financing and storage up to the time it is provided to the customer, added to the product of the HSC times the average number of hours annually repairing or servicing a remote, divided by 12 to determine the monthly lease rate for a remote according to the following formula:

$$\text{Monthly Charge} = \frac{UCE + (HSC \times HR)}{12}$$

Where, HR = average hours repair per year; and UCE = average annual unit cost of remote.

(g) *Other equipment charges.* The monthly charge for rental of converter boxes and other customer equipment shall be calculated in the same manner as for remote control units. Separate charges may be established for each category of other customer equipment.

(h) *Additional connection charges.* The costs of installation and monthly use of additional connections shall be recovered as charges associated with the installation and equipment cost categories, and at rate levels determined by the actual cost methodology presented in the foregoing paragraphs (e), (f), and (g) of this section. An operator may recover additional programming costs and the costs of signal boosters on the customers premises, if any, associated with the additional connection as a separate monthly unbundled charge for additional connections.

(i) *Charges for equipment sold.* A cable operator may sell customer premises equipment to a subscriber. The equipment price shall recover the operator's cost of the equipment, including costs associated with storing and preparing the equipment for sale up to the time it is sold to the customer, plus a reasonable profit. An operator may sell service contracts for the maintenance and repair of equipment sold to subscribers. The charge for a service contract shall be the HSC times the estimated average number of hours for maintenance and repair over the life of the equipment.

(j) *Promotions.* A cable operator may offer equipment or installation at charges below those determined under paragraphs (e) through (g) of this section, as long as those offerings are reasonable in scope in relation to the operator's overall offerings in the Equipment Basket and not unreasonably discriminatory. Operators may not recover the cost of a promotional offering by increasing charges for other Equipment Basket elements, or by increasing programming service rates above the maximum monthly charge per subscriber prescribed by these rules. As part of a general cost-of-service showing, an operator may include the cost of promotions in its general system overhead costs.

(k) *Franchise fees.* Equipment charges may include a properly allocated portion of franchise fees.

(l) *Company-wide averaging of equipment costs.* For the purpose of developing unbundled equipment charges as required by paragraph (b) of this section, a cable operator may average the equipment costs of its small systems at any level, or several levels, within its operations. This company-wide averaging applies only to an operator's small systems as defined in §76.901(c); is permitted only for equipment charges, not installation charges; and may be established only for similar types of equipment. When submitting

its equipment costs based on average charges to the local franchising authority or the Commission, an operator that elects company-wide averaging of equipment costs must provide a general description of the averaging methodology employed and a justification that its averaging methodology produces reasonable equipment rates. The local authority or the Commission may require the operator to set equipment rates based on the operator's level of averaging in effect on April 3, 1993, as required by § 76.924(d).

(m) Cable operators shall set charges for equipment and installations to recover Equipment Basket costs. Such charges shall be set, consistent with the level at which Equipment Basket costs are aggregated as provided in § 76.923(c). Cable operators shall maintain adequate documentation to demonstrate that charges for the sale and lease of equipment and for installations have been developed in accordance with the rules set forth in this section.

(n) *Timing of filings.* An operator shall file FCC Form 1205 in order to establish its maximum permitted rates at the following times:

(1) When the operator sets its initial rates under either the benchmark system or through a cost-of-service showing;

(2) Within 60 days of the end of its fiscal year, for an operator that adjusts its rates under the system described in Section 76.922(d) that allows it to file up to quarterly;

(3) On the same date it files its FCC Form 1240, for an operator that adjusts its rates under the annual rate adjustment system described in Section 76.922(e). If an operator elects not to file an FCC Form 1240 for a particular year, the operator must file a Form 1205 on the anniversary date of its last Form 1205 filing; and

(4) When seeking to adjust its rates to reflect the offering of new types of customer equipment other than in conjunction with an annual filing of Form 1205, 60 days before it seeks to adjust its rates to reflect the offering of new types of customer equipment.

(o) *Introduction of new equipment.* In setting the permitted charge for a new type of equipment at a time other than at its annual filing, an operator shall only complete Schedule C and the relevant step of the Worksheet for Calculating Permitted Equipment and Installation Charges of a Form 1205. The operator shall rely on entries from its most recently filed FCC Form 1205 for information not specifically related to the new equipment, including but not limited to the Hourly Service Charge. In calculating the annual maintenance and service hours for the new equipment, the operator should base its entry on the average annual expected time required to maintain the unit, *i.e.*, expected service hours required over the life of the equipment unit being introduced divided by the equipment unit's expected life.

[58 FR 29753, May 21, 1993, as amended at 59 FR 17960, 17973, Apr. 15, 1994; 60 FR 52118, Oct. 5, 1995; 61 FR 32709, June 25, 1996]

§ 76.924 Allocation to service cost categories.

(a) *Applicability.* The requirements of this section are applicable to cable operators for which the basic service tier is regulated by local franchising authorities or the Commission, or, with respect to a cable programming services tier, for which a complaint has been filed with the Commission. The requirements of this section are applicable for purposes of rate adjustments on account of external costs and for cost-of-service showings.

(b) *Accounting requirements.* Cable operators electing cost-of-service regulation or seeking rate adjustments due to changes in external costs shall maintain their accounts:

(1) in accordance with generally accepted accounting principles; and

(2) in a manner that will enable identification of appropriate investments, revenues, and expenses.

(c) *Accounts level.* Except to the extent indicated below, cable operators electing cost of service regulation or seeking adjustments due to changes in external costs shall identify investments, expenses and revenues at the franchise, system, regional, and/or company level(s) in a manner consistent with the accounting practices of the operator on April 3, 1993. However, in all events, cable operators shall identify at the franchise level

their costs of franchise requirements, franchise fees, local taxes and local programming.

(d) *Summary accounts.* (1) Cable operators filing for cost-of-service regulation, other than small systems owned by small cable companies, shall report all investments, expenses, and revenue and income adjustments accounted for at the franchise, system, regional and/or company level(s) to the summary accounts listed below.

RATEBASE

Net Working Capital
Headend
Trunk and Distribution Facilities
Drops
Customer Premises Equipment
Construction/Maintenance Facilities and Equipment
Programming Production Facilities and Equipment
Business Offices Facilities and Equipment
Other Tangible Assets
Accumulated Depreciation
Plant Under Construction
Organization and Franchise Costs
Subscriber Lists
Capitalized Start-up Losses
Goodwill
Other Intangibles
Accumulated Amortization
Deferred Taxes

OPERATING EXPENSES

Cable Plant Employee Payroll
Cable Plant Power Expense
Pole Rental, Duct, Other Rental for Cable Plant
Cable Plant Depreciation Expense
Cable Plant Expenses—Other
Plant Support Employee Payroll Expense
Plant Support Depreciation Expense
Plant Support Expense—Other
Programming Activities Employee Payroll
Programming Acquisition Expense
Programming Activities Depreciation Expense
Programming Expense—Other
Customer Services Expense
Advertising Activities Expense
Management Fees
General and Administrative Expenses
Selling General and Administrative Depreciation Expenses
Selling General and Administrative Expenses—Other
Amortization Expense—Franchise and Organizational Costs
Amortization Expense—Customer Lists
Amortization Expense—Capitalized Start-up Loss
Amortization Expense—Goodwill
Amortization Expense—Other Intangibles
Operating Taxes
Other Expenses (Excluding Franchise Fees)
Franchise Fees
Interest on Funded Debt
Interest on Capital Leases
Other Interest Expenses

REVENUE AND INCOME ADJUSTMENTS

Advertising Revenues
Other Cable Revenue Offsets
Gains and Losses on Sale of Assets
Extraordinary Items
Other Adjustments

(2) Except as provided in §76.934(h), small systems owned by small cable companies that file for cost-of-service regulation shall report all investments, expenses, and revenue and income adjustments accounted for at the franchise, system, regional and/or company level(s) to the following summary accounts:

RATEBASE

Net Working Capital
Headend, Trunk and Distribution System and Support Facilities and Equipment
Drops
Customer Premises Equipment
Production and Office Facilities, Furniture and Equipment
Other Tangible Assets
Accumulated Depreciation
Plant Under Construction
Goodwill
Other Intangibles
Accumulated Amortization
Deferred Taxes

OPERATING EXPENSES

Cable Plant Maintenance, Support and Operations Expense
Programming Production and Acquisition Expense
Customer Services Expense
Advertising Activities Expense
Management Fees
Selling, General and Administrative Expenses
Depreciation Expense
Amortization Expense—Goodwill
Amortization Expense—Other Intangibles
Other Operating Expense (Excluding Franchise Fees)
Franchise Fees
Interest Expense

REVENUE AND INCOME ADJUSTMENTS

Advertising Revenues
Other Cable Revenue Offsets
Gains and Losses on Sale of Assets
Extraordinary Items
Other Adjustments

(e) *Allocation to service cost categories.* (1) For cable operators electing cost-of-service regulation, investments, expenses, and revenues contained in the summary accounts identified in paragraph (d) of this section shall be allocated among the Equipment Basket, as specified in §76.923, and the following service cost categories:

(i) Basic service cost category. The basic service category, shall include the cost of providing basic service as defined by §76.901(a). The basic service cost category may only include allowable costs as defined by §§76.922(g) through 76.922(k).

(ii) Cable programming services cost category. The cable programming services category shall include the cost of providing cable programming services as defined by §76.901(b). This service cost category shall contain subcategories that represent each programming tier that is offered as a part of the operator's cable programming services. All costs that are allocated to the cable programming service cost cateogry shall be further allocated among the programming tiers in this category. The cable programming service cost category may include only allowable costs as defined in §76.922(g) through 76.922(k).

(iii) All other services cost category. The all other services cost category shall include the costs of providing all other services that are not included the basic service or a cable programming services cost categories as defined in paragraphs (e)(1)(i) and (ii) of this section.

(2) Cable operators seeking an adjustment due to changes in external costs identified in FCC Form 1210 shall allocate such costs among the equipment basket, as specified in §76.923, and the following service cost categories:

(i) The basic service category as defined by paragraph (e)(1)(i) of this section;

(ii) The cable programming services category as defined by paragraph (e)(1)(ii) of this section;

(iii) The all other services cost category as defined by paragraph (e)(1)(iii) of this section.

(f) *Cost allocation requirements.* (1) Allocations of investments, expenses and revenues among the service cost categories and the equipment basket shall be made at the organizational level in which such costs and revenues have been identified for accounting purposes pursuant to §76.924(c).

(2) Costs of programming and retransmission consent fees shall be directly assigned or allocated only to the service cost category in which the programming or broadcast signal at issue is offered.

(3) Costs of franchise fees shall be allocated among the equipment basket and the service cost categories in a manner that is most consistent with the methodology of assessment of franchise fees by local authorities.

(4) Costs of public, educational, and governmental access channels carried on the basic tier shall be directly assigned to the basic tier where possible.

(5) Commission cable television system regulatory fees imposed pursuant to 47 U.S.C. 159 shall be directly assigned to the basic service tier.

(6) All other costs that are incurred exclusively to support the equipment basket or a specific service cost category shall be directly assigned to that service cost category or the equipment basket where possible.

(7) Costs that are not directly assigned shall be allocated to the service cost categories in accordance with the following allocation procedures:

(i) Wherever possible, common costs for which no allocator has been specified by the Commission are to be allocated among the service cost categories and the equipment basket based on direct analysis of the origin of the costs.

(ii) Where allocation based on direct analysis is not possible, common costs for which no allocator has been specified by the Commission shall, if possible, be allocated among the service costs categories and the equipment basket based on indirect, cost-causative linkage to other costs directly assigned or allocated to the service cost categories and the equipment basket.

(iii) Where neither direct nor indirect measures of cost allocation can be found, common costs shall be allocated to each service cost category based on the ratio of all other costs directly assigned and attributed to a service cost

category over total costs directly or indirectly assigned and directly or indirectly attributable.

(g) *Cost identification at the franchise level.* After costs have been directly assigned to and allocated among the service cost categories and the equipment basket, cable operators that have aggregated costs at a higher level than the franchise level must identify all applicable costs at the franchise level in the following manner:

(1) Recoverable costs that have been identified at the highest organizational level at which costs have been identified shall be allocated to the next (lower) organizational level at which recoverable costs have been identified on the basis of the ratio of the total number of subscribers served at the lower level to the total number of subscribers served at the higher level.

(2) Cable operators shall repeat the procedure specified in paragraph (g)(1) of this section at every organizational level at which recoverable costs have been identified until such costs have been allocated to the franchise level.

(h) *Part-time channels.* In situations where a single channel is divided on a part-time basis and is used to deliver service associated with different tiers or with pay per channel or pay per view service, a reasonable and documented allocation of that channel between services shall be required along with the associated revenues and costs.

(i) *Transactions and affiliates.* Adjustments on account of external costs and rates set on a cost-of-service basis shall exclude any amounts not calculated in accordance with the following:

(1) Charges for assets purchased by or transferred to the regulated activity of a cable operator from affiliates shall equal the invoice price if that price is determined by a prevailing company price. The invoice price is the prevailing company price if the affiliate has sold a substantial number of like assets to nonaffiliates. If a prevailing company price for the assets received by the regulated activity is not available, the changes for such assets shall be the lower of their cost to the originating activity of the affiliated group less all applicable valuation reserves, or their fair market value.

(2) The proceeds from assets sold or transferred from the regulated activity of the cable operator to affiliates shall equal the prevailing company price if the cable operator has sold a substantial number of like assets to nonaffiliates. If a prevailing company price is not available, the proceeds from such sales shall be determined at the higher of cost less all applicable valuation reserves, or estimated fair market value of the asset.

(3) Charges for services provided to the regulated activity of a cable operator by an affiliate shall equal the invoice price if that price is determined by a prevailing company price. The invoice price is the prevailing company price if the affiliate has sold like services to a substantial number of nonaffiliates. If a prevailing company price for the services received by the regulated activity is not available, the charges of such services shall be at cost.

(4) The proceeds from services sold or transferred from the regulated activity of the cable operator to affiliates shall equal the prevailing company price if the cable operator has sold like services to a substantial number of nonaffiliates. If a prevailing company price is not available, the proceeds from such sales shall be determined at cost.

(5) For purposes of §76.924(i)(1) through 76.924(i)(4), costs shall be determined in accordance with the standards and procedures specified in §76.922 and paragraphs (b) and (d) of this section.

(6) For purposes of this section, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities.

(7) Attributable interest shall be defined by reference to the criteria set forth in Notes 1 through 5 to §76.501 provided, however, that:

(i) The limited partner and LLC/LLP/RLLP insulation provisions of Note 2(f) shall not apply; and

(ii) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.

(j) *Unrelated expenses and revenues.* Cable operators shall exclude from cost

categories used to develop rates for the provision of regulated cable service, equipment, and leased commercial access, any direct or indirect expenses and revenues not related to the provision of such services. Common costs of providing regulated cable service, equipment, and leased commercial access and unrelated activities shall be allocated between them in accordance with paragraph (f) of this section.

[58 FR 29753, May 21, 1993, as amended at 59 FR 17990, Apr. 15, 1994; 59 FR 53115, Oct. 21, 1994; 60 FR 35865, July 12, 1995; 61 FR 9367, Mar. 8, 1996; 64 FR 67197, Dec. 1, 1999]

§ 76.925 Costs of franchise requirements.

(a) Franchise requirement costs may include cost increases required by the franchising authority in the following categories:

(1) Costs of providing PEG access channels;

(2) Costs of PEG access programming;

(3) Costs of technical and customer service standards to the extent that they exceed federal standards;

(4) Costs of institutional networks and the provision of video services, voice transmissions and data transmissions to or from governmental institutions and educational institutions, including private schools, to the extent such services are required by the franchise agreement; and

(5) When the operator is not already in the process of upgrading the system, costs of removing cable from utility poles and placing the same cable underground.

(b) The costs of satisfying franchise requirements to support public, educational, and governmental channels shall consist of the sum of:

(1) All per channel costs for the number of channels used to meet franchise requirements for public, educational, and governmental channels;

(2) Any direct costs of meeting such franchise requirements; and

(3) A reasonable allocation of general and administrative overhead.

(c) The costs of satisfying any requirements under the franchise other than PEG access costs shall consist of the direct and indirect costs including a reasonable allocation of general and administrative overhead.

[58 FR 29753, May 21, 1993, as amended at 60 FR 52119, Oct. 5, 1995]

§ 76.930 Initiation of review of basic cable service and equipment rates.

A cable operator shall file its schedule of rates for the basic service tier and associated equipment with a franchising authority within 30 days of receiving written notification from the franchising authority that the franchising authority has been certified by the Commission to regulate rates for the basic service tier. Basic service and equipment rate schedule filings for existing rates or proposed rate increases (including increases in the baseline channel change that results from reductions in the number of channels in a tier) must use the appropriate official FCC form, a copy thereof, or a copy generated by FCC software. Failure to file on the official FCC form, a copy thereof, or a copy generated by FCC software, may result in the imposition of sanctions specified in §76.937(d). A cable operator shall include rate cards and channel line-ups with its filing and include an explanation of any discrepancy in the figures provided in these documents and its rate filing.

[59 FR 17973, Apr. 15, 1994]

§ 76.933 Franchising authority review of basic cable rates and equipment costs.

(a) After a cable operator has submitted for review its existing rates for the basic service tier and associated equipment costs, or a proposed increase in these rates (including increases in the baseline channel change that results from reductions in the number of channels in a tier) under the quarterly rate adjustment system pursuant to Section 76.922(d), the existing rates will remain in effect or the proposed rates will become effective after 30 days from the date of submission; *Provided, however,* that the franchising authority may toll this 30-day deadline for an additional time by issuing a brief written order as described in paragraph (b) within 30 days of the rate submission explaining that it needs additional time to review the rates.

(b) If the franchising authority is unable to determine, based upon the material submitted by the cable operator, that the existing, or proposed rates under the quarterly adjustment system pursuant to Section 76.922(d), are within the Commission's permitted basic service tier charge or actual cost of equipment as defined in §§ 76.922 and 76.923, or if a cable operator has submitted a cost-of-service showing pursuant §§ 76.937(c) and 76.924, seeking to justify a rate above the Commission's basic service tier charge as defined in §§ 76.922 and 76.923, the franchising authority may toll the 30-day deadline in paragraph (a) of this section to request and/or consider additional information or to consider the comments from interested parties as follows:

(1) For an additional 90 days in cases not involving cost-of-service showings; or

(2) For an additional 150 days in cases involving cost-of-service showings.

(c) If a franchising authority has availed itself of the additional 90 or 150 days permitted in paragraph (b) of this section, and has taken no action within these additional time periods, then the proposed rates will go into effect at the end of the 90 or 150 day periods, or existing rates will remain in effect at such times, subject to refunds if the franchising authority subsequently issues a written decision disapproving any portion of such rates: *Provided, however,* That in order to order refunds, a franchising authority must have issued a brief written order to the cable operator by the end of the 90 or 150-day period permitted in paragraph (b) of this section directing the operator to keep an accurate account of all amounts received by reason of the rate in issue and on whose behalf such amounts were paid.

(d) A franchising authority may request, pursuant to a petition for special relief under § 76.7, that the Commission examine a cable operator's cost-of-service showing, submitted to the franchising authority as justification of basic tier rates, within 30 days of receipt of a cost-of-service showing. In its petition, the franchising authority shall document its reasons for seeking Commission assistance. The franchising authority shall issue an order stating that it is seeking Commission assistance and serve a copy before the 30-day deadline on the cable operator submitting the cost showing. The cable operator shall deliver a copy of the cost showing, together with all relevant attachments, to the Commission within 15 days of receipt of the local authority's notice to seek Commission assistance. The Commission shall notify the local franchising authority and the cable operator of its ruling and of the basic tier rate, as established by the Commission. The rate shall take effect upon implementation by the franchising authority of such ruling and refund liability shall be governed thereon. The Commission's ruling shall be binding on the franchising authority and the cable operator. A cable operator or franchising authority may seek reconsideration of the ruling pursuant to § 1.106(a)(1) of this chapter or review by the Commission pursuant to § 1.115(a) of this chapter.

(e) Notwithstanding paragraphs (a) through (d) of this section, when the franchising authority is regulating basic service tier rates, a cable operator that sets its rates pursuant to the quarterly rate adjustment system pursuant to § 76.922(d) may increase its rates for basic service to reflect the imposition of, or increase in, franchise fees or Commission cable television system regulatory fees imposed pursuant to 47 U.S.C. 159. For the purposes of paragraphs (a) through (c) of this section, the increased rate attributable to Commission regulatory fees or franchise fees shall be treated as an ''existing rate'', subject to subsequent review and refund if the franchising authority determines that the increase in basic tier rates exceeds the increase in regulatory fees or in franchise fees allocable to the basic tier. This determination shall be appealable to the Commission pursuant to § 76.944. When the Commission is regulating basic service tier rates pursuant to § 76.945 or cable programming service rates pursuant to § 76.960, an increase in those rates resulting from franchise fees or Commission regulatory fees shall be reviewed by the Commission pursuant to the mechanisms set forth in § 76.945. A cable operator must adjust its rates to reflect decreases in franchise fees or

Commission regulatory fees within the periods set forth in §76.922(d)(3)(i),(iii).

(f) For an operator that sets its rates pursuant to the quarterly rate adjustment system pursuant to Section 76.922(d), cable television system regulatory fees assessed by the Commission pursuant to 47 U.S.C. §159 shall be recovered in monthly installments during the fiscal year following the year for which the payment was imposed. Payments shall be collected in equal monthly installments, except that for so many months as may be necessary to avoid fractional payments, an additional $0.01 payment per month may be collected. All such additional payments shall be collected in the last month or months of the fiscal year, so that once collections of such payments begin there shall be no month remaining in the year in which the operator is not entitled to such an additional payment. Operators may not assess interest. Operators may provide notice of the entire fiscal year's regulatory fee pass-through in a single notice.

(g) A cable operator that submits for review a proposed change in its existing rates for the basic service tier and associated equipment costs using the annual filing system pursuant to Section 76.922(e) shall do so no later than 90 days from the effective date of the proposed rates. The franchising authority will have 90 days from the date of the filing to review it. However, if the franchising authority or its designee concludes that the operator has submitted a facially incomplete filing, the franchising authority's deadline for issuing a decision, the date on which rates may go into effect if no decision is issued, and the period for which refunds are payable will be tolled while the franchising authority is waiting for this information, provided that, in order to toll these effective dates, the franchising authority or its designee must notify the operator of the incomplete filing within 45 days of the date the filing is made.

(1) If there is a material change in an operator's circumstances during the 90-day review period and the change affects the operator's rate change filing, the operator may file an amendment to its Form 1240 prior to the end of the 90-day review period. If the operator files such an amendment, the franchising authority will have at least 30 days to review the filing. Therefore, if the amendment is filed more than 60 days after the operator made its initial filing, the operator's proposed rate change may not go into effect any earlier than 30 days after the filing of its amendment. However, if the operator files its amended application on or prior to the sixtieth day of the 90-day review period, the operator may implement its proposed rate adjustment, as modified by the amendment, 90 days after its initial filing.

(2) If a franchising authority has taken no action within the 90-day review period, then the proposed rates may go into effect at the end of the review period, subject to a prospective rate reduction and refund if the franchising authority subsequently issues a written decision disapproving any portion of such rates, *provided, however*, that in order to order a prospective rate reduction and refund, if an operator inquires as to whether the franchising authority intends to issue a rate order after the initial review period, the franchising authority or its designee must notify the operator of its intent in this regard within 15 days of the operator's inquiry. If a proposed rate goes into effect before the franchising authority issues its rate order, the franchising authority will have 12 months from the date the operator filed for the rate adjustment to issue its rate order. In the event that the franchising authority does not act within this 12-month period, it may not at a later date order a refund or a prospective rate reduction with respect to the rate filing.

(3) At the time an operator files its rates with the franchising authority, the operator may give customers notice of the proposed rate changes. Such notice should state that the proposed rate change is subject to approval by the franchising authority. If the operator is only permitted a smaller increase than was provided for in the notice, the operator must provide an explanation to subscribers on the bill in which the rate adjustment is implemented. If the operator is not permitted to implement any of the rate increase that was provided for in the

notice, the operator must provide an explanation to subscribers within 60 days of the date of the franchising authority's decision. Additional advance notice is only required in the unlikely event that the rate exceeds the previously noticed rate.

(4) If an operator files for a rate adjustment under Section 76.922(e)(2)(iii)(B) for the addition of required channels to the basic service tier that the operator is required by federal or local law to carry, or, if a single-tier operator files for a rate adjustment based on a mid-year channel addition allowed under Section 76.922(e)(2)(iii)(C), the franchising authority has 60 days to review the requested rate. The proposed rate shall take effect at the end of this 60-day period unless the franchising authority rejects the proposed rate as unreasonable. In order to order refunds and prospective rate reductions, the franchising authority shall be subject to the requirements described in paragraph (g)(1) of this section.

(5) Notwithstanding paragraphs (a) through (f) of this section, when the franchising authority is regulating basic service tier rates, a cable operator may increase its rates for basic service to reflect the imposition of, or increase in, franchise fees. The increased rate attributable to Commission regulatory fees or franchise fees shall be subject to subsequent review and refund if the franchising authority determines that the increase in basic tier rates exceeds the increase in regulatory fees or in franchise fees allocable to the basic tier. This determination shall be appealable to the Commission pursuant to §76.944. When the Commission is regulating basic service tier rates pursuant to §76.945 or cable programming service rates pursuant to §76.960, an increase in those rates resulting from franchise fees or Commission regulatory fees shall be reviewed by the Commission pursuant to the mechanisms set forth in §76.945.

(h) If an operator files an FCC Form 1205 for the purpose of setting the rate for a new type of equipment under Section 76.923(o), the franchising authority has 60 days to review the requested rate. The proposed rate shall take effect at the end of this 60-day period unless the franchising authority rejects the proposed rate as unreasonable.

(1) If the operator's most recent rate filing was based on the system that enables them to file up to once per quarter found at Section 76.922(d), the franchising authority must issue an accounting order before the end of the 60-day period in order to order refunds and prospective rate reductions.

(2) If the operator's most recent rate filing was based on the annual rate system at Section 76.922(e), in order to order refunds and prospective rate reductions, the franchising authority shall be subject to the requirements described in paragraph (g)(1) of this section.

[58 FR 29753, May 21, 1993, as amended at 59 FR 17973, Apr. 15, 1994; 59 FR 53115, Oct. 21, 1994; 60 FR 52119, Oct. 5, 1995; 61 FR 18978, Apr. 30, 1996]

§76.934 Small systems and small cable companies.

(a) For purposes of rules governing the reasonableness of rates charged by small systems, the size of a system or company shall be determined by reference to its size as of the date the system files with its franchising authority or the Commission the documentation necessary to qualify for the relief sought or, at the option of the company, by reference to system or company size as of the effective date of this paragraph. Where relief is dependent upon the size of both the system and the company, the operator must measure the size of both the system and the company as of the same date. A small system shall be considered affiliated with a cable company if the company holds a 20 percent or greater equity interest in the system or exercises de jure control over the system.

(b) A franchising authority that has been certified, pursuant to §76.910, to regulate rates for basic service and associated equipment may permit a small system as defined in §76.901 to certify that the small system's rates for basic service and associated equipment comply with §76.922, the Commission's substantive rate regulations.

(c) Initial regulation of small systems:

(1) If certified by the Commission, a local franchising authority may provide an initial notice of regulation to a small system, as defined by §76.901(c), on May 15, 1994. Any initial notice of regulation issued by a certified local franchising authority prior to May 15, 1994 shall be considered as having been issued on May 15, 1994.

(2) The Commission will accept complaints concerning the rates for cable programming service tiers provided by small systems on or after May 15, 1994. Any complaints filed with the Commission about the rates for a cable programming service tier provided by a small system prior to May 15, 1994 shall be considered as having been filed on May 15, 1994.

(3) A small system that receives an initial notice of regulation from its local franchising authority, or a complaint filed with the Commission for its cable programming service tier, must respond within the time periods prescribed in §§76.930 and 76.956.

(d) Statutory period for filing initial complaint: A complaint concerning a rate for cable programming service or associated equipment provided by a small system that was in effect on May 15, 1994 must be filed within 180 days from May 15, 1994.

(e) Petitions for extension of time: Small systems may obtain an extension of time to establish compliance with rate regulations provided they can demonstrate that timely compliance would result in severe economic hardship. Requests for extension of time should be addressed to the local franchising authority concerning basic service and equipment rates and to the Commission concerning rates for a cable programming service tier and associated equipment. The filing of a request for an extension of time to comply with the rate regulations will not toll the effective date of rate regulation for small systems or alter refund liability for rates that exceed permitted levels after May 15, 1994.

(f) *Small Systems Owned by Small Cable Companies.* Small systems owned by small cable companies shall have 90 days from their initial date of regulation on a tier to bring their rates for that tier into compliance with the requirements of Sections 76.922 and 76.923. Such systems shall have sixty days from the initial date of regulation to file FCC Forms 1200, 1205, 1210, 1211, 1215, 1220, 1225, 1230, and 1240 and any similar forms as appropriate. Rates established during the 90-day period shall not be subject to prior approval by franchising authorities or the Commission, but shall be subject to refund pursuant to sections 76.942 and 76.961.

(g) Alternative rate regulation agreements:

(1) Local franchising authorities, certified pursuant to §76.910, and small systems owned by small cable companies may enter into alternative rate regulation agreements affecting the basic service tier and the cable programming service tier.

(i) Small systems must file with the Commission a copy of the operative alternative rate regulation agreement within 30 days after its effective date.

(ii) [Reserved]

(2) Alternative rate regulation agreements affecting the cable programming service tier shall take into account, among other factors, the following:

(i) The rates for similarly situated cable systems offering comparable cable programming services, taking into account similarities in facilities, regulatory and governmental costs, the number of subscribers, and other relevant factors;

(ii) The rates for cable systems, if any, that are subject to effective competition;

(iii) The history of the rates for cable programming services of the system, including the relationship of such rates to changes in general consumer prices;

(iv) The rates, as a whole, for all the cable programming, cable equipment, and cable services provided by the system, other than programming provided on a per channel or per program basis;

(v) Capital and operating costs of the cable system, including the quality and costs of the customer service provided by the cable system; and

(vi) The revenues received by a cable operator from advertising from programming that is carried as part of the service for which a rate is being established, and changes in such revenues, or from other considerations obtained in connection with the cable programming services concerned. The rate

agreed to in such an alternative rate regulation agreement shall be deemed to be a reasonable rate.

(3) Certified local franchising authorities shall provide a reasonable opportunity for consideration of the views of interested parties prior to finally entering into an alternative rate regulation agreement.

(4) A basic service rate decision by a certified local franchising authority made pursuant to an alternative rate regulation agreement may be appealed by an interested party to the Commission pursuant to § 76.944 as if the decision were made according to §§ 76.922 and 76.923.

NOTE TO PARAGRAPH (g) OF § 76.934: Small systems owned by small cable companies must comply with the alternative rate agreement filing requirements of § 76.1805.

(h) Small system cost-of-service showings:

(1) At any time, a small system owned by a small cable company may establish new rates, or justify existing rates, for regulated program services in accordance with the small cable company cost-of-service methodology described below.

(2) The maximum annual per subscriber rate permitted initially by the small cable company cost-of-service methodology shall be calculated by adding

(i) The system's annual operating expenses to

(ii) The product of its net rate base and its rate of return, and then dividing that sum by (iii) the product of

(A) The total number of channels carried on the system's basic and cable programming service tiers and

(B) The number of subscribers. The annual rate so calculated must then be divided by 12 to arrive at a monthly rate.

(3) The system shall calculate its maximum permitted rate as described in paragraph (b) of this section by completing Form 1230. The system shall file Form 1230 as follows:

(i) Where the franchising authority has been certified by the Commission to regulate the system's basic service tier rates, the system shall file Form 1230 with the franchising authority.

(ii) Where the Commission is regulating the system's basic service tier rates, the system shall file Form 1230 with the Commission.

(iii) Where a complaint about the system's cable programming service rates is filed with the Commission, the system shall file Form 1230 with the Commission.

(4) In completing Form 1230:

(i) The annual operating expenses reported by the system shall equal the system's operating expenses allocable to its basic and cable programming service tiers for the most recent 12 month period for which the system has the relevant data readily available, adjusted for known and measurable changes occurring between the end of the 12 month period and the effective date of the rate. Expenses shall include all regular expenses normally incurred by a cable operator in the provision of regulated cable service, but shall not include any lobbying expense, charitable contributions, penalties and fines paid one account of statutes or rules, or membership fees in social service, recreational or athletic clubs or associations.

(ii) The net rate base of a system is the value of all of the system's assets, less depreciation.

(iii) The rate of return claimed by the system shall reflect the operator's actual cost of debt, its cost of equity, or an assumed cost of equity, and its capital structure, or an assumed capital structure.

(iv) The number of subscribers reported by the system shall be calculated according to the most recent reliable data maintained by the system.

(v) The number of channels reported by the system shall be the number of channels it has on its basic and cable programming service tiers on the day it files Form 1230.

(vi) In establishing its operating expenses, net rate base, and reasonable rate of return, a system may rely on previously existing information such as tax forms or company financial statements, rather than create or recreate financial calculations. To the extent existing information is incomplete or otherwise insufficient to make exact calculations, the system may establish its operating expenses, net rate base, and reasonable rate of return on the

basis of reasonable, good faith estimates.

(5) After the system files Form 1230, review by the franchising authority, or the Commission when appropriate, shall be governed by § 76.933, subject to the following conditions.

(i) If the maximum rate established on Form 1230 does not exceed $1.24 per channel, the rate shall be rebuttably presumed reasonable. To disallow such a rate, the franchising authority shall bear the burden of showing that the operator did not reasonably interpret and allocate its cost and expense data in deriving its annual operating expenses, its net rate base, and a reasonable rate of return. If the maximum rate established on Form 1230 exceeds $1.24 per channel, the franchising authority shall bear such burden only if the rate that the cable operator actually seeks to charge does not exceed $1.24 per channel.

(ii) In the course of reviewing Form 1230, a franchising authority shall be permitted to obtain from the cable operator the information necessary for judging the validity of methods used for calculating its operating costs, rate base, and rate of return. If the maximum rate established in Form 1230 does not exceed $1.24 per channel, any request for information by the franchising authority shall be limited to existing relevant documents or other data compilations and should not require the operator to create documents, although the operator should replicate responsive documents that are missing or destroyed.

(iii) A system may file with the Media Bureau an interlocutory appeal from any decision by the franchising authority requesting information from the system or tolling the effective date of a system's proposed rates. The appeal may be made by an informal letter to the Chief of the Media Bureau, served on the franchising authority. The franchising authority must respond within seven days of its receipt of the appeal and shall serve the operator with its response. The operator shall have four days from its receipt of the response in which to file a reply, if desired. If the maximum rate established on Form 1230 does not exceed $1.24 per channel, the burden shall be on the franchising authority to show the reasonableness of its order. If the maximum rate established on Form 1230 exceeds $1.24 per channel, the burden shall be on the operator to show the unreasonableness of the order.

(iv) In reviewing Form 1230 and issuing a decision, the franchising authority shall determine the reasonableness of the maximum rate permitted by the form, not simply the rate which the operator intends to establish.

(v) A final decision of the franchising authority with respect to the requested rate shall be subject to appeal pursuant to § 76.944. The filing of an appeal shall stay the effectiveness of the final decision pending the disposition of the appeal by the Commission. An operator may bifurcate its appeal of a final rate decision by initially limiting the scope of the appeal to the reasonableness of any request for information made by the franchising authority. The operator may defer addressing the substantive rate-setting decision of the franchising authority until after the Commission has ruled on the reasonableness of the request for information. At its option, the operator may forego the bifurcated appeal and address both the request for documentation and the substantive rate-setting decision in a single appeal. When filing an appeal from a final rate-setting decision by the franchising authority, the operator may raise as an issue the scope of the request for information only if that request was not approved by the Commission on a previous interlocutory appeal by the operator.

(6) Complaints concerning the rates charged for a cable programming services tier by a system that has elected the small cable company cost-of-service methodology may be filed pursuant to § 76.957. Upon receipt of a complaint, the Commission shall review the system's rates in accordance with the standards set forth above with respect to basic tier rates.

(7) Unless otherwise ordered by the franchising authority or the Commission, the system may establish its per channel rate at any level that does not exceed the maximum rate permitted by Form 1230, provided that the system has given the required written notice

to subscribers. If the system establishes its per channel rate at a level that is less than the maximum amount permitted by the form, it may increase rates at any time thereafter to the maximum amount upon providing the required written notice to subscribers.

(8) After determining the maximum rate permitted by Form 1230, the system may adjust that rate in accordance with this paragraph. Electing to adjust rates pursuant to one of the options set forth below shall not prohibit the system from electing a different option when adjusting rates thereafter. The system may adjust its maximum permitted rate without adjusting the actual rate it charges subscribers.

(i) The system may adjust its maximum permitted rate in accordance with the price cap requirements set forth in § 76.922(d).

(ii) The system may adjust its maximum permitted rate in accordance with the requirements set forth in § 76.922(e) for changes in the number of channels on regulated tiers. For any system that files Form 1230, no rate adjustments made prior to the effective date of this rule shall be charged against the system's Operator's Cap and License Reserve Fee described in § 76.922(e)(3).

(iii) The system may adjust its maximum permitted rate by filing a new Form 1230 that permits a higher rate.

(iv) The system may adjust its maximum permitted rate by complying with any of the options set forth in § 76.922(b)(1) for which it qualifies or under an alternative rate agreement as provided in paragraph (g) of this section.

(9) In any rate proceeding before a franchising authority in which a final decision had not been issued as of June 5, 1995, a small system owned by a small cable company may elect the form of rate regulation set forth in this section to justify the rates that are the subject of the proceeding, if the system and affiliated company were a small system and small company respectively as of the June 5, 1995 and as of the period during which the disputed rates were in effect. However, the validity of a final rate decision made by a franchising authority before June 5, 1995 is not affected.

(10) In any proceeding before the Commission involving a cable programming services tier complaint in which a final decision had not been issued as of June 5, 1995, a small system owned by a small cable company may elect the form of rate regulation set forth in this section to justify rates charged prior to the adoption of this rule and to establish new rates. For purposes of this paragraph, a decision shall not be deemed final until the operator has exhausted or is time-barred from pursuing any avenue of appeal, review, or reconsideration.

(11) A system that is eligible to establish its rates in accordance with the small system cost-of-service approach shall remain eligible for so long as the system serves no more than 15,000 subscribers. When a system that has established rates in accordance with the small system cost-of-service approach exceeds 15,000 subscribers, the system may maintain its then existing rates. After exceeding the 15,000 subscriber limit, any further rate adjustments shall not reflect increases in external costs, inflation or channel additions until the system has re-established initial permitted rates in accordance with some other method of rate regulation prescribed in this subpart.

NOTE: For rules governing small cable operators, see § 76.990 of this subpart.

[60 FR 35865, July 12, 1995, as amended at 60 FR 52120, Oct. 5, 1995; 62 FR 53576, Oct. 15, 1997; 64 FR 35950, July 2, 1999; 65 FR 53617, Sept. 5, 2000; 67 FR 13235, Mar. 21, 2002]

§ 76.935 Participation of interested parties.

In order to regulate basic tier rates or associated equipment costs, a franchising authority must have procedural laws or regulations applicable to rate regulation proceedings that provide a reasonable opportunity for consideration of the views of interested parties. Such rules must take into account the 30, 120, or 180-day time periods that franchising authorities have to review rates under § 76.933.

§ 76.936 Written decision.

(a) A franchising authority must issue a written decision in a ratemaking proceeding whenever it disapproves an initial rate for the basic

service tier or associated equipment in whole or in part, disapproves a request for a rate increase in whole or in part, or approves a request for an increase in whole or in part over the objections of interested parties. A franchising authority is not required to issue a written decision that approves an unopposed existing or proposed rate for the basic service tier or associated equipment.

(b) Public notice must be given of any written decision required in paragraph (a) of this section, including releasing the text of any written decision to the public.

§ 76.937 Burden of proof.

(a) A cable operator has the burden of proving that its existing or proposed rates for basic service and associated equipment comply with 47 U.S.C. 543, and §§ 76.922 and 76.923.

(b) For an existing or a proposed rate for basic tier service or associated equipment that is within the permitted tier charge and actual cost of equipment as set forth in §§ 76.922 and 76.923, the cable operator must submit the appropriate FCC form.

(c) For an existing or a proposed rate for basic tier service that exceeds the permitted tier charge as set forth in §§ 76.922 and 76.923, the cable operator must submit a cost-of-service showing to justify the proposed rate.

(d) A franchising authority or the Commission may find a cable operator that does not attempt to demonstrate the reasonableness of its rates in default and, using the best information available, enter an order finding the cable operator's rates unreasonable and mandating appropriate relief, as specified in §§ 76.940, 76.941, and 76.942.

(e) A franchising authority or the Commission may order a cable operator that has filed a facially incomplete form to file supplemental information, and the franchising authority's deadline to rule on the reasonableness of the proposed rates will be tolled pending the receipt of such information. A franchising authority may set reasonable deadlines for the filing of such information, and may find the cable operator in default and mandate appropriate relief, pursuant to paragraph (d) of this section, for the cable operator's failure to comply with the deadline or otherwise provide complete information in good faith.

[58 FR 29753, May 21, 1993, as amended at 59 FR 17973, Apr. 15, 1994]

§ 76.938 Proprietary information.

A franchising authority may require the production of proprietary information to make a rate determination in those cases where cable operators have submitted initial rates, or have proposed rate increases, pursuant to an FCC Form 393 (and/or FCC Forms 1200/1205) filing or a cost-of-service showing. The franchising authority shall state a justification for each item of information requested and, where related to an FCC Form 393 (and/or FCC Forms 1200/1205) filing, indicate the question or section of the form to which the request specifically relates. Upon request to the franchising authority, the parties to a rate proceeding shall have access to such information, subject to the franchising authority's procedures governing non-disclosure by the parties. Public access to such proprietary information shall be governed by applicable state or local law.

[59 FR 17973, Apr. 15, 1994]

§ 76.939 Truthful written statements and responses to requests of franchising authority.

Cable operators shall comply with franchising authorities' and the Commission's requests for information, orders, and decisions. Any information submitted to a franchising authority or the Commission in making a rate determination pursuant to an FCC Form 393 (and/or FCC Forms 1200/1205) filing or a cost-of-service showing is subject to the provisions of § 1.17 of this chapter.

[68 FR 15098, Mar. 28, 2003]

§ 76.940 Prospective rate reduction.

A franchising authority may order a cable operator to implement a reduction in basic service tier or associated equipment rates where necessary to bring rates into compliance with the standards set forth in §§ 76.922 and 76.923

§ 76.941 Rate prescription.

A franchising authority may prescribe a reasonable rate for the basic service tier or associated equipment after it determines that a proposed rate is unreasonable.

§ 76.942 Refunds.

(a) A franchising authority (or the Commission, pursuant to § 76.945) may order a cable operator to refund to subscribers that portion of previously paid rates determined to be in excess of the permitted tier charge or above the actual cost of equipment, unless the operator has submitted a cost-of-service showing which justifies the rate charged as reasonable. An operator's liability for refunds shall be based on the difference between the old bundled rates and the sum of the new unbundled program service charge(s) and the new unbundled equipment charge(s). Where an operator was charging separately for program services and equipment but the rates were not in compliance with the Commission's rules, the operator's refund liability shall be based on the difference between the sum of the old charges and the sum of the new, unbundled program service and equipment charges. Before ordering a cable operator to refund previously paid rates to subscribers, a franchising authority (or the Commission) must give the operator notice and opportunity to comment.

(b) An operator's liability for refunds in limited to a one-year period, *except that* an operator that fails to comply with a valid rate order issued by a franchising authority or the Commission shall be liable for refunds commencing from the effective date of such order until such time as it complies with such order.

(c) The refund period shall run as follows:

(1) From the date the operator implements a prospective rate reduction back in time to September 1, 1993, or one year, whichever is shorter.

(2) From the date a franchising authority issues an accounting order pursuant to § 76.933(c), to the date a prospective rate reduction is issued, then back in time from the date of the accounting order to the effective date of the rules; however, the total refund period shall not exceed one year from the date of the accounting order.

(3) Refund liability shall be calculated on the reasonableness of the rates as determined by the rules in effect during the period under review by the franchising authority or the Commission.

(d) The cable operator, in its discretion, may implement a refund in the following manner:

(1) By returning overcharges to those subscribers who actually paid the overcharges, either through direct payment or as a specifically identified credit to those subscribers' bills; or

(2) By means of a prospective percentage reduction in the rates for the basic service tier or associated equipment to cover the cumulative overcharge. This shall be reflected as a specifically identified, one-time credit on prospective bills to the class of subscribers that currently subscribe to the cable system.

(e) Refunds shall include interest computed at applicable rates published by the Internal Revenue Service for tax refunds and additional tax payments.

(f) Once an operator has implemented a rate refund to subscribers in accordance with a refund order by the franchising authority (or the Commission, pursuant to paragraph (a) of this section), the franchising authority must return to the cable operator an amount equal to that portion of the franchise fee that was paid on the total amount of the refund to subscribers. The franchising authority must promptly return the franchise fee overcharge either in an immediate lump sum payment, or the cable operator may deduct it from the cable system's future franchise fee payments. The franchising authority has the discretion to determine a reasonable repayment period, but interest shall accrue on any outstanding portion of the franchise fee starting on the date the operator has completed implementation of the refund order. In determining the amount of the refund, the franchise fee overcharge should be offset against franchise fees the operator holds on behalf of the franchising authority for lump sum payment. The

interest rate on any refund owed to the operator presumptively shall be 11.25%.

[58 FR 29753, May 21, 1993, as amended at 58 FR 46736, Sept. 2, 1993; 59 FR 17974, Apr. 15, 1994; 60 FR 52120, Oct. 5, 1995]

§ 76.943 Fines.

(a) A franchising authority may impose fines or monetary forfeitures on a cable operator that does not comply with a rate decision or refund order directed specifically at the cable operator, provided the franchising authority has such power under state or local laws.

(b) If a cable operator willfully fails to comply with the terms of any franchising authority's order, decision, or request for information, as required by §76.939, the Commission may, in addition to other remedies, impose a forfeiture pursuant to section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. 503(b).

(c) A cable operator shall not be subject to forfeiture because its rate for basic service or equipment is determined to be unreasonable.

[58 FR 29753, May 21, 1993, as amended at 59 FR 17974, Apr. 15, 1994]

§ 76.944 Commission review of franchising authority decisions on rates for the basic service tier and associated equipment.

(a) The Commission shall be the sole forum for appeals of decisions by franchising authorities on rates for the basic service tier or associated equipment involving whether or not a franchising authority has acted consistently with the Cable Act or §§76.922 and 76.923. Appeals of ratemaking decisions by franchising authorities that do not depend upon determining whether a franchising authority has acted consistently with the Cable Act or §§76.922 and 76.923, may be heard in state or local courts.

(b) Any participant at the franchising authority level in a ratemaking proceeding may file an appeal of the franchising authority's decision with the Commission within 30 days of release of the text of the franchising authority's decision as computed under §1.4(b) of this chapter. Appeals shall be served on the franchising authority or other authority that issued the rate decision. Where the state is the appropriate decisionmaking authority, the state shall forward a copy of the appeal to the appropriate local official(s). Oppositions may be filed within 15 days after the appeals is filed, and must be served on the party(ies) appealing the rate decision. Replies may be filed 7 days after the last day for oppositions and shall be served on the parties to the proceeding.

(c) An operator that uses the annual rate adjustment method under Section 76.922(e) may include in its next true up under Section 76.922(e)(3) any amounts to which the operator would have been entitled but for a franchising authority decision that is not upheld on appeal.

[58 FR 29753, May 21, 1993, as amended at 59 FR 17974, Apr. 15, 1994; 60 FR 52121, Oct. 5, 1995]

§ 76.945 Procedures for Commission review of basic service rates.

(a) Upon assumption of rate regulation authority, the Commission will notify the cable operator and require the cable operator to file its basic rate schedule with the Commission within 30 days, with a copy to the local franchising authority.

(b) Basic service and equipment rate schedule filings for existing rates or proposed rate increases (including increases in the baseline channel change that results from reductions in the number of channels in a tier) must use the official FCC form, a copy thereof, or a copy generated by FCC software. Failure to file on the official FCC form or a copy may result in the imposition of sanctions specified in §76.937(d). Cable operators seeking to justify the reasonableness of existing or proposed rates above the permitted tier rate must submit a cost-of-service showing sufficient to support a finding that the rates are reasonable.

(c) Filings proposing annual adjustments or rates within the rates regulation standards in §§76.922 and 76.923, must be made 30 days prior to the proposed effective date and can become effective on the proposed effective date unless the Commission issues an order deferring the effective date or denying the rate proposal. Petitions opposing such filings must be filed within 15 days of public notice of the filing by

the cable operator and be accompanied by a certificate that service was made on the cable operator and the local franchising authority. The cable operator may file an opposition within five days of filing of the petition, certifying to service on both the petitioner and the local franchising authority.

(d) Filings proposing a rate not within the rate regulation standards of §§ 76.922 and 76.923, must be made 90 days before the requested effective date. Petitions opposing such filings must be filed within 30 days of public notice of the filing, and be accompanied by a certificate that service was made on the cable operator and the local franchising authority. The cable operator may file an opposition within 10 days of the filing of the petition, and certifying that service was made on the petitioner and the local franchising authority.

[58 FR 29753, May 21, 1993, as amended at 59 FR 17974, Apr. 15, 1994]

§ 76.946 Advertising of rates.

Cable operators that advertise rates for basic service and cable programming service tiers shall be required to advertise rates that include all costs and fees. Cable systems that cover multiple franchise areas having differing franchise fees or other franchise costs, different channel line-ups, or different rate structures may advertise a complete range of fees without specific identification of the rate for each individual area. In such circumstances, the operator may advertise a ''fee plus'' rate that indicates the core rate plus the range of possible additions, depending on the particular location of the subscriber.

[59 FR 17974, Apr. 15, 1994]

§ 76.952 Information to be provided by cable operator on monthly subscriber bills.

All cable operators must provide the following information to subscribers on monthly bills:

(a) The name, mailing address and phone number of the franchising authority, unless the franchising authority in writing requests the cable operator to omit such information.

(b) The FCC community unit identifier for the cable system.

[58 FR 29753, May 21, 1993, as amended at 59 FR 17960, Apr. 15, 1994; 64 FR 35950, July 2, 1999]

§ 76.962 Implementation and certification of compliance.

(a) *Implementation.* A cable operator must implement remedial requirements, including prospective rate reductions and refunds, within 60 days from the date the Commission releases an order mandating a remedy.

(b) *Certification of compliance.* A cable operator must certify to the Commission its compliance with any Commission order mandating remedial requirements. Such certification shall:

(1) Be filed with the Commission within 90 days from the date the Commission releases an order mandating a remedy;

(2) Reference the applicable Commission order;

(3) State that the cable operator has complied fully with all provisions of the Commission's order;

(4) Include a description of the precise measures the cable operator has taken to implement the remedies ordered by the Commission; and

(5) Be signed by an authorized representative of the cable operator.

§ 76.963 Forfeiture.

(a) If any cable operator willfully fails to comply with the terms of any Commission order, including an order mandating remedial requirements after a finding of unreasonable cable programming service or equipment rates, or any Commission rule, the Commission may, in addition to other remedies, impose a forfeiture pursuant to Section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. 503(b).

(b) A cable operator shall not be subject to forfeiture because its rate for cable programming service or equipment is determined to be unreasonable.

§ 76.970 Commercial leased access rates.

(a) Cable operators shall designate channel capacity for commercial use

by persons unaffiliated with the operator in accordance with the requirement of 47 U.S.C. 532. For purposes of 47 U.S.C. 532(b)(1)(A) and (B), only those channels that must be carried pursuant to 47 U.S.C. 534 and 535 qualify as channels that are required for use by Federal law or regulation. For cable systems with 100 or fewer channels, channels that cannot be used due to technical and safety regulations of the Federal Government (e.g., aeronautical channels) shall be excluded when calculating the set-aside requirement.

(b) In determining whether an entity is an ''affiliate'' for purposes of commercial leased access, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities.

(c) Attributable interest shall be defined by reference to the criteria set forth in Notes 1–5 to §76.501 provided, however, that:

(1) The limited partner and LLC/LLP/RLLP insulation provisions of Note 2(f) shall not apply; and;

(2) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.

(d) The maximum commercial leased access rate that a cable operator may charge for full-time channel placement on a tier exceeding a subscriber penetration of 50 percent is the average implicit fee for full-time channel placement on all such tier(s).

(e) The average implicit fee identified in paragraph (c) of this section for a full-time channel on a tier with a subscriber penetration over 50 percent shall be calculated by first calculating the total amount the operator receives in subscriber revenue per month for the programming on all such tier(s), and then subtracting the total amount it pays in programming costs per month for such tier(s) (the ''total implicit fee calculation''). A weighting scheme that accounts for differences in the number of subscribers and channels on all such tier(s) must be used to determine how much of the total implicit fee calculation will be recovered from any particular tier. The weighting scheme is determined in two steps. First, the number of subscribers is multiplied by the number of channels (the result is the number of ''subscriber-channels'') on each tier with subscriber penetration over 50 percent. For instance, a tier with 10 channels and 1,000 subscribers would have a total of 10,000 subscriber-channels. Second, the subscriber-channels on each of these tiers is divided by the total subscriber-channels on all such tiers. Given the percent of subscriber-channels for the particular tier, the implicit fee for the tier is computed by multiplying the subscriber-channel percentage for the tier by the total implicit fee calculation. Finally, to calculate the average implicit fee per channel, the implicit fee for the tier must be divided by the corresponding number of channels on the tier. The final result is the maximum rate per month that the operator may charge the leased access programmer for a full-time channel on that particular tier. The average implicit fee shall be calculated by using all channels carried on any tier exceeding 50 percent subscriber penetration (including channels devoted to affiliated programming, must-carry and public, educational and government access channels). In the event of an agreement to lease capacity on a tier with less than 50 percent penetration, the average implicit fee should be determined on the basis of subscriber revenues and programming costs for that tier alone. The license fees for affiliated channels used in determining the average implicit fee shall reflect the prevailing company prices offered in the marketplace to third parties. If a prevailing company price does not exist, the license fee for that programming shall be priced at the programmer's cost or the fair market value, whichever is lower. The average implicit fee shall be based on contracts in effect in the previous calendar year. The implicit fee for a contracted service may not include fees, stated or implied, for services other than the provision of channel capacity (e.g., billing and collection, marketing, or studio services).

(f) The maximum commercial leased access rate that a cable operator may charge for full-time channel placement as an a la carte service is the highest implicit fee on an aggregate basis for

full-time channel placement as an a la carte service.

(g) The highest implicit fee on an aggregate basis for full-time channel placement as an a la carte service shall be calculated by first determining the total amount received by the operator in subscriber revenue per month for each non-leased access a la carte channel on its system (including affiliated a la carte channels) and deducting the total amount paid by the operator in programming costs (including license and copyright fees) per month for programming on such individual channels. This calculation will result in implicit fees determined on an aggregate basis, and the highest of these implicit fees shall be the maximum rate per month that the operator may charge the leased access programmer for placement as a full-time a la carte channel. The license fees for affiliated channels used in determining the highest implicit fee shall reflect the prevailing company prices offered in the marketplace to third parties. If a prevailing company price does not exist, the license fee for that programming shall be priced at the programmer's cost or the fair market value, whichever is lower. The highest implicit fee shall be based on contracts in effect in the previous calendar year. The implicit fee for a contracted service may not include fees, stated or implied, for services other than the provision of channel capacity (e.g., billing and collection, marketing, or studio services). Any subscriber revenue received by a cable operator for an a la carte leased access service shall be passed through to the leased access programmer.

(h) The maximum commercial leased access rate that a cable operator may charge for part-time channel placement shall be determined by either prorating the maximum full-time rate uniformly, or by developing a schedule of and applying different rates for different times of the day, provided that the total of the rates for a 24-hour period does not exceed the maximum daily leased access rate.

(i)(1) Cable system operators shall provide prospective leased access programmers with the following information within 15 calendar days of the date on which a request for leased access information is made:

(i) How much of the operator's leased access set-aside capacity is available;

(ii) A complete schedule of the operator's full-time and part-time leased access rates;

(iii) Rates associated with technical and studio costs; and

(iv) If specifically requested, a sample leased access contract.

(2) Operators of systems subject to small system relief shall provide the information required in paragraph (h)(1) of this section within 30 calendar days of a bona fide request from a prospective leased access programmer. For these purposes, systems subject to small system relief are systems that either:

(i) Qualify as small systems under §76.901(c) and are owned by a small cable company as defined under §76.901(e); or

(ii) Have been granted special relief.

(3) Bona fide requests, as used in this section, are defined as requests from potential leased access programmers that have provided the following information:

(i) The desired length of a contract term;

(ii) The time slot desired;

(iii) The anticipated commencement date for carriage; and

(iv) The nature of the programming.

(4) All requests for leased access must be made in writing and must specify the date on which the request was sent to the operator.

(5) Operators shall maintain, for Commission inspection, sufficient supporting documentation to justify the scheduled rates, including supporting contracts, calculations of the implicit fees, and justifications for all adjustments.

(j) Cable operators are permitted to negotiate rates below the maximum rates permitted in paragraphs (c) through (g) of this section.

[78 FR 20256, Apr. 4, 2013]

§76.971 Commercial leased access terms and conditions.

(a)(1) Cable operators shall place leased access programmers that request access to a tier actually used by most subscribers on any tier that has a

subscriber penetration of more than 50 percent, unless there are technical or other compelling reasons for denying access to such tiers.

(2) Cable operators shall be permitted to make reasonable selections when placing leased access channels at specific channel locations. The Commission will evaluate disputes involving channel placement on a case-by-case basis and will consider any evidence that an operator has acted unreasonably in this regard.

(3) On systems with available leased access capacity sufficient to satisfy current leased access demand, cable operators shall be required to accommodate as expeditiously as possible all leased access requests for programming that is not obscene or indecent. On systems with insufficient available leased access capacity to satisfy current leased access demand, cable operators shall be permitted to select from among leased access programmers using objective, content-neutral criteria.

(4) Cable operators that have not satisfied their statutory leased access requirements shall accommodate part-time leased access requests as set forth in this paragraph. Cable operators shall not be required to accept leases for less than one half-hour of programming. Cable operators may accommodate part-time leased access requests by opening additional channels for part-time use or providing comparable time slots on channels currently carrying leased or non-leased access programming. The comparability of time slots shall be determined by objective factors such as day of the week, time of day, and audience share. A cable operator that is unable to provide a comparable time slot to accommodate a part-time programming request shall be required to open an additional channel for part-time use unless such operator has at least one channel designated for part-time leased access use that is programmed with less than 18 hours of part-time leased access programming every day. However, regardless of the availability of partially programmed part-time leased access channels, a cable operator shall be required to open an additional channel to accommodate any request for part-time leased access for at least eight contiguous hours, for the same time period every day, for at least a year. Once an operator has opened a vacant channel to accommodate such a request, our other leased access rules apply. If, however, the operator has accommodated such a request on a channel already carrying an existing full-time non-leased access programmer, the operator does not have to accommodate other part-time requests of less than eight hours on that channel until all other existing part-time leased access channels are substantially filled with leased access programming.

(b) Cable operators may not apply programming production standards to leased access that are any higher than those applied to public, educational and governmental access channels.

(c) Cable operators are required to provide unaffiliated leased access users the minimal level of technical support necessary for users to present their material on the air, and may not unreasonably refuse to cooperate with a leased access user in order to prevent that user from obtaining channel capacity. Leased access users must reimburse operators for the reasonable cost of any technical support actually provided by the operator that is beyond that provided for non-leased access programmers on the system. A cable operator may charge leased access programmers for the use of technical equipment that is provided at no charge for public, educational and governmental access programming, provided that the operator's franchise agreement requires it to provide the equipment and does not preclude such use, and the equipment is not being used for any other non-leased access programming. Cable operators that are required to purchase technical equipment in order to accommodate a leased access programmer shall have the option of either requiring the leased access programmer to pay the full purchase price of the equipment, or purchasing the equipment and leasing it to the leased access programmer at a reasonable rate. Leased access programmers that are required to pay the full purchase price of additional equipment

shall have all rights of ownership associated with the equipment under applicable state and local law.

(d) Cable operators may require reasonable security deposits or other assurances from users who are unable to prepay in full for access to leased commercial channels. Cable operators may impose reasonable insurance requirements on leased access programmers. Cable operators shall bear the burden of proof in establishing reasonableness.

(e) Cable operators may not set terms and conditions for commercial leased access use based on content, *except:*

(1) To the limited extent necessary to establish a reasonable price for the commercial use of designated channel capacity by an unaffiliated person; or

(2) To comply with 47 U.S.C. 532 (h), (j) and § 76.701.

(f)(1) A cable operator shall provide billing and collection services for commercial leased access cable programmers, unless the operator demonstrates the existence of third party billing and collection services which in terms of cost and accessibility, offer leased access programmers an alternative substantially equivalent to that offered to comparable non-leased access programmers.

(2) If an operator can make the showing required in paragraph (f)(1) of this section, it must, to the extent technically feasible make available data necessary to enable a third party to bill and collect for the leased access user.

(g) Cable operators shall not unreasonably limit the length of leased access contracts. The termination provisions of leased access contracts shall be commercially reasonable and may not allow operators to terminate leased access contracts without a reasonable basis.

(h) Cable operators may not prohibit the resale of leased access capacity to persons unaffiliated with the operator, but may provide in their leased access contracts that any sublessees will be subject to the non-price terms and conditions that apply to the initial lessee, and that, if the capacity is resold, the rate for the capacity shall be the maximum permissible rate.

[58 FR 29753, May 21, 1993, as amended at 61 FR 16401, Apr. 15, 1996; 62 FR 11381, Mar. 12, 1997]

§ 76.975 Commercial leased access dispute resolution.

(a) Any person aggrieved by the failure or refusal of a cable operator to make commercial channel capacity available in accordance with the provisions of Title VI of the Communications Act may bring an action in the district court of the United States for the Judicial district in which the cable system is located to compel that such capacity be made available.

(b)(1) Any person aggrieved by the failure or refusal of a cable operator to make commercial channel capacity available or to charge rates for such capacity in accordance with the provisions of Title VI of the Communications Act, or our implementing regulations, §§ 76.970 and 76.971, may file a petition for relief with the Commission. Persons alleging that a cable operator's leased access rate is unreasonable must receive a determination of the cable operator's maximum permitted rate from an independent accountant prior to filing a petition for relief with the Commission.

(2) Parties to a dispute over leased access rates shall have five business days to agree on a mutually acceptable accountant from the date on which the programmer provides the cable operator with a written request for a review of its leased access rates. Parties that fail to agree on a mutually acceptable accountant within five business days of the programmer's request for a review shall each be required to select an independent accountant on the sixth business day. The two accountants selected shall have five business days to select a third independent accountant to perform the review. Operators of systems subject to small system relief shall have 14 business days to select an independent accountant when an agreement cannot be reached. For these purposes, systems subject to small system relief are systems that either:

(i) Qualify as small systems under § 76.901(c) and are owned by a small

cable company as defined under §76.901(e); or

(ii) Have been granted special relief.

(3) The final accountant's report must be completed within 60 days of the date on which the final accountant is selected to perform the review. The final accountant's report must, at a minimum, state the maximum permitted rate, and explain how it was determined without revealing proprietary information. The report must be signed, dated and certified by the accountant. The report shall be filed in the cable system's local public file.

(4) If the accountant's report indicates that the cable operator's leased access rate exceeds the maximum permitted rate by more than a de minimis amount, the cable operator shall be required to pay the full cost of the review. If the final accountant's report does not indicate that the cable operator's leased access rate exceeds the maximum permitted rate by more than a de minimis amount, each party shall be required to split the cost of the final accountant's review, and to pay its own expenses incurred in making the review.

(5) Parties may use alternative dispute resolution (ADR) processes to settle disputes that are not resolved by the final accountant's report.

(c) A petition must contain a concise statement of the facts constituting a violation of the statute or the Commission's rules, the specific statute(s) or rule(s) violated, and certify that the petition was served on the cable operator. Where a petition is based on allegations that a cable operator's leased access rates are unreasonable, the petitioner must attach a copy of the final accountant's report. In proceedings before the Commission, there will be a rebuttable presumption that the final accountant's report is correct.

(d) Where a petition is not based on allegations that a cable operator's leased access rates are unreasonable, the petition must be filed within 60 days of the alleged violation. Where a petition is based on allegations that the cable operator's leased access rates are unreasonable, the petition must be filed within 60 days of the final accountant's report, or within 60 days of the termination of ADR proceedings. Aggrieved parties must certify that their petition was filed within 60 days of the termination of ADR proceedings in order to file a petition later than 60 days after completion of the final accountant's report. Cable operators may rebut such certifications.

(e) The cable operator or other respondent will have 30 days from the filing of the petition to file a response. If a leased access rate is disputed, the response must show that the rate charged is not higher than the maximum permitted rate for such leased access, and must be supported by the affidavit of a responsible company official. If, after a response is submitted, the staff finds a prima facie violation of our rules, the staff may require a respondent to produce additional information, or specify other procedures necessary for resolution of the proceeding.

(f) The Commission, after consideration of the pleadings, may grant the relief requested, in whole or in part, including, but not limited to ordering refunds, injunctive measures, or forfeitures pursuant 47 U.S.C. 503, denying the petition, or issuing a ruling on the petition or dispute.

(g) To be afforded relief, the petitioner must show by clear and convincing evidence that the cable operator has violated the Commission's leased access provisions in 47 U.S.C. 532 or §§76.970 and 76.971, or otherwise acted unreasonably or in bad faith in failing or refusing to make capacity available or to charge lawful rates for such capacity to an unaffiliated leased access programmer.

(h) During the pendency of a dispute, a party seeking to lease channel capacity for commercial purposes, shall comply with the rates, terms and conditions prescribed by the cable operator, subject to refund or other appropriate remedy.

[78 FR 20257, Apr. 4, 2013]

§76.977 Minority and educational programming used in lieu of designated commercial leased access capacity.

(a) A cable operator required by this section to designate channel capacity for commercial use pursuant to 47 U.S.C. 532, may use any such channel

capacity for the provision of programming from a qualified minority programming source or from any qualified educational programming sources, whether or not such source is affiliated with cable operator. The channel capacity used to provide programming from a qualified minority programming source or from any qualified educational programming source pursuant to this section may not exceed 33 percent of the channel capacity designated pursuant to 47 U.S.C. 532 and must be located on a tier with more than 50 percent subscriber penetration.

(b) For purposes of this section, a qualified minority programming source is a programming source that devotes substantially all of its programming to coverage of minority viewpoints, or to programming directed at members of minority groups, and which is over 50 percent minority-owned.

(c) For purposes of this section, a qualified educational programming source is a programming source that devotes substantially all of its programming to educational or instructional programming that promotes public understanding of mathematics, the sciences, the humanities, or the arts and has a documented annual expenditure on programming exceeding $15 million. The annual expenditure on programming means all annual costs incurred by the programming source to produce or acquire programs which are scheduled to be televised, and specifically excludes marketing, promotion, satellite transmission and operational costs, and general administrative costs.

(d) For purposes of paragraphs (b) and (c) of this section, *substantially all* means that 90% or more of the programming offered must be devoted to minority or educational purposes, as defined in paragraphs (b) and (c) of this section, respectively.

(e) For purposes of paragraph (b) of this section, ''minority'' is defined as in 47 U.S.C. 309(i)(3)(c)(ii) to include Blacks, Hispanics, American Indians, Alaska Natives, Asians and Pacific Islanders.

[58 FR 29753, May 21, 1993, as amended at 62 FR 11382, Mar. 12, 1997]

§ 76.980 Charges for customer changes.

(a) This section shall govern charges for any changes in service tiers or equipment provided to the subscriber that are initiated at the request of a subscriber after initial service installation.

(b) The charge for customer changes in service tiers effected solely by coded entry on a computer terminal or by other similarly simple methods shall be a nominal amount, not exceeding actual costs, as defined in paragraph (c) of this section.

(c) The charge for customers changes in service tiers or equipment that involve more than coded entry on a computer or other similarly simple method shall be based on actual cost. The actual cost charge shall be either the HSC, as defined in Section 76.923 of the rules, multiplied by the number of persons hours needed to implement the change, or the HSC multiplied by the average number of persons hours involved in implementing customer changes.

(d) A cable operator may establish a higher charge for changes effected solely by coded entry on a computer terminal or by other similarly simple methods, subject to approval by the franchising authority, for a subscriber changing service tiers more than two times in a twelve month period, except for such changes ordered in response to a change in price or channel line-up.

(e) Downgrade charges that are the same as, or lower than, upgrade charges are evidence of the reasonableness of such downgrade charges.

(f) For 30 days after notice of retiering or rate increases, a customer may obtain changes in service tiers at no additional charge.

NOTE 1 TO § 76.980: Cable operators must also notify subscribers of potential charges for customer service changes, as provided in § 76.1604.

[58 FR 29753, May 21, 1993, as amended at 65 FR 53617, Sept. 5, 2000]

§ 76.981 Negative option billing.

(a) A cable operator shall not charge a subscriber for any service or equipment that the subscriber has not affirmatively requested by name. A subscriber's failure to refuse a cable operator's proposal to provide such service or equipment is not an affirmative request for service or equipment. A subscriber's affirmative request for service or equipment may be made orally or in writing.

(b) The requirements of paragraph (a) of this section shall not preclude the adjustment of rates to reflect inflation, cost of living and other external costs, the addition or deletion of a specific program from a service offering, the addition or deletion of specific channels from an existing tier or service, the restructuring or division of existing tiers of service, or the adjustment of rates as a result of the addition, deletion or substitution of channels pursuant to §76.922, provided that such changes do not constitute a fundamental change in the nature of an existing service or tier of service and are otherwise consistent with applicable regulations.

(c) State and local governments may not enforce state and local consumer protection laws that conflict with or undermine paragraph (a) or (b) of this section or any other sections of this Subpart that were established pursuant to Section 3 of the 1992 Cable Act, 47 U.S.C. 543.

[59 FR 62625, Dec. 6, 1994]

§ 76.982 Continuation of rate agreements.

During the term of an agreement executed before July 1, 1990, by a franchising authority and a cable operator providing for the regulation of basic cable service rates, where there was not effective competition under Commission rules in effect on that date, the franchising authority may regulate basic cable rates without following section 623 of the 1992 Cable Act or §§76.910 through 76.942. A franchising authority regulating basic cable rates pursuant to such a rate agreement is not required to file for certification during the remaining term of the agreement but shall notify the Commission of its intent to continue regulating basic cable rates.

§ 76.983 Discrimination.

(a) No Federal agency, state, or local franchising authority may prohibit a cable operator from offering reasonable discounts to senior citizens or to economically disadvantaged groups.

(1) Such discounts must be offered equally to all subscribers in the franchise area who qualify as members of these categories, or any reasonable subcategory thereof.

(2) For purposes of this section, members of economically disadvantaged groups are those individuals who receive federal, state or local welfare assistance.

(b) Nothing herein shall preclude any Federal agency, state, or local franchising authority from requiring and regulating the reception of cable service by hearing impaired individuals.

§ 76.984 Geographically uniform rate structure.

(a) The rates charged by cable operators for basic service, cable programming service, and associated equipment and installation shall be provided pursuant to a rate structure that is uniform throughout each franchise area in which cable service is provided.

(b) This section does not prohibit the establishment by cable operators of reasonable categories of service and customers with separate rates and terms and conditions of service, within a franchise area.

(c) This section does not apply to:

(1) A cable operator with respect to the provision of cable service over its cable system in any geographic area in which the video programming services offered by the operator in that area are subject to effective competition, or

(2) Any video programming offered on a per channel or per program basis.

(3) Bulk discounts to multiple dwelling units shall not be subject to this section, except that a cable operator of a cable system that is not subject to effective competition may not charge predatory prices to a multiple dwelling unit. Upon a prima facie showing by a complainant that there are reasonable grounds to believe that the discounted price is predatory, the cable system

shall have the burden of showing that its discounted price is not predatory.

NOTE 1 TO PARAGRAPH (c)(3): Discovery procedures for predatory pricing complaints. Requests for discovery will be addressed pursuant to the procedures specified in §76.7(f).

NOTE 2 TO PARAGRAPH (c)(3): Confidential information. Parties submitting material believed to be exempt from disclosure pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. 552(b), and the Commission's rules, §0.457 of this chapter, should follow the procedures in §0.459 of this chapter and §76.9.

[59 FR 17975, Apr. 15, 1994, as amended at 61 FR 18979, Apr. 30, 1996; 64 FR 35951, July 2, 1999]

§76.985 Subscriber bill itemization.

(a) Cable operators may identify as a separate line item of each regular subscriber bill the following:

(1) The amount of the total bill assessed as a franchise fee and the identity of the franchising authority to which the fee is paid.

(2) The amount of the total bill assessed to satisfy any requirements imposed on the cable operator by the franchise agreement to support public, educational, or governmental channels or the use of such channels.

(3) The amount of any other fee, tax, assessment, or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber. In order for a governmental fee or assessment to be separately identified under this section, it must be directly imposed by a governmental body on a transaction between a subscriber and an operator.

(b) The charge identified on the subscriber bill as the total charge for cable service should include all fees and costs itemized pursuant to this section.

(c) Local franchising authorities may adopt regulations consistent with this section.

Federal Communications Commission
Washington, D. C. 20554

Approved by OMB
3060-XXXX
Expires 00/00/00

FCC 329
CABLE PROGRAMMING SERVICE RATE COMPLAINT FORM
(Carefully read instructions on reverse before filling out form)

1. Complainant's Name		
Mailing Address		
City	State	ZIP Code
Daytime Telephone No. (include area code):		

2. Local Franchising Authority's Name		
Mailing Address		
City	State	ZIP Code

3. Cable Company's Name		
Mailing Address		
City	State	ZIP Code
Cable Company's FCC Community Unit Identifier (if known):		

4. Indicate whether this is the first time you have filed a complaint with the FCC or whether you are filing a corrected complaint to cure a defect in a prior complaint. CHECK ONE.

☐ First time complaint
☐ Corrected complaint

5. If you are filing a corrected complaint to cure a defect in a prior complaint, indicate the date the prior complaint was filed with the FCC and the date you received notification from the FCC that the prior complaint was defective.

	Month	Date	Year
Date prior complaint filed:			
Date you received FCC notification that the prior complaint was defective:			

6. Indicate whether you are challenging the reasonableness of: (1) a rate concerning cable programming service or associated equipment in effect on June 21, 1993; or (2) a rate increase. (See the Instructions for different filing deadlines depending on which type of complaint you are filing.) CHECK ONE.

☐ Rate in effect on June 21, 1993
☐ Rate increase

7. If you are a subscriber challenging the reasonableness of a rate increase, indicate the date you first received a bill from the cable operator reflecting the rate increase about which you are complaining.

Month	Date	Year

8. Indicate the current monthly rate for the cable programming service or associated equipment and, if you are challenging the reasonableness of a rate increase, the most recent rate in effect immediately prior to the rate increase.

	Month	Year
Current Monthly Rate: $		
Previous Monthly Rate: $		

9. In the tables below, describe the cable programming service to which the complaint is addressed and, if applicable, how it has changed. If this space is insufficient, include any additional comments on a separate page attached to this form.

List channels by name included in the service:

List channels by name deleted from the service (if any):

List channels by name added to the service (if any):

10. If you are a subscriber, you must attach two copies of your current bill reflecting the rate or rate increase about which you are complaining. NOTE: Failure to attach two copies of your current bill reflecting the rate or rate increase may result in dismissal of your complaint.
I have attached two copies of my current bill. ☐ Yes ☐ No

11. Optional: If you are a subscriber challenging the reasonableness of a rate increase, attach two copies of a previous bill (if available) reflecting the rate immediately prior to the rate increase.
I have attached two copies of my previous bill. ☐ Yes ☐ No

12. I certify that I am sending a copy of this complaint, including all attachments, to the cable company and the local franchising authority at the addresses listed above via first class mail, postage prepaid, at the same time I am sending two copies of this complaint to the FCC. NOTE: Failure to satisfy this requirement may result in dismissal of your complaint. The cable company will not be required to respond unless you send a copy of the complaint to the cable company by mail.
☐ Yes ☐ No

Date sent:	Month	Date	Year

13. I believe that the cable company's rate for the cable programming service or associated equipment described above is unreasonable because it violates the FCC's rate regulations. (CHECK BOX) ☐

14. I certify that, to the best of my knowledge, the information supplied on this form is true and correct.

Signature
Date

(Note to complainant: This complaint form will be maintained in the FCC's records under the cable company's community unit number. It will not be filed under your name.)

FCC 329
June 1993

Federal Communications Commission
Washington, D.C. 20554

Approved by OMB
1060-XXXX
Expires 00/00/00

INSTRUCTIONS FOR FCC 328
FRANCHISING AUTHORITY CERTIFICATION

1. The Cable Television Consumer Protection and Competition Act, enacted in October 1992, changes the manner in which cable television systems that are not subject to effective competition are regulated. In general, rates for the basic service tier (the tier required as a condition of access to all other video services and containing, among other services, local broadcast station signals and public, educational, and public access channels) and associated equipment will be subject to regulation by local or state governments ("franchising authorities"). Rates for cable programming services and associated equipment (all services except basic and pay channels) will be subject to regulation by the FCC. Rates for pay channels (channels for which there is a specific per-channel or per-program charge) are not regulated.

2. Only cable systems that are not subject to effective competition may be regulated. Effective competition means that (a) fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system; (b) the franchise area is (i) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and (ii) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area; or (c) a multichannel video programming distributor operated by the franchising authority for that franchise area offers video programming to at least 50 percent of the households in that franchise area.

3. In order to regulate basic service tier rates, a franchising authority must be certified by the FCC. In order to be certified, a franchising authority must complete this form. **An original and one copy of the completed form and all attachments must be returned to the FCC by registered mail, return receipt requested, to the FCC at the address on the form.**

4. A copy of the form must be served on the cable operator by first-class mail on or before the date the form is sent or delivered to the FCC.

5. The franchising authority's certification will become effective 30 days after the date stamped on the postal return receipt unless otherwise notified by the Commission by that date. The franchising authority cannot begin to regulate rates, however, until it has actually adopted the required regulations (see below) and until it has notified the cable operator that it has been certified and that it has adopted the required regulations.

6. In order to be certified, franchising authorities must answer "yes" to Questions 3, 4, and 5, which are explained as follows:

7. Question 3: The franchising authority must adopt rate regulations consistent with the Commission's regulations for basic cable service. To fulfill this requirement for certification, the franchising authority may simply adopt a regulation indicating that it will follow the regulations established by the FCC.

   The franchising authority has 120 days to adopt these regulations after the time it is certified. The franchising authority may not, however, begin to regulate cable rates until after it has adopted these regulations and until it has notified the cable operator that it has been certified and has adopted the required regulations.

8. Question 4(a): The franchising authority's "legal authority" to regulate basic service must come from state law. In some states, only the state government may regulate cable rates. In those states, the state government should file this certification. Provisions in franchise agreements that prohibit rate regulation are void, and do not prevent a franchising authority from regulating the basic service tier and associated equipment.

   Question 4(b): The franchising authority must have a sufficient number of personnel to undertake rate regulation.

   A franchise authority unable to answer "yes" to questions 4(a) or 4(b) may wish to review the FCC's Report and Order in Docket 92-266, FCC 93-177 (released May 3, 1993) for further information on the establishment of alternative federal regulatory procedures.

9. Question 5: Franchising authorities must have procedural regulations allowing for public participation in rate regulation proceedings. If a franchising authority does not have these regulations already in place, it must adopt them within 120 days of certification and before it may undertake rate regulation.

10. Question 6: Most cable systems are not subject to effective competition, as defined by the Cable Act. (The definition is included above and on the form.) The franchising authority may presume that the cable system in its jurisdiction is not subject to effective competition.

    For purposes of applying the definition of effective competition (see Item 2 above), "multichannel video programming distributors" include a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, a television receive-only satellite program distributor, a video dialtone service, and a satellite master antenna television system. A multichannel video programming distributor's services will be deemed "offered" when they are both technically and actually available. Service is "technically available" when the multichannel distributor is physically able to deliver the service to a household wishing to subscribe, with only minimal additional investment by the distributor. A service is "actually available" if subscribers in the franchise area are reasonably aware through marketing efforts that the service is available. Subscribership of those multichannel video programming distributors offering service to at least 50 percent of the households in a franchise area will be aggregated to determine whether at least 15 percent of the households in the franchise area are served by competitors. A multichannel video programming distributor must offer at least 12 channels of programming, at least one channel of which is nonbroadcast, to be found to offer "comparable" video programming.

11. This certification form must be signed by a government official with authority to act on behalf of the franchising authority.

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

The solicitation of personal information in this form is authorized by the Communications Act of 1934, as amended. The Commission will use the information provided in this form to determine if the franchise authority should be authorized to regulate cable rates. In reaching that determination, or for law enforcement purposes, it may become necessary to refer personal information contained in this form to another government agency. All information provided in this form will be available for public inspection. Your response is required to obtain the requested authority.

Public reporting burden for this collection of information is estimated to average 30 minutes, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Division, AMD-PERS, Washington, D.C. 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060-XXXX), Washington, D.C. 20503.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1975, 5 U.S.C. 522a(e)(3) AND THE PAPERWORK REDUCTION ACT OF 1980, P.L. 96-511, DECEMBER 11, 1980, 44 U.S.C. 3507.

Federal Communications Commission
Washington, D. C. 20554

FCC 328

Approved by OMB
3060-XXXX
Expires 00/00/00

CERTIFICATION OF FRANCHISING AUTHORITY TO REGULATE BASIC CABLE SERVICE RATES AND INITIAL FINDING OF LACK OF EFFECTIVE COMPETITION

1 Name of Franchising Authority		
Mailing Address		
City	State	ZIP Code
Telephone No. (include area code):		
Person to contact with respect to this form:		

2. a. Name (s) and address(es) of cable system(s) and associated FCC community unit identifiers within your jurisdiction. (Attach additional sheets if necessary.)

Cable System's Name		
Mailing Address		
City	State	ZIP Code
Cable System's FCC Community Unit Identifier:		

Cable System's Name		
Mailing Address		
City	State	ZIP Code
Cable System's FCC Community Unit Identifier:		

2. b. Name (s) of system(s) and associated community unit identifiers you claim are subject to regulation and with respect to which you are filing this certification. (Attach additional sheets if necessary.)

Name of System	Community Unit Identifier

Name of System	Community Unit Identifier

2. c. Have you served a copy of this form on all parties listed in 2.b.? ☐ Yes ☐ No

3. Will your franchising authority adopt (within 120 days of certification) and administer regulations with respect to basic cable service that are consistent with the regulations adopted by the FCC pursuant to 47 U.S.C. Section 543(b)? ☐ Yes ☐ No

4. With respect to the franchising authority's regulations referred to in Question 3,

   a. Does your franchising authority have the legal authority to adopt them? ☐ Yes ☐ No

   b. Does your franchising authority have the personnel to administer them? ☐ Yes ☐ No

5. Do the procedural laws and regulations applicable to rate regulation proceedings by your franchising authority provide a reasonable opportunity for consideration of the views of interested parties? ☐ Yes ☐ No

6. The Commission presumes that the cable system(s) listed in 2.b. is (are) not subject to effective competition. Based on the definition below, do you have reason to believe that this presumption is correct? ☐ Yes ☐ No

(Effective competition means that (a) fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system; (b) the franchise area is (i) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and (ii) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area; or (c) a multichannel video programming distributor operated by the franchising authority for that franchise area offers video programming to at least 50 percent of the households in that franchise area.)

Signature
Title
Date

Return the original and one copy of this certification form (as indicated in Instructions), along with any attachments, to:
Federal Communications Commission
Attn: Cable Franchising Authority Certifi tion
Room L-16
1919 M Street, N.W.
Washington, D. C. 20554

FCC 328
June 1993

[58 FR 29753, May 21, 1993, as amended at 76 FR 55818, Sept. 9, 2011]

§ 76.986 "A la carte" offerings.

(a) Collective offerings of unregulated per-channel or per-program (''a la carte'') video programming shall be regulated as CPSTs pursuant to § 76.922. For purposes of this section, ''multiplexed'' channels shall be treated as one channel.

(b) A discounted package price offered by a cable system is not unreasonable with respect to any collective offering of channels if the component channels' collective offering also have been continuously available on the system on a per channel basis since April 1, 1993.

(c) A collective offering of per channel offerings may be treated as New Product Tier if:

(1) The collective offering meets the conditions set forth in § 76.987; or

(2) The operator had reasonable grounds to believe the collective offering involving only a small number of migrated channels complied with the Commission's requirements as of the date it was first offered.

(d) In reviewing a basic service rate filing, local franchising authorities may make an initial decision addressing whether a collective offering of ''a la carte'' channels will be treated as a cable programming service tier that is an NPT under § 76.987 or a CPST that is regulated under § 76.922. The franchising authority must make this initial decision within the 30 day period established for review of basic cable rates and equipment costs in § 76.933(a), or within the first 60 days of an extended 120 day period (if the franchise authority has requested an additional 90 days) pursuant to § 76.933(b). The franchising authority shall provide notice of its decision to the cable system and shall provide public notice of its initial decision within seven days pursuant to local procedural rules for public notice. Operators or consumers may make an interlocutory appeal of the initial decision to the Commission within 14 days of the initial decision. Operators shall provide notice to franchise authorities of their decision whether or not to appeal to the Commission within this period. Consumers shall provide notice to franchise authorities of their decision to appeal to the Commission within this period.

(e) A limited initial decision under paragraph (b) of this section shall toll the time periods under § 76.933 within which local authorities must decide local rate cases. The time period shall resume running seven days after the Commission decides the interlocutory appeal, or seven days following the expiration of the period in which an interlocutory appeal pursuant to paragraph (b) of this section may be filed.

(f) A local franchising authority alternatively may decide whether a collective offering of ''a la carte'' channels will be treated as an NPT as a part of its final decision setting rates for the basic service tier. That decision may then be appealed to the Commission as provided for under § 76.945.

[59 FR 62625, Dec. 6, 1994]

§ 76.987 New product tiers.

(a) Operators may establish a category of CPSTs, referred to as ''new product tiers'' (''NPTs''), and offer these tiers to subscribers at prices they elect.

(b) In order to be eligible to offer NPTs, cable operators must meet the following conditions:

(1) Operators offering NPTs are prohibited from making fundamental changes to what they offer on their BSTs and CPSTs offerings on September 30, 1994. Operators may drop channels or move channels between BSTs and/or CPSTs or to an a la carte offering so long as the aggregation of such changes do not constitute a fundamental change in their BST or CPSTs.

(2) Operators may not drop channels that were offered on their BSTs or CPSTs on September 30, 1994 and move them to NPTs unless they wait at least two years from the date the channels were dropped from the BSTs or CPSTs. Time shifted versions, slightly altered versions or renamed versions of channels offered on BSTs and CPSTs on September 30, 1994 shall not be exempt from this restriction.

(3) Operators must market their BSTs and CPSTs so that customers should be reasonably aware that:

(i) Those tiers are being offered to the public;

(ii) The names of the channels available on those tiers; and

(iii) The price of the tiers. A subscriber may not be charged for an NPT unless the cable operator has obtained the subscriber's affirmative consent. Changes to the fundamental nature of an NPT must be approved by subscribers in accordance with § 76.981.

(4) Operators may not require the subscription to any tier, other than a BST, as a condition for subscribing to an NPT and operators may not require subscription to an NPT as a condition for subscribing to a CPST. These restrictions will not apply to cable operators prior to October 5, 2002, if such operators lack the capacity to offer BSTs and NPTs without also providing other intermediate tiers of service as provided in § 76.900(c).

(c) Operators may offer the same service on NPTs as are on one or more BSTs or CPSTs. A channel that occupied a CPST or BST part-time on September 30, 1994 also may be offered full-time on an NPT as long as it continues to be offered at least part-time on CPST or BST, under substantially the same conditions as before it was offered on the NPT. If a channel occupies a BST or CPST (regulated pursuant to § 76.922) full-time on September 30, 1994, and is subsequently reduced to part-time on the BST or CPST, that channel may not be offered on an NPT full-time. Operators that offer a channel both on an NPT and a BST or CPST will have a continuing obligation to ensure that subscribers are aware that the channels are available on the CPST or BST.

(d) Operators may temporarily place new channels on CPSTs for marketing purposes and then move them to NPTs. In order for an operator to move a channel from a CPST to an NPT pursuant to this paragraph, the channel must not have been offered on a BST or CPST prior to October 1, 1994.

(e) After initially electing to offer an NPT, a cable operator may cease to provide the NPT, upon proper notice to subscribers pursuant to § 76.1603. If an operator drops an NPT and subsequently determines to reestablish that tier, at the time of the reestablishment it must comply with the conditions for offering NPTs set forth in paragraph (b) of this section.

(f) If the Commission receives a complaint about an NPT, the operator need not file the rate justification provided in § 76.956, but shall within the time period provided by that rule file documentation that the NPT meets all the conditions set forth in this section.

NOTE 1 TO § 76.987: Cable operators offering a NPT must comply with the notice requirement of § 76.1605.

[59 FR 62625, Dec. 6, 1994, as amended at 65 FR 53617, Sept. 5, 2000]

§ 76.990 Small cable operators.

(a) Effective February 8, 1996, a small cable operator is exempt from rate regulation on its cable programming services tier, or on its basic service tier if that tier was the only service tier subject to rate regulation as of December 31, 1994, in any franchise area in which that operator services 50,000 or fewer subscribers.

(b) *Procedures.* (1) A small cable operator, may certify in writing to its franchise authority at any time that it meets all criteria necessary to qualify as a small operator. Upon request of the local franchising authority, the operator shall identify in writing all of its affiliates that provide cable service, the total subscriber base of itself and each affiliate, and the aggregate gross revenues of its cable and non-cable affiliates. Within 90 days of receiving the original certification, the local franchising authority shall determine whether the operator qualifies for deregulation and shall notify the operator in writing of its decision, although this 90-day period shall be tolled for so long as it takes the operator to respond to a proper request for information by the local franchising authority. An operator may appeal to the Commission a local franchise authority's information request if the operator seeks to challenge the information request as unduly or unreasonably burdensome. If the local franchising authority finds that the operator does not qualify for deregulation, its notice shall state the grounds for that decision. The operator may appeal the local franchising authority's decision to the Commission within 30 days.

(2) Once the operator has certified its eligibility for deregulation on the basic

service tier, the local franchising authority shall not prohibit the operator from taking a rate increase and shall not order the operator to make any refunds unless and until the local franchising authority has rejected the certification in a final order that is no longer subject to appeal or that the Commission has affirmed. The operator shall be liable for refunds for revenues gained (beyond revenues that could be gained under regulation) as a result of any rate increase taken during the period in which it claimed to be deregulated, plus interest, in the event the operator is later found not to be deregulated. The one-year limitation on refund liability will not be applicable during that period to ensure that the filing of an invalid small operator certification does not reduce any refund liability that the operator would otherwise incur.

(3) Within 30 days of being served with a local franchising authority's notice that the local franchising authority intends to file a cable programming services tier rate complaint, an operator may certify to the local franchising authority that it meets the criteria for qualification as a small cable operator. This certification shall be filed in accordance with the cable programming services rate complaint procedure set forth in §76.1402. Absent a cable programming services rate complaint, the operator may request a declaration of CPST rate deregulation from the Commission pursuant to §76.7.

(c) *Transition from small cable operator status.* If a small cable operator subsequently becomes ineligible for small operator status, the operator will become subject to regulation but may maintain the rates it charged prior to losing small cable operator status if such rates (with an allowance for minor variations) were in effect for the three months preceding the loss of small cable operator status. Subsequent rate increases following the loss of small cable operator status will be subject to generally applicable regulations governing rate increases.

NOTE TO §76.990: For rules governing small cable systems and small cable companies, see §76.934.

[64 FR 35951, July 2, 1999]

Subpart O—Competitive Access to Cable Programming

§76.1000 Definitions.

As used in this subpart:

(a) *Area served by cable system.* The term ''area served'' by a cable system means an area actually passed by a cable system and which can be connected for a standard connection fee.

(b) *Cognizable interests.* In applying the provisions of this subpart, ownership and other interests in cable operators, satellite cable programming vendors, satellite broadcast programming vendors, or terrestrial cable programming vendors will be attributed to their holders and may subject the interest holders to the rules of this subpart. Cognizable and attributable interests shall be defined by reference to the criteria set forth in Notes 1 through 5 to §76.501 provided, however, that:

(1) The limited partner and LLC/LLP/RLLP insulation provisions of Note 2(f) shall not apply; and

(2) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.

(c) *Buying groups.* The term ''buying group'' or ''agent,'' for purposes of the definition of a multichannel video programming distributor set forth in paragraph (e) of this section, means an entity representing the interests of more than one entity distributing multichannel video programming that:

(1) Agrees to be financially liable for any fees due pursuant to a satellite cable programming, satellite broadcast programming, or terrestrial cable programming contract which it signs as a contracting party as a representative of its members or whose members, as contracting parties, agree to joint and several liability; and

(2) Agrees to uniform billing and standardized contract provisions for individual members; and

(3) Agrees either collectively or individually on reasonable technical quality standards for the individual members of the group.

(d) *Competing distributors.* The term ''competing,'' as used with respect to

competing multichannel video programming distributors, means distributors whose actual or proposed service areas overlap.

(e) *Multichannel video programming distributor*. The term ''multichannel video programming distributor'' means an entity engaged in the business of making available for purchase, by subscribers or customers, multiple channels of video programming. Such entities include, but are not limited to, a cable operator, a BRS/EBS provider, a direct broadcast satellite service, a television receive-only satellite program distributor, and a satellite master antenna television system operator, as well as buying groups or agents of all such entities.

NOTE TO PARAGRAPH (e): A video programming provider that provides more than one channel of video programming on an open video system is a multichannel video programming distributor for purposes of this subpart O and Section 76.1507.

(f) *Satellite broadcast programming*. The term ''satellite broadcast programming'' means broadcast video programming when such programming is retransmitted by satellite and the entity retransmitting such programming is not the broadcaster or an entity performing such retransmission on behalf of and with the specific consent of the broadcaster.

(g) *Satellite broadcast programming vendor*. The term ''satellite broadcast programming vendor'' means a fixed service satellite carrier that provides service pursuant to section 119 of title 17, United States Code, with respect to satellite broadcast programming.

(h) *Satellite cable programming*. The term ''satellite cable programming'' means video programming which is transmitted via satellite and which is primarily intended for direct receipt by cable operators for their retransmission to cable subscribers, except that such term does not include satellite broadcast programming.

NOTE TO PARAGRAPH (h): Satellite programming which is primarily intended for the direct receipt by open video system operators for their retransmission to open video system subscribers shall be included within the definition of satellite cable programming.

(i) *Satellite cable programming vendor*. The term ''satellite cable programming vendor'' means a person engaged in the production, creation, or wholesale distribution for sale of satellite cable programming, but does not include a satellite broadcast programming vendor.

(j) *Similarly situated*. The term ''similarly situated'' means, for the purposes of evaluating alternative programming contracts offered by a defendant programming vendor or by a terrestrial cable programming vendor alleged to have engaged in conduct described in §76.1001(b)(1)(ii), that an alternative multichannel video programming distributor has been identified by the defendant as being more properly compared to the complainant in order to determine whether a violation of §76.1001(a) or §76.1002(b) has occurred. The analysis of whether an alternative multichannel video programming distributor is properly comparable to the complainant includes consideration of, but is not limited to, such factors as whether the alternative multichannel video programming distributor operates within a geographic region proximate to the complainant, has roughly the same number of subscribers as the complainant, and purchases a similar service as the complainant. Such alternative multichannel video programming distributor, however, must use the same distribution technology as the ''competing'' distributor with whom the complainant seeks to compare itself.

(k) *Subdistribution agreement*. The term ''subdistribution agreement'' means an arrangement by which a local cable operator is given the right by a satellite cable programming vendor or satellite broadcast programming vendor to distribute the vendor's programming to competing multichannel video programming distributors.

(l) *Terrestrial cable programming*. The term ''terrestrial cable programming'' means video programming which is transmitted terrestrially or by any means other than satellite and which is primarily intended for direct receipt by cable operators for their retransmission to cable subscribers, except that such term does not include satellite broadcast programming or satellite cable programming.

(m) *Terrestrial cable programming vendor*. The term ''terrestrial cable programming vendor'' means a person engaged in the production, creation, or wholesale distribution for sale of terrestrial cable programming, but does not include a satellite broadcast programming vendor or a satellite cable programming vendor.

[58 FR 27670, May 11, 1993, as amended at 61 FR 28708, June 5, 1996; 64 FR 67197, Dec. 1, 1999; 69 FR 72046, Dec. 10, 2004; 75 FR 9723, Mar. 3, 2010]

§ 76.1001 Unfair practices generally.

(a) *Unfair practices generally*. No cable operator, satellite cable programming vendor in which a cable operator has an attributable interest, or satellite broadcast programming vendor shall engage in unfair methods of competition or unfair or deceptive acts or practices, the purpose or effect of which is to hinder significantly or prevent any multichannel video programming distributor from providing satellite cable programming or satellite broadcast programming to subscribers or consumers.

(b) *Unfair practices involving terrestrial cable programming and terrestrial cable programming vendors*. (1) The phrase ''unfair methods of competition or unfair or deceptive acts or practices'' as used in paragraph (a) of this section includes, but is not limited to, the following:

(i) Any effort or action by a cable operator that has an attributable interest in a terrestrial cable programming vendor to unduly or improperly influence the decision of such vendor to sell, or unduly or improperly influence such vendor's prices, terms, and conditions for the sale of, terrestrial cable programming to any unaffiliated multichannel video programming distributor.

(ii) Discrimination in the prices, terms, or conditions of sale or delivery of terrestrial cable programming among or between competing cable systems, competing cable operators, or any competing multichannel video programming distributors, or their agents or buying groups, by a terrestrial cable programming vendor that is wholly owned by, controlled by, or under common control with a cable operator or cable operators, satellite cable programming vendor or vendors in which a cable operator has an attributable interest, or satellite broadcast programming vendor or vendors; except that the phrase does not include the practices set forth in § 76.1002(b)(1) through (3). The cable operator or cable operators, satellite cable programming vendor or vendors in which a cable operator has an attributable interest, or satellite broadcast programming vendor or vendors that wholly own or control, or are under common control with, such terrestrial cable programming vendor shall be deemed responsible for such discrimination and any complaint based on such discrimination shall be filed against such cable operator, satellite cable programming vendor, or satellite broadcast programming vendor.

(iii) Exclusive contracts, or any practice, activity, or arrangement tantamount to an exclusive contract, for terrestrial cable programming between a cable operator and a terrestrial cable programming vendor in which a cable operator has an attributable interest.

(2) Any multichannel video programming distributor aggrieved by conduct described in paragraph (b)(1) of this section that it believes constitutes a violation of paragraph (a) of this section may commence an adjudicatory proceeding at the Commission to obtain enforcement of the rules through the filing of a complaint. The complaint shall be filed and responded to in accordance with the procedures specified in § 76.7, as modified by § 76.1003, with the following additions or changes:

(i) The defendant shall answer the complaint within forty-five (45) days of service of the complaint, unless otherwise directed by the Commission.

(ii) The complainant shall have the burden of proof that the defendant's alleged conduct described in paragraph (b)(1) of this section has the purpose or effect of hindering significantly or preventing the complainant from providing satellite cable programming or satellite broadcast programming to subscribers or consumers. An answer to such a complaint shall set forth the defendant's reasons to support a finding

that the complainant has not carried this burden.

(iii) A complainant alleging that a terrestrial cable programming vendor has engaged in conduct described in paragraph (b)(1)(ii) of this section shall have the burden of proof that the terrestrial cable programming vendor is wholly owned by, controlled by, or under common control with a cable operator or cable operators, satellite cable programming vendor or vendors in which a cable operator has an attributable interest, or satellite broadcast programming vendor or vendors. An answer to such a complaint shall set forth the defendant's reasons to support a finding that the complainant has not carried this burden.

[75 FR 9723, Mar. 3, 2010]

§ 76.1002 Specific unfair practices prohibited.

(a) *Undue or improper influence.* No cable operator that has an attributable interest in a satellite cable programming vendor or in a satellite broadcast programming vendor shall unduly or improperly influence the decision of such vendor to sell, or unduly or improperly influence such vendor's prices, terms and conditions for the sale of, satellite cable programming or satellite broadcast programming to any unaffiliated multichannel video programming distributor.

(b) *Discrimination in prices, terms or conditions.* No satellite cable programming vendor in which a cable operator has an attributable interest, or satellite broadcast programming vendor, shall discriminate in the prices, terms, and conditions of sale or delivery of satellite cable programming or satellite broadcast programming among or between competing cable systems, competing cable operators, or any competing multichannel video programming distributors. Nothing in this subsection, however, shall preclude:

(1) The imposition of reasonable requirements for creditworthiness, offering of service, and financial stability and standards regarding character and technical quality;

NOTE 1: Vendors are permitted to create a distinct class or classes of service in pricing based on credit considerations or financial stability, although any such distinctions must be applied for reasons for other than a multichannel video programming distributor's technology. Vendors are not permitted to manifest factors such as creditworthiness or financial stability in price differentials if such factors are already taken into account through different terms or conditions such as special credit requirements or payment guarantees.

NOTE 2: Vendors may establish price differentials based on factors related to offering of service, or difference related to the actual service exchanged between the vendor and the distributor, as manifested in standardly applied contract terms based on a distributor's particular characteristics or willingness to provide secondary services that are reflected as a discount or surcharge in the programming service's price. Such factors include, but are not limited to, penetration of programming to subscribers or to particular systems; retail price of programming to the consumer for pay services; amount and type of promotional or advertising services by a distributor; a distributor's purchase of programming in a package or a la carte; channel position; importance of location for non-volume reasons; prepayment discounts; contract duration; date of purchase, especially purchase of service at launch; meeting competition at the distributor level; and other legitimate factors as standardly applied in a technology neutral fashion.

(2) The establishment of different prices, terms, and conditions to take into account actual and reasonable differences in the cost of creation, sale, delivery, or transmission of satellite cable programming, satellite broadcast programming, or terrestrial cable programming;

NOTE: Vendors may base price differentials, in whole or in part, on differences in the cost of delivering a programming service to particular distributors, such as differences in costs, or additional costs, incurred for advertising expenses, copyright fees, customer service, and signal security. Vendors may base price differentials on cost differences that occur within a given technology as well as between technologies. A price differential for a program service may not be based on a distributor's retail costs in delivering service to subscribers unless the program vendor can demonstrate that subscribers do not or will not benefit from the distributor's cost savings that result from a lower programming price.

(3) The establishment of different prices, terms, and conditions which take into account economies of scale,

cost savings, or other direct and legitimate economic benefits reasonably attributable to the number of subscribers served by the distributor; or

NOTE: Vendors may use volume-related justifications to establish price differentials to the extent that such justifications are made available to similarly situated distributors on a technology-neutral basis. When relying upon standardized volume-related factors that are made available to all multichannel video programming distributors using all technologies, the vendor may be required to demonstrate that such volume discounts are reasonably related to direct and legitimate economic benefits reasonably attributable to the number of subscribers served by the distributor if questions arise about the application of that discount. In such demonstrations, vendors will not be required to provide a strict cost justification for the structure of such standard volume-related factors, but may also identify non-cost economic benefits related to increased viewership.

(4) Entering into exclusive contracts in areas that are permitted under paragraphs (c)(2) and (c)(4) of this section.

(c) *Exclusive contracts and practices*—(1) *Unserved areas.* No cable operator shall engage in any practice or activity or enter into any understanding or arrangement, including exclusive contracts, with a satellite cable programming vendor or satellite broadcast programming vendor for satellite cable programming or satellite broadcast programming that prevents a multichannel video programming distributor from obtaining such programming from any satellite cable programming vendor in which a cable operator has an attributable interest, or any satellite broadcast programming vendor in which a cable operator has an attributable interest for distribution to persons in areas not served by a cable operator as of October 5, 1992.

(2) [Reserved]

(3) *Specific arrangements: Subdistribution agreements*—(i) *Unserved areas.* No cable operator shall enter into any subdistribution agreement or arrangement for satellite cable programming or satellite broadcast programming with a satellite cable programming vendor in which a cable operator has an attributable interest or a satellite broadcast programming vendor in which a cable operator has an attributable interest for distribution to persons in areas not served by a cable operator as of October 5, 1992 unless such agreement or arrangement complies with the limitations set forth in paragraph (c)(3)(ii) of this section.

(ii) *Limitations on subdistribution agreements in unserved areas.* No cable operator engaged in subdistribution of satellite cable programming or satellite broadcast programming may require a competing multichannel video programming distributor to

(A) Purchase additional or unrelated programming as a condition of such subdistribution; or

(B) Provide access to private property in exchange for access to programming. In addition, a subdistributor may not charge a competing multichannel video programming distributor more for said programming than the satellite cable programming vendor or satellite broadcast programming vendor itself would be permitted to charge. Any cable operator acting as a subdistributor of satellite cable programming or satellite broadcast programming must respond to a request for access to such programming by a competing multichannel video programming distributor within fifteen (15) days of the request. If the request is denied, the competing multichannel video programming distributor must be permitted to negotiate directly with the satellite cable programming vendor or satellite broadcast programming vendor.

(4) *Public interest determination.* In determining whether an exclusive contract is in the public interest for purposes of paragraph (c)(5) of this section, the Commission will consider each of the following factors with respect to the effect of such contract on the distribution of video programming in areas that are served by a cable operator:

(i) The effect of such exclusive contract on the development of competition in local and national multichannel video programming distribution markets;

(ii) The effect of such exclusive contract on competition from multichannel video programming distribution technologies other than cable;

(iii) The effect of such exclusive contract on the attraction of capital investment in the production and distribution of new satellite cable programming;

(iv) The effect of such exclusive contract on diversity of programming in the multichannel video programming distribution market; and

(v) The duration of the exclusive contract.

(5) *Commission approval required.* Any cable operator, satellite cable programming vendor in which a cable operator has an attributable interest, or satellite broadcast programming vendor in which a cable operator has an attributable interest must submit a ''Petition for Exclusivity'' to the Commission and receive approval from the Commission to preclude the filing of complaints alleging that an exclusive contract with respect to areas served by a cable operator violates section 628(c)(2)(B) of the Communications Act of 1934, as amended, and paragraph (b) of this section.

(i) The petition for exclusivity shall contain those portions of the contract relevant to exclusivity, including:

(A) A description of the programming service;

(B) The extent and duration of exclusivity proposed; and

(C) Any other terms or provisions directly related to exclusivity or to any of the criteria set forth in paragraph (c)(4) of this section. The petition for exclusivity shall also include a statement setting forth the petitioner's reasons to support a finding that the contract is in the public interest, addressing each of the five factors set forth in paragraph (c)(4) of this section.

(ii) Any competing multichannel video programming distributor affected by the proposed exclusivity may file an opposition to the petition for exclusivity within thirty (30) days of the date on which the petition is placed on public notice, setting forth its reasons to support a finding that the contract is not in the public interest under the criteria set forth in paragraph (c)(4) of this section. Any such formal opposition must be served on petitioner on the same day on which it is filed with the Commission.

(iii) The petitioner may file a response within ten (10) days of receipt of any formal opposition. The Commission will then approve or deny the petition for exclusivity.

(d) *Limitations*—(1) *Geographic limitations.* Nothing in this section shall require any person who is engaged in the national or regional distribution of video programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

(2) *Applicability to satellite retransmissions.* Nothing in this section shall apply:

(i) To the signal of any broadcast affiliate of a national television network or other television signal that is retransmitted by satellite but that is not satellite broadcast programming; or

(ii) To any internal satellite communication of any broadcast network or cable network that is not satellite broadcast programming.

(e) *Exemptions for prior contracts*—(1) *In general.* Nothing in this section shall affect any contract that grants exclusive distribution rights to any person with respect to satellite cable programming and that was entered into or before June 1, 1990, except that the provisions of paragraph (c)(1) of this section shall apply for distribution to persons in areas not served by a cable operator.

(2) *Limitation on renewals.* A contract that was entered into on or before June 1, 1990, but that was renewed or extended after October 5, 1992, shall not be exempt under paragraph (e)(1) of this section.

(f) *Application to existing contracts.* All contracts, except those specified in paragraph (e) of this section, related to the provision of satellite cable programming or satellite broadcast programming to any multichannel video programming distributor must be brought into compliance with the requirements specified in this subpart no later than November 15, 1993.

[58 FR 27671, May 11, 1993, as amended at 59 FR 66259, Dec. 23, 1994; 67 FR 42951, July 30, 2002; 72 FR 56661, Oct. 4, 2007; 75 FR 9724, Mar. 3, 2010; 77 FR 66048, Oct. 31, 2012]

§ 76.1003 Program access proceedings.

(a) *Complaints.* Any multichannel video programming distributor aggrieved by conduct that it believes constitute a violation of the regulations set forth in this subpart may commence an adjudicatory proceeding at the Commission to obtain enforcement of the rules through the filing of a complaint. The complaint shall be filed and responded to in accordance with the procedures specified in §76.7 of this part with the following additions or changes:

(b) *Prefiling notice required.* Any aggrieved multichannel video programming distributor intending to file a complaint under this section must first notify the potential defendant cable operator, and/or the potential defendant satellite cable programming vendor or satellite broadcast programming vendor, that it intends to file a complaint with the Commission based on actions alleged to violate one or more of the provisions contained in §76.1001 or §76.1002 of this part. The notice must be sufficiently detailed so that its recipient(s) can determine the specific nature of the potential complaint. The potential complainant must allow a minimum of ten (10) days for the potential defendant(s) to respond before filing a complaint with the Commission.

(c) *Contents of complaint.* In addition to the requirements of §76.7 of this part, a program access complaint shall contain:

(1) The type of multichannel video programming distributor that describes complainant, the address and telephone number of the complainant, whether the defendant is a cable operator, satellite broadcast programming vendor or satellite cable programming vendor (describing each defendant), and the address and telephone number of each defendant;

(2) Evidence that supports complainant's belief that the defendant, where necessary, meets the attribution standards for application of the program access requirements;

(3) Evidence that the complainant competes with the defendant cable operator, or with a multichannel video programming distributor that is a customer of the defendant satellite cable programming or satellite broadcast programming vendor or a terrestrial cable programming vendor alleged to have engaged in conduct described in §76.1001(b)(1);

(4) In complaints alleging discrimination, documentary evidence such as a rate card or a programming contract that demonstrates a differential in price, terms or conditions between complainant and a competing multichannel video programming distributor or, if no programming contract or rate card is submitted with the complaint, an affidavit signed by an officer of complainant alleging that a differential in price, terms or conditions exits, a description of the nature and extent (if known or reasonably estimated by the complainant) of the differential, together with a statement that defendant refused to provide any further specific comparative information;

(5) If a programming contract or a rate card is submitted with the complaint in support of the alleged violation, specific references to the relevant provisions therein;

(6) In complaints alleging exclusivity violations:

(i) The identity of both the programmer and cable operator who are parties to the alleged prohibited agreement,

(ii) Evidence that complainant can or does serve the area specified in the complaint, and

(iii) Evidence that the complainant has requested to purchase the relevant programming and has been refused or unanswered;

(7) In complaints alleging a violation of §76.1001 of this part, evidence demonstrating that the behavior complained of has harmed complainant.

(8) The complaint must be accompanied by appropriate evidence demonstrating that the required notification pursuant to paragraph (a) of this section has been made.

(d) *Damages requests.* (1) In a case where recovery of damages is sought, the complaint shall contain a clear and unequivocal request for damages and appropriate allegations in support of such claim in accordance with the requirements of paragraph (d)(3) of this section.

(2) Damages will not be awarded upon a complaint unless specifically requested. Damages may be awarded if the complaint complies fully with the requirement of paragraph (d)(3) of this section where the defendant knew, or should have known that it was engaging in conduct violative of section 628.

(3) In all cases in which recovery of damages is sought, the complainant shall include within, or as an attachment to, the complaint, either:

(i) A computation of each and every category of damages for which recovery is sought, along with an identification of all relevant documents and materials or such other evidence to be used by the complainant to determine the amount of such damages; or

(ii) An explanation of:

(A) The information not in the possession of the complaining party that is necessary to develop a detailed computation of damages;

(B) The reason such information is unavailable to the complaining party;

(C) The factual basis the complainant has for believing that such evidence of damages exists; and

(D) A detailed outline of the methodology that would be used to create a computation of damages when such evidence is available.

(e) *Answer.* (1) Except as otherwise provided or directed by the Commission, any cable operator, satellite cable programming vendor or satellite broadcast programming vendor upon which a program access complaint is served under this section shall answer within twenty (20) days of service of the complaint, provided that the answer shall be filed within forty-five (45) days of service of the complaint if the complaint alleges a violation of section 628(b) of the Communications Act of 1934, as amended, or §76.1001(a). To the extent that a cable operator, satellite cable programming vendor or satellite broadcast programming vendor expressly references and relies upon a document or documents in asserting a defense or responding to a material allegation, such document or documents shall be included as part of the answer.

(2) An answer to an exclusivity complaint shall provide the defendant's reasons for refusing to sell the subject programming to the complainant. In addition, the defendant may submit its programming contracts covering the area specified in the complaint with its answer to refute allegations concerning the existence of an impermissible exclusive contract. If there are no contracts governing the specified area, the defendant shall so certify in its answer. Any contracts submitted pursuant to this provision may be protected as proprietary pursuant to §76.9 of this part.

(3) An answer to a discrimination complaint shall state the reasons for any differential in prices, terms or conditions between the complainant and its competitor, and shall specify the particular justification set forth in §76.1002(b) of this part relied upon in support of the differential.

(i) When responding to allegations concerning price discrimination, except in cases in which the alleged price differential is *de minimis* (less than or equal to five cents per subscriber or five percent, whichever is greater), the defendant shall provide documentary evidence to support any argument that the magnitude of the differential is not discriminatory.

(ii) In cases involving a price differential of less than or equal to five cents per subscriber or five percent, whichever is greater, the answer shall identify the differential as *de minimis* and state that the defendant is therefore not required to justify the magnitude of the differential.

(iii) If the defendant believes that the complainant and its competitor are not sufficiently similar, the answer shall set forth the reasons supporting this conclusion, and the defendant may submit an alternative contract for comparison with a similarly situated multichannel video programming distributor that uses the same distribution technology as the competitor selected for comparison by the complainant. The answer shall state the defendant's reasons for any differential between the prices, terms and conditions between the complainant and such similarly situated distributor, and shall specify the particular justifications in §76.1002(b) of this part relied upon in support of the differential. The defendant shall also provide with its answer written documentary evidence

to support its justification of the magnitude of any price differential between the complainant and such similarly situated distributor that is not *de minimis*.

(4) An answer to a complaint alleging an unreasonable refusal to sell programming shall state the defendant's reasons for refusing to sell to the complainant, or for refusing to sell to the complainant on the same terms and conditions as complainant's competitor, and shall specify why the defendant's actions are not discriminatory.

(f) *Reply*. Within fifteen (15) days after service of an answer, unless otherwise directed by the Commission, the complainant may file and serve a reply which shall be responsive to matters contained in the answer and shall not contain new matters.

(g) *Time limit on filing of complaints*. Any complaint filed pursuant to this subsection must be filed within one year of the date on which one of the following events occurs:

(1) The satellite cable programming vendor, satellite broadcast programming vendor, or terrestrial cable programming vendor enters into a contract with the complainant that the complainant alleges to violate one or more of the rules contained in this subpart; or

(2) The satellite cable programming vendor, satellite broadcast programming vendor, or terrestrial cable programming vendor offers to sell programming to the complainant pursuant to terms that the complainant alleges to violate one or more of the rules contained in this subpart, and such offer to sell programming is unrelated to any existing contract between the complainant and the satellite cable programming vendor, satellite broadcast programming vendor, or terrestrial cable programming vendor; or

(3) The complainant has notified a cable operator, or a satellite cable programming vendor or a satellite broadcast programming vendor that it intends to file a complaint with the Commission based on a request to purchase or negotiate to purchase satellite cable programming, satellite broadcast programming, or terrestrial cable programming, or has made a request to amend an existing contract pertaining to such programming pursuant to §76.1002(f) of this part that has been denied or unacknowledged, allegedly in violation of one or more of the rules contained in this subpart.

(h) *Remedies for violations*—(1) *Remedies authorized*. Upon completion of such adjudicatory proceeding, the Commission shall order appropriate remedies, including, if necessary, the imposition of damages, and/or the establishment of prices, terms, and conditions for the sale of programming to the aggrieved multichannel video programming distributor. Such order shall set forth a timetable for compliance, and shall become effective upon release.

(2) *Additional sanctions*. The remedies provided in paragraph (h)(1) of this section are in addition to and not in lieu of the sanctions available under title V or any other provision of the Communications Act.

(3) *Imposition of damages*. (i) *Bifurcation*. In all cases in which damages are requested, the Commission may bifurcate the program access violation determination from any damage adjudication.

(ii) *Burden of proof*. The burden of proof regarding damages rests with the complainant, who must demonstrate with specificity the damages arising from the program access violation. Requests for damages that grossly overstate the amount of damages may result in a Commission determination that the complainant failed to satisfy its burden of proof to demonstrate with specificity the damages arising from the program access violation.

(iii) *Damages adjudication*. (A) The Commission may, in its discretion, end adjudication of damages with a written order determining the sufficiency of the damages computation submitted in accordance with paragraph (d)(3)(i) of this section or the damages computation methodology submitted in accordance with paragraph (d)(3)(ii)(D) of this section, modifying such computation or methodology, or requiring the complainant to resubmit such computation or methodology.

(*1*) Where the Commission issues a written order approving or modifying a damages computation submitted in accordance with paragraph (d)(3)(i) of

this section, the defendant shall recompense the complainant as directed therein.

(*2*) Where the Commission issues a written order approving or modifying a damages computation methodology submitted in accordance with paragraph (d)(3)(ii)(D) of this section, the parties shall negotiate in good faith to reach an agreement on the exact amount of damages pursuant to the Commission-mandated methodology.

(B) Within thirty days of the issuance of a paragraph (d)(3)(ii)(D) of this section damages methodology order, the parties shall submit jointly to the Commission either:

(*1*) A statement detailing the parties' agreement as to the amount of damages;

(*2*) A statement that the parties are continuing to negotiate in good faith and a request that the parties be given an extension of time to continue negotiations; or

(*3*) A statement detailing the bases for the continuing dispute and the reasons why no agreement can be reached.

(C)(*1*) In cases in which the parties cannot resolve the amount of damages within a reasonable time period, the Commission retains the right to determine the actual amount of damages on its own, or through the procedures described in paragraph (h)(3)(iii)(C)(*2*) of this section.

(*2*) Issues concerning the amount of damages may be designated by the Chief, Media Bureau for hearing before, or, if the parties agree, submitted for mediation to, a Commission Administrative Law Judge.

(D) Interest on the amount of damages awarded will accrue from either the date indicated in the Commission's written order issued pursuant to paragraph (h)(3)(iii)(A)(*1*) of this section or the date agreed upon by the parties as a result of their negotiations pursuant to paragraph (h)(3)(iii)(A)(*2*) of this section. Interest shall be computed at applicable rates published by the Internal Revenue Service for tax refunds.

(i) *Alternative dispute resolution.* Within 20 days of the close of the pleading cycle, the parties to the program access dispute may voluntarily engage in alternative dispute resolution, including commercial arbitration. The Commission will suspend action on the complaint if both parties agree to use alternative dispute resolution.

(j) *Discovery.* In addition to the general pleading and discovery rules contained in § 76.7, parties to a program access complaint may serve requests for discovery directly on opposing parties, and file a copy of the request with the Commission. The respondent shall have the opportunity to object to any request for documents that are not in its control or relevant to the dispute or protected from disclosure by the attorney-client privilege, the work-product doctrine, or other recognized protections from disclosure. Such request shall be heard, and determination made, by the Commission. Until the objection is ruled upon, the obligation to produce the disputed material is suspended. Any party who fails to timely provide discovery requested by the opposing party to which it has not raised an objection as described above, or who fails to respond to a Commission order for discovery material, may be deemed in default and an order may be entered in accordance with the allegations contained in the complaint, or the complaint may be dismissed with prejudice.

(k) *Protective orders.* In addition to the procedures contained in § 76.9 of this part related to the protection of confidential material, the Commission may issue orders to protect the confidentiality of proprietary information required to be produced for resolution of program access complaints. A protective order constitutes both an order of the Commission and an agreement between the party executing the protective order declaration and the party submitting the protected material. The Commission has full authority to fashion appropriate sanctions for violations of its protective orders, including but not limited to suspension or disbarment of attorneys from practice before the Commission, forfeitures, cease and desist orders, and denial of further access to confidential information in Commission proceedings.

(l) *Petitions for temporary standstill.* (1) A program access complainant seeking renewal of an existing programming contract may file a petition along with its complaint requesting a temporary

standstill of the price, terms, and other conditions of the existing programming contract pending resolution of the complaint. In addition to the requirements of §76.7, the complainant shall have the burden of proof to demonstrate the following in its petition:

(i) The complainant is likely to prevail on the merits of its complaint;

(ii) The complainant will suffer irreparable harm absent a stay;

(iii) Grant of a stay will not substantially harm other interested parties; and

(iv) The public interest favors grant of a stay.

(2) The defendant cable operator, satellite cable programming vendor or satellite broadcast programming vendor upon which a petition for temporary standstill is served shall answer within ten (10) days of service of the petition, unless otherwise directed by the Commission.

(3) If the Commission grants the temporary standstill, the Commission's decision acting on the complaint will provide for remedies that make the terms of the new agreement between the parties retroactive to the expiration date of the previous programming contract.

(m) *Deadline for Media Bureau action on complaints alleging a denial of programming.* For complaints alleging a denial of programming, the Chief, Media Bureau shall release a decision resolving the complaint within six (6) months from the date the complaint is filed.

[64 FR 6572, Feb. 10, 1999, as amended at 67 FR 13235, Mar. 21, 2002; 72 FR 56661, Oct. 4, 2007; 75 FR 9724, Mar. 3, 2010; 77 FR 66048, Oct. 31, 2012]

§ 76.1004 Applicability of program access rules to common carriers and affiliates.

(a) Any provision that applies to a cable operator under §§76.1000 through 76.1003 shall also apply to a common carrier or its affiliate that provides video programming by any means directly to subscribers. Any such provision that applies to a satellite cable programming vendor in which a cable operator has an attributable interest shall apply to any satellite cable programming vendor in which such common carrier has an attributable interest. For the purposes of this section, two or fewer common officers or directors shall not by itself establish an attributable interest by a common carrier in a satellite cable programming vendor (or its parent company) or a terrestrial cable programming vendor (or its parent company).

(b) Sections 76.1002(c)(1) through (3) shall be applied to a common carrier or its affiliate that provides video programming by any means directly to subscribers as follows: No common carrier or its affiliate that provides video programming directly to subscribers shall engage in any practice or activity or enter into any understanding or arrangement, including exclusive contracts, with a satellite cable programming vendor or satellite broadcast programming vendor for satellite cable programming or satellite broadcast programming that prevents a multichannel video programming distributor from obtaining such programming from any satellite cable programming vendor in which a common carrier or its affiliate has an attributable interest, or any satellite broadcasting vendor in which a common carrier or its affiliate has an attributable interest for distribution to persons in areas not served by a cable operator as of October 5, 1992.

[61 FR 18980, Apr. 30, 1996, as amended at 61 FR 28708, June 5, 1996; 75 FR 9724, Mar. 3, 2010; 77 FR 66048, Oct. 31, 2012]

§§ 76.1005–76.1010 [Reserved]

Subpart P—Competitive Availability of Navigation Devices

SOURCE: 63 FR 38094, July 15, 1998, unless otherwise noted.

§ 76.1200 Definitions.

As used in this subpart:

(a) *Multichannel video programming system.* A distribution system that makes available for purchase, by customers or subscribers, multiple channels of video programming other than an open video system as defined by §76.1500(a). Such systems include, but are not limited to, cable television systems, BRS/EBS systems, direct broadcast satellite systems, other systems

for providing direct-to-home multichannel video programming via satellite, and satellite master antenna systems.

(b) *Multichannel video programming distributor*. A person such as, but not limited to, a cable operator, a BRS/EBS provider, a direct broadcast satellite service, or a television receive-only satellite program distributor, who owns or operates a multichannel video programming system.

(c) *Navigation devices*. Devices such as converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems.

(d) *Affiliate*. A person or entity that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person, as defined in the notes accompanying § 76.501.

(e) *Conditional access*. The mechanisms that provide for selective access and denial of specific services and make use of signal security that can prevent a signal from being received except by authorized users.

[63 FR 38094, July 15, 1998, as amended at 69 FR 72046, Dec. 10, 2004]

§ 76.1201 Rights of subscribers to use or attach navigation devices.

No multichannel video programming distributor shall prevent the connection or use of navigation devices to or with its multichannel video programming system, except in those circumstances where electronic or physical harm would be caused by the attachment or operation of such devices or such devices may be used to assist or are intended or designed to assist in the unauthorized receipt of service.

§ 76.1202 Availability of navigation devices.

No multichannel video programming distributor shall by contract, agreement, patent right, intellectual property right or otherwise prevent navigation devices that do not perform conditional access or security functions from being made available to subscribers from retailers, manufacturers, or other vendors that are unaffiliated with such owner or operator, subject to § 76.1209.

§ 76.1203 Incidence of harm.

A multichannel video programming distributor may restrict the attachment or use of navigation devices with its system in those circumstances where electronic or physical harm would be caused by the attachment or operation of such devices or such devices that assist or are intended or designed to assist in the unauthorized receipt of service. Such restrictions may be accomplished by publishing and providing to subscribers standards and descriptions of devices that may not be used with or attached to its system. Such standards shall foreclose the attachment or use only of such devices as raise reasonable and legitimate concerns of electronic or physical harm or theft of service. In any situation where theft of service or harm occurs or is likely to occur, service may be discontinued.

§ 76.1204 Availability of equipment performing conditional access or security functions.

(a)(1) A multichannel video programming distributor that utilizes Navigation Devices to perform conditional access functions shall make available equipment that incorporates only the conditional access functions of such devices.

(2) The foregoing requirement shall not apply to a multichannel video programming distributor that supports the active use by subscribers of Navigation Devices that:

(i) Operate throughout the continental United States, and

(ii) Are available from retail outlets and other vendors throughout the United States that are not affiliated with the owner or operator of the multichannel video programming system.

(b) Conditional access function equipment made available pursuant to paragraph (a)(1) of this section shall be designed to connect to and function with other Navigation Devices available through the use of a commonly used interface or an interface that conforms to appropriate technical standards promulgated by a national standards organization.

(c) No multichannel video programming distributor shall by contract, agreement, patent, intellectual property right or otherwise preclude the addition of features or functions to the equipment made available pursuant to this section that are not designed, intended or function to defeat the conditional access controls of such devices or to provide unauthorized access to service.

(d) Notwithstanding the foregoing, Navigation Devices need not be made available pursuant to this section where:

(1) It is not reasonably feasible to prevent such devices from being used for the unauthorized reception of service; or

(2) It is not reasonably feasible to separate conditional access from other functions without jeopardizing security.

(e) Paragraphs (a)(1), (b), and (c) of this section shall not apply to the provision of any Navigation Device that:

(1) Employs conditional access mechanisms only to access analog video programming;

(2) Is capable only of providing access to analog video programming offered over a multichannel video programming distribution system; and

(3) Does not provide access to any digital transmission of multichannel video programming or any other digital service through any receiving, decoding, conditional access, or other function, including any conversion of digital programming or service to an analog format.

[81 FR 13997, Mar. 16, 2016]

§ 76.1205 CableCARD support.

(a) Technical information concerning interface parameters that are needed to permit navigation devices to operate with multichannel video programming systems shall be provided by the system operator upon request in a timely manner.

(b) A multichannel video programming provider that is subject to the requirements of § 76.1204(a)(1) must:

(1) Provide the means to allow subscribers to self-install the CableCARD in a CableCARD-reliant device purchased at retail and inform a subscriber of this option when the subscriber requests a CableCARD. This requirement shall be effective August 1, 2011, if the MVPD allows its subscribers to self-install any cable modems or operator-leased set-top boxes and November 1, 2011 if the MVPD does not allow its subscribers to self-install any cable modems or operator-leased set-top boxes;

(i) This requirement shall not apply to cases in which neither the manufacturer nor the vendor of the CableCARD-reliant device furnishes to purchasers appropriate instructions for self-installation of a CableCARD, and a manned toll-free telephone number to answer consumer questions regarding CableCARD installation but only for so long as such instructions are not furnished and the call center is not offered;

(ii) [Reserved]

(2) Effective August 1, 2011, provide multi-stream CableCARDs to subscribers, unless the subscriber requests a single-stream CableCARD;

(3) With respect to professional installations, ensure that the technician arrives with no fewer than the number of CableCARDS requested by the customer and ensure that all CableCARDs delivered to customers are in good working condition and compatible with the customer's device;

(4) Effective August 1, 2011, provide, through the use of a commonly used interface and published specifications for communication, CableCARD-reliant, firmware-upgradable navigation devices the ability to tune simultaneously as many switched-digital channels as the greatest number of streams supported by any set-top box provided by the cable operator, or four simultaneous channels, whichever is greater;

(5) Separately disclose to consumers in a conspicuous manner with written information provided to customers in accordance with § 76.1602, with written or oral information at consumer request, and on Web sites or billing inserts;

(i) Any assessed fees for the rental of single and additional CableCARDs and the rental of operator-supplied navigation devices; and,

(ii) If such provider includes equipment in the price of a bundled offer of

one or more services, the fees reasonably allocable to:

(A) The rental of single and additional CableCARDs; and

(B) The rental of operator-supplied navigation devices.

(*1*) CableCARD rental fees shall be priced uniformly throughout a cable system by such provider without regard to the intended use in operator-supplied or consumer-owned equipment. No service fee shall be imposed on a subscriber for support of a subscriber-provided device that is not assessed on subscriber use of an operator-provided device.

(*2*) For any bundled offer combining service and an operator-supplied navigation device into a single fee, including any bundled offer providing a discount for the purchase of multiple services, such provider shall make such offer available without discrimination to any customer that owns a navigation device, and, to the extent the customer uses such navigation device in lieu of the operator-supplied equipment included in that bundled offer, shall further offer such customer a discount from such offer equal to an amount not less than the monthly rental fee reasonably allocable to the lease of the operator-supplied navigation device included with that offer. For purposes of this section, in determining what is ''reasonably allocable,'' the Commission will consider in its evaluation whether the allocation is consistent with one or more of the following factors:

(*i*) An allocation determination approved by a local, state, or Federal government entity;

(*ii*) The monthly lease fee as stated on the cable system rate card for the navigation device when offered by the cable operator separately from a bundled offer; and

(*iii*) The actual cost of the navigation device amortized over a period of no more than 60 months.

(c) A cable operator shall not provide misleading information regarding the ability of navigation devices to access switched digital channels.

[76 FR 40279, July 8, 2011]

§ 76.1206 Equipment sale or lease charge subsidy prohibition.

Multichannel video programming distributors offering navigation devices subject to the provisions of § 76.923 for sale or lease directly to subscribers, shall adhere to the standards reflected therein relating to rates for equipment and installation and shall separately state the charges to consumers for such services and equipment.

§ 76.1207 Waivers.

The Commission may waive a regulation adopted under this subpart for a limited time, upon an appropriate showing by a provider of multichannel video programming and other services offered over multichannel video programming systems, or an equipment provider that such a waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products. Such waiver requests should be made pursuant to § 76.7. Such a waiver shall be effective for all service providers and products in the category in which the waiver is granted.

§ 76.1208 Sunset of regulations.

The regulations adopted under this subpart shall cease to apply when the Commission determines that (1) the market for multichannel video distributors is fully competitive; (2) the market for converter boxes, and interactive communications equipment, used in conjunction with that service is fully competitive; and (3) elimination of the regulations would promote competition and the public interest. Any interested party may petition the Commission for such a determination.

§ 76.1209 Theft of service.

Nothing in this subpart shall be construed to authorize or justify any use, manufacture, or importation of equipment that would violate 47 U.S.C. 553 or any other provision of law intended to preclude the unauthorized reception of multichannel video programming service.

§ 76.1210 Effect on other rules.

Nothing in this subpart affects § 64.702(d) of the Commission's regulations or other Commission regulations governing interconnection and competitive provision of customer premises equipment used in connection with basic common carrier communications services.

Subpart Q—Regulation of Carriage Agreements

SOURCE: 58 FR 60395, Nov. 16, 1993, unless otherwise noted.

§ 76.1300 Definitions.

As used in this subpart:

(a) *Affiliated.* For purposes of this subpart, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities.

(b) *Attributable interest.* The term ''attributable interest'' shall be defined by reference to the criteria set forth in Notes 1 through 5 to § 76.501 provided, however, that:

(1) The limited partner and LLC/LLP/RLLP insulation provisions of Note 2(f) shall not apply; and

(2) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.

(c) *Buying groups.* The term ''buying group'' or ''agent,'' for purposes of the definition of a multichannel video programming distributor set forth in paragraph (e) of this section, means an entity representing the interests of more than one entity distributing multichannel video programming that:

(1) Agrees to be financially liable for any fees due pursuant to a satellite cable programming, or satellite broadcast programming, contract which it signs as a contracting party as a representative of its members or whose members, as contracting parties, agree to joint and several liability; and

(2) Agrees to uniform billing and standardized contract provisions for individual members; and

(3) Agrees either collectively or individually on reasonable technical quality standards for the individual members of the group.

(d) *Multichannel video programming distributor.* The term ''multichannel video programming distributor'' means an entity engaged in the business of making available for purchase, by subscribers or customers, multiple channels of video programming. Such entities include, but are not limited to, a cable operator, a BRS/EBS provider, a direct broadcast satellite service, a television receive-only satellite program distributor, and a satellite master antenna television system operator, as well as buying groups or agents of all such entities.

(e) *Video programming vendor.* The term ''video programming vendor'' means a person engaged in the production, creation, or wholesale distribution of video programming for sale.

[58 FR 60395, Nov. 16, 1993, as amended at 64 FR 67197, Dec. 1, 1999; 69 FR 72046, Dec. 10, 2004]

§ 76.1301 Prohibited practices.

(a) *Financial interest.* No cable operator or other multichannel video programming distributor shall require a financial interest in any program service as a condition for carriage on one or more of such operator's/provider's systems.

(b) *Exclusive rights.* No cable operator or other multichannel video programming distributor shall coerce any video programming vendor to provide, or retaliate against such a vendor for failing to provide, exclusive rights against any other multichannel video programming distributor as a condition for carriage on a system.

(c) *Discrimination.* No multichannel video programming distributor shall engage in conduct the effect of which is to unreasonably restrain the ability of an unaffiliated video programming vendor to compete fairly by discriminating in video programming distribution on the basis of affiliation or nonaffiliation of vendors in the selection, terms, or conditions for carriage of video programming provided by such vendors.

§ 76.1302 Carriage agreement proceedings.

(a) *Complaints.* Any video programming vendor or multichannel video programming distributor aggrieved by conduct that it believes constitute a violation of the regulations set forth in this subpart may commence an adjudicatory proceeding at the Commission to obtain enforcement of the rules through the filing of a complaint. The complaint shall be filed and responded to in accordance with the procedures specified in § 76.7 of this part with the following additions or changes:

(b) *Prefiling notice required.* Any aggrieved video programming vendor or multichannel video programming distributor intending to file a complaint under this section must first notify the potential defendant multichannel video programming distributor that it intends to file a complaint with the Commission based on actions alleged to violate one or more of the provisions contained in § 76.1301 of this part. The notice must be sufficiently detailed so that its recipient(s) can determine the specific nature of the potential complaint. The potential complainant must allow a minimum of ten (10) days for the potential defendant(s) to respond before filing a complaint with the Commission.

(c) *Contents of complaint.* In addition to the requirements of § 76.7, a carriage agreement complaint shall contain:

(1) Whether the complainant is a multichannel video programming distributor or video programming vendor, and, in the case of a multichannel video programming distributor, identify the type of multichannel video programming distributor, the address and telephone number of the complainant, what type of multichannel video programming distributor the defendant is, and the address and telephone number of each defendant;

(2) Evidence that supports complainant's belief that the defendant, where necessary, meets the attribution standards for application of the carriage agreement regulations;

(3) The complaint must be accompanied by appropriate evidence demonstrating that the required notification pursuant to paragraph (b) of this section has been made.

(d) *Prima facie case.* In order to establish a *prima facie* case of a violation of § 76.1301, the complaint must contain evidence of the following:

(1) The complainant is a video programming vendor as defined in section 616(b) of the Communications Act of 1934, as amended, and § 76.1300(e) or a multichannel video programming distributor as defined in section 602(13) of the Communications Act of 1934, as amended, and § 76.1300(d);

(2) The defendant is a multichannel video programming distributor as defined in section 602(13) of the Communications Act of 1934, as amended, and § 76.1300(d); and

(3)(i) *Financial interest.* In a complaint alleging a violation of § 76.1301(a), documentary evidence or testimonial evidence (supported by an affidavit from a representative of the complainant) that supports the claim that the defendant required a financial interest in any program service as a condition for carriage on one or more of such defendant's systems.

(ii) *Exclusive rights.* In a complaint alleging a violation of § 76.1301(b), documentary evidence or testimonial evidence (supported by an affidavit from a representative of the complainant) that supports the claim that the defendant coerced a video programming vendor to provide, or retaliated against such a vendor for failing to provide, exclusive rights against any other multichannel video programming distributor as a condition for carriage on a system.

(iii) *Discrimination.* In a complaint alleging a violation of § 76.1301(c):

(A) Evidence that the conduct alleged has the effect of unreasonably restraining the ability of an unaffiliated video programming vendor to compete fairly; and

(B) (*1*) Documentary evidence or testimonial evidence (supported by an affidavit from a representative of the complainant) that supports the claim that the defendant discriminated in video programming distribution on the basis of affiliation or non-affiliation of vendors in the selection, terms, or conditions for carriage of video programming provided by such vendors; or

(*2*) (*i*) Evidence that the complainant provides video programming that is

similarly situated to video programming provided by a video programming vendor affiliated (as defined in §76.1300(a)) with the defendant multichannel video programming distributor, based on a combination of factors, such as genre, ratings, license fee, target audience, target advertisers, target programming, and other factors; and

(*ii*) Evidence that the defendant multichannel video programming distributor has treated the video programming provided by the complainant differently than the similarly situated, affiliated video programming described in paragraph (d)(3)(iii)(B)(*2*)(*i*) of this section with respect to the selection, terms, or conditions for carriage.

(e) *Answer*. (1) Any multichannel video programming distributor upon which a carriage agreement complaint is served under this section shall answer within sixty (60) days of service of the complaint, unless otherwise directed by the Commission.

(2) The answer shall address the relief requested in the complaint, including legal and documentary support, for such response, and may include an alternative relief proposal without any prejudice to any denials or defenses raised.

(f) *Reply*. Within twenty (20) days after service of an answer, unless otherwise directed by the Commission, the complainant may file and serve a reply which shall be responsive to matters contained in the answer and shall not contain new matters.

(g) *Prima facie determination*. (1) Within sixty (60) calendar days after the complainant's reply to the defendant's answer is filed (or the date on which the reply would be due if none is filed), the Chief, Media Bureau shall release a decision determining whether the complainant has established a *prima facie* case of a violation of §76.1301.

(2) The Chief, Media Bureau may toll the sixty (60)-calendar-day deadline under the following circumstances:

(i) If the complainant and defendant jointly request that the Chief, Media Bureau toll these deadlines in order to pursue settlement discussions or alternative dispute resolution or for any other reason that the complainant and defendant mutually agree justifies tolling; or

(ii) If complying with the deadline would violate the due process rights of a party or would be inconsistent with fundamental fairness.

(3) A finding that the complainant has established a *prima facie* case of a violation of §76.1301 means that the complainant has provided sufficient evidence in its complaint to allow the case to proceed to a ruling on the merits.

(4) If the Chief, Media Bureau finds that the complainant has not established a *prima facie* case of a violation of §76.1301, the Chief, Media Bureau will dismiss the complaint.

(h) *Time limit on filing of complaints*. Any complaint filed pursuant to this subsection must be filed within one year of the date on which one of the following events occurs:

(1) The multichannel video programming distributor enters into a contract with a video programming distributor that a party alleges to violate one or more of the rules contained in this section; or

(2) The multichannel video programming distributor offers to carry the video programming vendor's programming pursuant to terms that a party alleges to violate one or more of the rules contained in this section, and such offer to carry programming is unrelated to any existing contract between the complainant and the multichannel video programming distributor; or

(3) A party has notified a multichannel video programming distributor that it intends to file a complaint with the Commission based on violations of one or more of the rules contained in this section.

(i) *Deadline for decision on the merits*. (1)(i) For program carriage complaints that the Chief, Media Bureau decides on the merits based on the complaint, answer, and reply without discovery, the Chief, Media Bureau shall release a decision on the merits within sixty (60) calendar days after the Chief, Media Bureau's *prima facie* determination.

(ii) For program carriage complaints that the Chief, Media Bureau decides on the merits after discovery, the

Chief, Media Bureau shall release a decision on the merits within 150 calendar days after the Chief, Media Bureau's *prima facie* determination.

(iii) The Chief, Media Bureau may toll these deadlines under the following circumstances:

(A) If the complainant and defendant jointly request that the Chief, Media Bureau toll these deadlines in order to pursue settlement discussions or alternative dispute resolution or for any other reason that the complainant and defendant mutually agree justifies tolling; or

(B) If complying with the deadline would violate the due process rights of a party or would be inconsistent with fundamental fairness.

(2) For program carriage complaints that the Chief, Media Bureau refers to an administrative law judge for an initial decision, the deadlines set forth in § 0.341(f) of this chapter apply.

(j) *Remedies for violations*—(1) *Remedies authorized.* Upon completion of such adjudicatory proceeding, the Commission shall order appropriate remedies, including, if necessary, mandatory carriage of a video programming vendor's programming on defendant's video distribution system, or the establishment of prices, terms, and conditions for the carriage of a video programming vendor's programming. Such order shall set forth a timetable for compliance, and shall become effective upon release, unless any order of mandatory carriage would require the defendant multichannel video programming distributor to delete existing programming from its system to accommodate carriage of a video programming vendor's programming. In such instances, if the defendant seeks review of the staff, or administrative law judge decision, the order for carriage of a video programming vendor's programming will not become effective unless and until the decision of the staff or administrative law judge is upheld by the Commission. If the Commission upholds the remedy ordered by the staff or administrative law judge in its entirety, the defendant will be required to carry the video programming vendor's programming for an additional period equal to the time elapsed between the staff or administrative law judge decision and the Commission's ruling, on the terms and conditions approved by the Commission.

(2) *Additional sanctions.* The remedies provided in paragraph (j)(1) of this section are in addition to and not in lieu of the sanctions available under title V or any other provision of the Communications Act.

(k) *Petitions for temporary standstill.* (1) A program carriage complainant seeking renewal of an existing programming contract may file a petition along with its complaint requesting a temporary standstill of the price, terms, and other conditions of the existing programming contract pending resolution of the complaint. To allow for sufficient time to consider the petition for temporary standstill prior to the expiration of the existing programming contract, the petition for temporary standstill and complaint shall be filed no later than thirty (30) days prior to the expiration of the existing programming contract. In addition to the requirements of § 76.7, the complainant shall have the burden of proof to demonstrate the following in its petition:

(i) The complainant is likely to prevail on the merits of its complaint;

(ii) The complainant will suffer irreparable harm absent a stay;

(iii) Grant of a stay will not substantially harm other interested parties; and

(iv) The public interest favors grant of a stay.

(2) The defendant multichannel video programming distributor upon which a petition for temporary standstill is served shall answer within ten (10) days of service of the petition, unless otherwise directed by the Commission.

(3) If the Commission grants the temporary standstill, the adjudicator deciding the case on the merits (*i.e.*, either the Chief, Media Bureau or an administrative law judge) will provide for remedies that are applied as of the expiration date of the previous programming contract.

[64 FR 6574, Feb. 10, 1999, as amended at 76 FR 60673, Sept. 29, 2011]

§§ 76.1303–76.1305 [Reserved]

Subpart R—Telecommunications Act Implementation

SOURCE: 61 FR 18980, Apr. 30, 1996, unless otherwise noted.

§ 76.1400 Purpose.

The rules and regulations set forth in this subpart provide procedures for administering certain aspects of cable regulation. These rules and regulations provide guidance for operators, subscribers and franchise authorities with respect to matters that are subject to immediate implementation under governing statutes but require specific regulatory procedures or definitions.

§ 76.1404 Use of cable facilities by local exchange carriers.

(a) For purposes of §76.505(d)(2), the Commission will determine whether use of a cable operator's facilities by a local exchange carrier is reasonably limited in scope and duration according to the procedures in paragraph (b) of this section.

(b) Based on the record created by §76.1617 of the rules, the Commission shall determine whether the local exchange carrier's use of that part of the transmission facilities of a cable system extending from the last multi-use terminal to the premises of the end user is reasonably limited in scope and duration. In making this determination, the Commission will evaluate whether the proposed joint use of cable facilities promotes competition in both services and facilities, and encourages long-term investment in telecommunications infrastructure.

[65 FR 53617, Sept. 5, 2000]

Subpart S—Open Video Systems

SOURCE: 61 FR 28708, June 5, 1996, unless otherwise noted.

§ 76.1500 Definitions.

(a) *Open video system.* A facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, provided that the Commission has certified that such system complies with this part.

(b) *Open video system operator* (*operator*). Any person or group of persons who provides cable service over an open video system and directly or through one or more affiliates owns a significant interest in such open video system, or otherwise controls or is responsible for the management and operation of such an open video system.

(c) *Video programming provider.* Any person or group of persons who has the right under the copyright laws to select and contract for carriage of specific video programming on an open video system.

(d) *Activated channels.* This term shall have the same meaning as provided in the cable television rules, 47 CFR 76.5(nn).

(e) *Shared channel.* Any channel that carries video programming that is selected by more than one video programming provider and offered to subscribers.

(f) *Cable service.* This term shall have the same meaning as provided in the cable television rules, 47 CFR 76.5(ff).

(g) *Affiliated.* For purposes of this subpart, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities.

(h) *Attributable Interest.* The term ''attributable interest'' shall be defined by reference to the criteria set forth in Notes 1 through 5 to §76.501 provided, however, that:

(1) The limited partner and LLC/LLP/RLLP insulation provisions of Note 2(f) shall not apply; and

(2) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.

(i) *Other terms.* Unless otherwise expressly stated, words not defined in this part shall be given their meaning as used in Title 47 of the United States Code, as amended, and, if not defined therein, their meaning as used in Part 47 of the Code of Federal Regulations.

[61 FR 28708, June 5, 1996, as amended at 61 FR 43175, Aug. 21, 1996; 64 FR 67197, Dec. 1, 1999]

§ 76.1501 Qualifications to be an open video system operator.

Any person may obtain a certification to operate an open video system pursuant to Section 653(a)(1) of the Communications Act, 47 U.S.C. 573(a)(1), except that an operator of a cable system may not obtain such certification within its cable service area unless it is subject to ''effective competition'' as defined in Section 623(l)(1) of the Communications Act, 47 U.S.C. 543(l)(1). The effective competition requirement of the preceding sentence does not apply to a local exchange carrier that is also a cable operator that seeks open video system certification within its cable service area. A cable operator that is not subject to effective competition within its cable service area may file a petition with the Commission, seeking a finding that particular circumstances exist that make it consistent with the public interest, convenience, and necessity to allow the operator to convert its cable system to an open video system. Nothing herein shall be construed to affect the terms of any franchising agreement or other contractual agreement.

[65 FR 376, Jan. 5, 2000]

§ 76.1502 Certification.

(a) An operator of an open video system must certify to the Commission that it will comply with the Commission's regulations in 47 CFR 76.1503, 76.1504, 76.1506(m), 76.1508, 76.1509, and 76.1513. The Commission must approve such certification prior to the commencement of service at such a point in time that would allow the applicant sufficient time to comply with the Commission's notification requirements.

(b) Certifications must be verified by an officer or director of the applicant, stating that, to the best of his or her information and belief, the representations made therein are accurate.

(c) Certifications must be filed on FCC Form 1275 and must include:

(1) The applicant's name, address and telephone number;

(2) A statement of ownership, including all affiliated entities;

(3) If the applicant is a cable operator applying for certification in its cable franchise area, a statement that the applicant is qualified to operate an open video system under Section 76.1501.

(4) A statement that the applicant agrees to comply and to remain in compliance with each of the Commission's regulations in §§ 76.1503, 76.1504, 76.1506(m), 76.1508, 76.1509, and 76.1513;

(5) If the applicant is required under 47 CFR 64.903(a) of this chapter to file a cost allocation manual, a statement that the applicant will file changes to its manual at least 60 days before the commencement of service;

(6) A list of the names of the anticipated local communities to be served upon completion of the system;

(7) The anticipated amount and type (*i.e.*, analog or digital) of capacity (for switched digital systems, the anticipated number of available channel input ports); and

(8) A statement that the applicant will comply with the Commission's notice and enrollment requirements for unaffiliated video programming providers.

(d)(1) On or before the date an FCC Form 1275 is filed with the Commission, the applicant must serve a copy of its filing on all local communities identified pursuant to paragraph (c)(6) of this section and must include a statement informing the local communities of the Commission's requirements in paragraph (e) of this section for filing oppositions and comments. Service by mail is complete upon mailing, but if mailed, the served documents must be postmarked at least 3 days prior to the filing of the FCC Form 1275 with the Commission.

(2) Parties are required to attach a cover sheet to the filing indicating that the submission is an open video system certification application. The only wording on this cover sheet shall be ''Open Video System Certification Application'' and ''Attention: Media Bureau.'' This wording shall be located in the center of the page and should be in letters at least ½ inch in size. Parties shall also include the words ''open video systems'' on their mailing envelope.

(e)(1) Comments or oppositions to a certification must be filed within five

calendar days of the Commission's receipt of the certification and must be served on the party that filed the certification. If, after making the necessary calculations, the due date for filing comments falls on a holiday, comments shall be filed on the next business day before noon, unless the nearest business day precedes the fifth calendar day following a filing, in which case the comments will be due on the preceding business day. For example, if the fifth day falls on a Saturday, then the filing would be due on that preceding Friday. However, if the fifth day falls on Sunday, then the filing will be due on the next day, Monday, before noon (or Tuesday, before noon if the Monday is a holiday).

(2) Parties wishing to respond to a FCC Form 1275 filing must submit comments or oppositions with the Office of the Secretary and the Bureau Chief, Media Bureau. Comments will not be considered properly filed unless filed with both of these Offices. Parties are required to attach a cover sheet to the filing indicating that the submission is a pleading related to an open video system application, the only wording on this cover sheet shall be ''Open Video System Certification Application Comments.'' This wording shall be located in the center of the page and should be in letters at least ½ inch in size. Parties shall also include the words ''open video systems'' on their mailing envelopes.

(f) If the Commission does not disapprove the certification application within ten days after receipt of an applicant's request, the certification application will be deemed approved. If disapproved, the applicant may file a revised certification or refile its original submission with a statement addressing the issues in dispute. Such refilings must be served on any objecting party or parties and on all local communities in which the applicant intends to operate. The Commission will consider any revised or refiled FCC Form 1275 to be a new proceeding and any party who filed comments regarding the original FCC Form 1275 will have to refile their original comments if they think such comments should be considered in the subsequent proceeding.

[61 FR 28708, June 5, 1996, as amended at 61 FR 43175, Aug. 21, 1996; 62 FR 26238, May 13, 1997; 63 FR 31934, June 11, 1998; 65 FR 377, Jan. 5, 2000; 67 FR 13235, Mar. 21, 2002]

§ 76.1503 Carriage of video programming providers on open video systems.

(a) *Non-discrimination principle.* Except as otherwise permitted in applicable law or in this part, an operator of an open video system shall not discriminate among video programming providers with regard to carriage on its open video system, and its rates, terms and conditions for such carriage shall be just and reasonable and not unjustly or unreasonably discriminatory.

(b) *Demand for carriage.* An operator of an open video system shall solicit and determine the level of demand for carriage on the system among potential video programming providers in a non-discriminatory manner.

(1) *Notification.* An open video system operator shall file with the Secretary of the Federal Communications Commission a ''Notice of Intent'' to establish an open video system, which the Commission will release in a Public Notice. Parties are required to attach a cover sheet to the filing indicating that the submission is an Open Video System Notice of Intent. The only wording on this cover sheet shall be ''Open Video System Notice of Intent'' and ''Attention: Media Bureau.'' This wording shall be located in the center of the page and should be in letters at least ½ inch in size. Parties shall also include the words ''open video systems'' on their mailing envelopes. Parties must submit copies of the Notice of Intent with the Office of the Secretary and the Bureau Chief, Media Bureau. The Notice of Intent shall include the following information:

(i) A heading clearly indicating that the document is a Notice of Intent to establish an open video system;

(ii) The name, address and telephone number of the open video system operator;

(iii) A description of the system's projected service area;

(iv) A description of the system's projected channel capacity, in terms of

analog, digital and other type(s) of capacity upon activation of the system;

(v) A description of the steps a potential video programming provider must follow to seek carriage on the open video system, including the name, address and telephone number of a person to contact for further information;

(vi) The starting and ending dates of the initial enrollment period for video programming providers;

(vii) The process for allocating the system's channel capacity, in the event that demand for carriage on the system exceeds the system's capacity; and

(viii) A certification that the operator has complied with all relevant notification requirements under the Commission's open video system regulations concerning must-carry and retransmission consent (§76.1506), including a list of all local commercial and non-commercial television stations served, and a certificate of service showing that the Notice of Intent has been served on all local cable franchising authorities entitled to establish requirements concerning the designation of channels for public, educational and governmental use.

(2) *Information.* An open video system operator shall provide the following information to a video programming provider within five business days of receiving a written request from the provider, unless otherwise included in the Notice of Intent:

(i) The projected activation date of the open video system. If a system is to be activated in stages, the operator should describe the respective stages and the projected dates on which each stage will be activated;

(ii) A preliminary carriage rate estimate;

(iii) The information a video programming provider will be required to provide to qualify as a video programming provider, e.g., creditworthiness;

(iv) Technical information that is reasonably necessary for potential video programming providers to assess whether to seek capacity on the open video system, including what type of customer premises equipment subscribers will need to receive service;

(v) Any transmission or reception equipment needed by a video programming provider to interface successfully with the open video system; and

(vi) The equipment available to facilitate the carriage of unaffiliated video programming and the electronic form(s) that will be accepted for processing and subsequent transmission through the system.

(3) *Qualifications of video programming providers.* An open video system operator may impose reasonable, non-discriminatory requirements to assure that a potential video programming provider is qualified to obtain capacity on the open video system.

(c) *One-third limit.* If carriage demand by video programming providers exceeds the activated channel capacity of the open video system, the operator of the open video system and its affiliated video programming providers may not select the video programming services for carriage on more than one-third of the activated channel capacity on such system.

(1) *Measuring capacity.* For purposes of this section:

(i) If an open video system carries both analog and digital signals, an open video system operator shall measure analog and digital activated channel capacity independently;

(ii) Channels that an open video system is required to carry pursuant to the Commission's regulations concerning public, educational and governmental channels and must-carry channels shall be included in ''activated channel capacity'' for purposes of calculating the one-third of such capacity on which the open video system operator and its affiliates are allowed to select the video programming for carriage. Such channels shall not be included in the one-third of capacity on which the open video system operator is permitted to select programming where demand for carriage exceeds system capacity;

(iii) Channels that an open video system operator carries pursuant to the Commission's regulations concerning retransmission consent shall be included in ''activated channel capacity'' for purposes of calculating the one-third of such capacity on which the open video system operator and its affiliates are allowed to select the video

programming for carriage. Such channels shall be included in the one-third of capacity on which the open video system operator is permitted to select programming, where demand for carriage exceeds system capacity, to the extent that the channels are carried as part of the programming service of the operator or its affiliate, subject to paragraph (c)(1)(iv); and

(iv) Any channel on which shared programming is carried shall be included in ''activated channel capacity'' for purposes of calculating the one-third of such capacity on which the open video system operator and its affiliates are allowed to select the video programming for carriage. Such channels shall be included in the one-third of capacity on which the open video system operator is permitted to select programming, where demand for carriage exceeds system capacity, to the extent the open video system operator or its affiliate is one of the video programming providers sharing such channel.

NOTE TO PARAGRAPH (c)(1)(iv): For example, if the open video system operator and two unaffiliated video programming providers each carry a programming service that is placed on a shared channel, the shared channel shall count as 0.33 channels against the one-third amount of capacity allocable to the open video system operator, where demand for carriage exceeds system capacity.

(2) *Allocating capacity.* An operator of an open video system shall allocate activated channel capacity through a fair, open and non-discriminatory process; the process must be insulated from any bias of the open video system operator and verifiable.

(i) If an open video system carries both analog and digital signals, an open video system operator shall treat analog and digital capacity separately in allocating system capacity.

(ii) *Subsequent changes in capacity or demand.* An open video system operator must allocate open capacity, if any, at least once every three years, beginning three years from the date of service commencement. Open capacity shall be allocated in accordance with this section. Open capacity shall include all capacity that becomes available during the course of the three-year period, as well as capacity in excess of one-third of the system's activated channel capacity on which the operator of the open video system or its affiliate selects programming.

NOTE 1 TO PARAGRAPH (c)(2)(ii): An open video system operator will not be required to comply with the regulations contained in this section if there is no open capacity to be allocated at the end of the three year period.

NOTE 2 TO PARAGRAPH (c)(2)(ii): An open video system operator shall be required to accommodate changes in obligations concerning public, educational or governmental channels or must-carry channels in accordance with Sections 611, 614 and 615 of the Communications Act and the regulations contained in this part.

NOTE 3 TO PARAGRAPH (c)(2)(ii): An open video system operator shall be required to comply with the recordkeeping requirements of § 76.1712.

(iii) *Channel sharing.* An open video system operator may carry on only one channel any video programming service that is offered by more than one video programming provider (including the operator's video programming affiliate), provided that subscribers have ready and immediate access to any such programming service. Nothing in this section shall be construed to impair the rights of programming services.

NOTE 1 TO PARAGRAPH (c)(2)(iii): An open video system operator may implement channel sharing only after it becomes apparent that one or more video programming services will be offered by multiple video programming providers. An open video system operator may not select, in advance of any duplication among video programming providers, which programming services shall be placed on shared channels.

NOTE 2 TO PARAGRAPH (c)(2)(iii): Each video programming provider offering a programming service that is carried on a shared channel must have the contractual permission of the video programming service to offer the service to subscribers. The placement of a programming service on a shared channel, however, is not subject to the approval of the video programming service or vendor.

NOTE 3 TO PARAGRAPH (c)(2)(iii): Ready and immediate access in this context means that the channel sharing is ''transparent'' to subscribers.

(iv) *Open video system operator discretion.* Notwithstanding the foregoing, an operator of an open video system may:

(A) Require video programming providers to request and obtain system capacity in increments of no less than one full-time channel; however, an operator of an open video system may not require video programming providers to obtain capacity in increments of more than one full-time channel;

(B) Limit video programming providers from selecting the programming on more capacity than the amount of capacity on which the system operator and its affiliates are selecting the programming for carriage; and

(v) Notwithstanding the general prohibition on an open video system operator's discrimination among video programming providers contained in paragraph (a) of this section, a competing, in-region cable operator or its affiliate(s) that offer cable service to subscribers located in the service area of an open video system shall not be entitled to obtain capacity on such open video system, except where a showing is made that facilities-based competition will not be significantly impeded.

(3) Nothing in this paragraph shall be construed to limit the number of channels that the open video system operator and its affiliates, or another video programming provider, may offer to provide directly to subscribers. Co-packaging is permissible among video programming providers, but may not be a condition of carriage. Video programming providers may freely elect whether to enter into co-packaging arrangements.

NOTE TO PARAGRAPH (c)(3): Any video programming provider on an open video system may co-package video programming that is selected by itself, an affiliated video programming provider and/or unaffiliated video programming providers on the system.

[61 FR 28708, June 5, 1996, as amended at 61 FR 43176, Aug. 21, 1996; 62 FR 26239, May 13, 1997; 65 FR 377, Jan. 5, 2000; 65 FR 53617, Sept. 5, 2000; 67 FR 13235, Mar. 21, 2002]

§ 76.1504 Rates, terms and conditions for carriage on open video systems.

(a) *Reasonable rate principle.* An open video system operator shall set rates, terms, and conditions for carriage that are just and reasonable, and are not unjustly or unreasonably discriminatory.

(b) *Differences in rates.* (1) An open video system operator may charge different rates to different classes of video programming providers, provided that the bases for such differences are not unjust or unreasonably discriminatory.

(2) An open video system operator shall not impose different rates, terms, or conditions based on the content of the programming to be offered by any unaffiliated video programming provider.

(c) *Just and reasonable rate presumption.* A strong presumption will apply that carriage rates are just and reasonable for open video system operators where at least one unaffiliated video programming provider, or unaffiliated programming providers as a group, occupy capacity equal to the lesser of one-third of the system capacity or that occupied by the open video system operator and its affiliates, and where any rate complained of is no higher than the average of the rates paid by unaffiliated programmers receiving carriage from the open video system operator.

(d) *Examination of rates.* Complaints regarding rates shall be limited to video programming providers that have sought carriage on the open video system. If a video programming provider files a complaint against an open video system operator meeting the above just and reasonable rate presumption, the burden of proof will rest with the complainant. If a complaint is filed against an open video system operator that does not meet the just and reasonable rate presumption, the open video system operator will bear the burden of proof to demonstrate, using the principles set forth below, that the carriage rates subject to the complaint are just and reasonable.

(e) *Determining just and reasonable rates subject to complaints pursuant to the imputed rate approach or other market based approach.* Carriage rates subject to complaint shall be found just and reasonable if one of the two following tests are met:

(1) The imputed rate will reflect what the open video system operator, or its affiliate, ''pays'' for carriage of its own programming. Use of this approach is appropriate in circumstances where the

pricing is applicable to a new market entrant (the open video system operator) that will face competition from an existing incumbent provider (the incumbent cable operator), as opposed to circumstances where the pricing is used to establish a rate for an essential input service that is charged to a competing new entrant by an incumbent provider. With respect to new market entrants, an efficient component pricing model will produce rates that encourage market entry. If the carriage rate to an unaffiliated program provider surpasses what an operator earns from carrying its own programming, the rate can be presumed to exceed a just and reasonable level. An open video system operator's price to its subscribers will be determined by several separate costs components. One general category are those costs related to the creative development and production of programming. A second category are costs associated with packaging various programs for the open video system operator's offering. A third category related to the infrastructure or engineering costs identified with building and maintaining the open video system. Contained in each is a profit allowance attributed to the economic value of each component. When an open video system operator provides only carriage through its infrastructure, however, the programming and packaging flows from the independent program provider, who bears the cost. The open video system operator avoids programming and packaging costs, including profits. These avoided costs should not be reflected in the price charged an independent program provider for carriage. The imputed rate also seeks to recognize the loss of subscribers to the open video system operator's programming package resulting from carrying competing programming.

NOTE TO PARAGRAPH (e)(1): Examples of specific ''avoided costs'' include:

(1) All amounts paid to studios, syndicators, networks or others, including but not limited to payments for programming and all related rights;

(2) Packaging, including marketing and other fees;

(3) Talent fees; and

(4) A reasonable overhead allowance for affiliated video service support.

(2) An open video system operator can demonstrate that its carriage service rates are just and reasonable through other market based approaches.

[61 FR 28708, June 5, 1996, as amended at 61 FR 43176, Aug. 21, 1996]

§ 76.1505 Public, educational and governmental access.

(a) An open video system operator shall be subject to public, educational and governmental access requirements for every cable franchise area with which its system overlaps.

(b) An open video system operator must ensure that all subscribers receive any public, educational and governmental access channels within the subscribers' franchise area.

(c) An open video system operator may negotiate with the local cable franchising authority of the jurisdiction(s) which the open video system serves to establish the open video system operator's obligations with respect to public, educational and governmental access channel capacity, services, facilities and equipment. These negotiations may include the local cable operator if the local franchising authority, the open video system operator and the cable operator so desire.

(d) If an open video system operator and a local franchising authority are unable to reach an agreement regarding the open video system operator's obligations with respect to public, educational and governmental access channel capacity, services, facilities and equipment within the local franchising authority's jurisdiction:

(1) The open video system operator must satisfy the same public, educational and governmental access obligations as the local cable operator by providing the same amount of channel capacity for public, educational and governmental access and by matching the local cable operator's annual financial contributions towards public, educational and governmental access services, facilities and equipment that are actually used for public, educational and governmental access services, facilities and equipment. For in-kind contributions (e.g., cameras, production studios), the open video system

operator may satisfy its statutory obligation by negotiating mutually agreeable terms with the local cable operator, so that public, educational and governmental access services to the community is improved or increased. If such terms cannot be agreed upon, the open video system operator must pay the local franchising authority the monetary equivalent of the local cable operator's depreciated in-kind contribution, or, in the case of facilities, the annual amortization value. Any matching contributions provided by the open video system operator must be used to fund activities arising under Section 611 of the Communications Act.

(2) The local franchising authority shall impose the same rules and procedures on an open video system operator as it imposes on the local cable operator with regard to the open video system operator's use of channel capacity designated for public, educational and governmental access use when such capacity is not being used for such purposes.

(3) The local cable operator is required to permit the open video system operator to connect with its public, educational and governmental access channel feeds. The open video system operator and the cable operator may decide how to accomplish this connection, taking into consideration the exact physical and technical circumstances of the cable and open video systems involved. If the cable and open video system operator cannot agree on how to accomplish the connection, the local franchising authority may decide. The local franchising authority may require that the connection occur on government property or on public rights of way.

(4) The costs of connection to the cable operator's public, educational and governmental access channel feed shall be borne by the open video system operator. Such costs shall be counted towards the open video system operator's matching financial contributions set forth in paragraph (d)(4) of this section.

(5) The local franchising authority may not impose public, educational and governmental access obligations on the open video system operator that would exceed those imposed on the local cable operator.

(6) Where there is no existing local cable operator, the open video system operator must make a reasonable amount of channel capacity available for public, educational and governmental use, as well as provide reasonable support for services, facilities and equipment relating to such public, educational and governmental use. If a franchise agreement previously existed in that franchise area, the local franchising authority may elect either to impose the previously existing public, educational and governmental access obligations or determine the open video system operator's public, educational and governmental access obligations by comparison to the franchise agreement for the nearest operating cable system that has a commitment to provide public, educational and governmental access and that serves a franchise area with a similar population size. The local franchising authority shall be permitted to make a similar election every 15 years thereafter. Absent a previous franchise agreement, the open video system operator shall be required to provide channel capacity, services, facilities and equipment relating to public, educational and governmental access equivalent to that prescribed in the franchise agreement(s) for the nearest operating cable system with a commitment to provide public, educational and governmental access and that serves a franchise area with a similar population size.

NOTE TO PARAGRAPH (d)(6): This paragraph shall apply, for example, if a cable operator converts its cable system to an open video system under § 76.1501.

(7) The open video system operator must adjust its system(s) to comply with new public, educational and governmental access obligations imposed by a cable franchise renewal; provided, however, that an open video system operator will not be required to displace other programmers using its open video system to accommodate public, educational and governmental access channels. The open video system operator shall comply with such public, educational and governmental access

obligations whenever additional capacity is or becomes available, whether it is due to increased channel capacity or decreased demand for channel capacity.

(8) The open video system operator and/or the local franchising authority may file a complaint with the Commission, pursuant to our dispute resolution procedures set forth in §76.1514, if the open video system operator and the local franchising authority cannot agree as to the application of the Commission's rules regarding the open video system operator's public, educational and governmental access obligations under paragraph (d) of this section.

(e) If an open video system operator maintains an institutional network, as defined in Section 611(f) of the Communications Act, the local franchising authority may require that educational and governmental access channels be designated on that institutional network to the extent such channels are designated on the institutional network of the local cable operator.

(f) An open video system operator shall not exercise any editorial control over any public, educational, or governmental use of channel capacity provided pursuant to this subsection, provided, however, that any open video system operator may prohibit the use on its system of any channel capacity of any public, educational, or governmental facility for any programming which contains nudity, obscene material, indecent material as defined in §76.701(g), or material soliciting or promoting unlawful conduct. For purposes of this section, ''material soliciting or promoting unlawful conduct'' shall mean material that is otherwise proscribed by law. An open video system operator may require any access user, or access manager or administrator agreeing to assume the responsibility of certifying, to certify that its programming does not contain any of the materials described above and that reasonable efforts will be used to ensure that live programming does not contain such material.

[61 FR 28708, June 5, 1996, as amended at 61 FR 43176, Aug. 21, 1996]

§76.1506 Carriage of television broadcast signals.

(a) The provisions of Subpart D shall apply to open video systems in accordance with the provisions contained in this subpart.

(b) For the purposes of this Subpart S, television stations are significantly viewed when they are viewed in households that do not receive television signals from multichannel video programming distributors as follows:

(1) For a full or partial network station—a share of viewing hours of at least 3 percent (total week hours), and a net weekly circulation of at least 25 percent; and

(2) For an independent station—a share of viewing hours of at least 2 percent (total week hours), and a net weekly circulation of at least 5 percent. See §76.1506(c).

NOTE TO PARAGRAPH (b): As used in this paragraph, ''share of viewing hours'' means the total hours that households that do not receive television signals from multichannel video programming distributors viewed the subject station during the week, expressed as a percentage of the total hours these households viewed all stations during the period, and ''net weekly circulation'' means the number of households that do not receive television signals from multichannel video programming distributors that viewed the station for 5 minutes or more during the entire week, expressed as a percentage of the total households that do not receive television signals from multichannel video programming distributors in the survey area.

(c) *Significantly viewed signals; method to be followed for special showings.* Any provision of §76.54 that refers to a ''cable television community'' or ''cable community or communities'' shall apply to an open video system community or communities. Any provision of §76.54 that refers to ''noncable television homes'' shall apply to households that do not receive television signals from multichannel video programming distributors. Any provision of §76.54 that refers to a ''cable television system'' shall apply to an open video system.

(d) *Definitions applicable to the must-carry rules.* Section 76.55 shall apply to all open video systems in accordance with the provisions contained in this section. Any provision of §76.55 that refers to a ''cable system'' shall apply to

an open video system. Any provision of §76.55 that refers to a ''cable operator'' shall apply to an open video system operator. Any provision of §76.55 that refers to the ''principal headend'' of a cable system as defined in §76.5(pp) shall apply to the equivalent of the principal headend of an open video system. Any provision of §76.55 that refers to a ''franchise area'' shall apply to the service area of an open video system. The provisions of §76.55 that permit cable operators to refuse carriage of signals considered distant signals for copyright purposes shall not apply to open video system operators. If an open video system operator cannot limit its distribution of must-carry signals to the local service area of broadcast stations as used in 17 U.S.C. 111(d), it will be liable for any increase in copyright fees assessed for distant signal carriage under 17 U.S.C. 111.

(e) *Signal carriage obligations.* Any provision of §76.56 that refers to a ''cable television system'' or ''cable system'' shall apply to an open video system. Any provision of §76.56 that refers to a ''cable operator'' shall apply to an open video system operator. Section 76.56(d)(2) shall apply to open video systems as follows: An open video system operator shall make available to every subscriber of the open video system all qualified local commercial television stations and all qualified non-commercial educational television stations carried in fulfillment of its carriage obligations under this section.

(f) *Channel positioning.* Open video system operators shall comply with the provisions of §76.57 to the closest extent possible. Any provision of §76.57 that refers to a ''cable operator'' shall apply to an open video system operator. Any provision of §76.57 that refers to a ''cable system'' shall apply to an open video system, except the references to ''cable system'' in §76.57(d) which shall apply to an open video system operator.

(g) *Notification.* Any provision of §§76.1601, 76.1607, 76.1617, or 76.1708(a) (second sentence) that refers to a ''cable operator,'' ''cable system,'' or ''principal headend'' shall apply, respectively, to an open video system operator, to an open video system, or to the equivalent of the principal headend for an open video system.

(h) *Modification of television markets.* Any provision of §76.59 that refers to a ''cable system'' shall apply to an open video system. Any provision of §76.59 that refers to a ''cable operator'' shall apply to an open video system operator.

(i) *Compensation for carriage.* Any provision of §76.60 that refers to a ''cable operator'' shall apply to an open video system operator. Any provision of §76.60 that refers to a ''cable system'' shall apply to an open video system. Any provision of §76.60 that refers to a ''principal headend'' shall apply to the equivalent of the principal headend for an open video system.

(j) *Disputes concerning carriage.* Any provision of §76.61 that refers to a ''cable operator'' shall apply to an open video system operator. Any provision of §76.61 that refers to a ''cable system'' shall apply to an open video system. Any provision of §76.61 that refers to a ''principal headend'' shall apply to the equivalent of the principal headend for an open video system.

(k) *Manner of carriage.* Any provision of §76.62 that refers to a ''cable operator'' shall apply to an open video system operator.

(l) *Retransmission consent.* Section 76.64 shall apply to open video systems in accordance with the provisions contained in this paragraph.

(1) Any provision of §76.64 that refers to a ''cable system'' shall apply to an open video system. Any provision of §76.64 that refers to a ''cable operator'' shall apply to an open video system operator.

(2) Must-carry/retransmission consent election notifications shall be sent to the open video system operator. An open video system operator shall make all must-carry/retransmission consent election notifications received available to the appropriate programming providers on its system.

(3) Television broadcast stations are required to make the same election for open video systems and cable systems serving the same geographic area, unless the overlapping open video system is unable to deliver appropriate signals

in conformance with the broadcast station's elections for all cable systems serving the same geographic area.

(4) An open video system commencing new operations shall notify all local commercial and noncommercial broadcast stations as required under paragraph (l) of this section on or before the date on which it files with the Commission its Notice of Intent to establish an open video system.

(m) *Exemption from input selector switch rules.* Any provision of §76.70 that refers to a ''cable system'' or ''cable systems'' shall apply to an open video system or open video systems.

(n) *Special relief and must-carry complaint procedures.* The procedures set forth in §76.7 shall apply to special relief and must-carry complaints relating to open video systems, and not the procedures set forth in §76.1514 (Dispute resolution). Any provision of §76.7 that refers to a ''cable television system operator'' or ''cable operator'' shall apply to an open video system operator. Any provision of §76.7 that refers to a ''cable television system'' shall apply to an open video system. Any provision of §76.7 that refers to a ''system community unit'' shall apply to an open video system or that portion of an open video system that operates or will operate within a separate and distinct community or municipal entity (including unincorporated communities within unincorporated areas and including single, discrete unincorporated areas).

[61 FR 28708, June 5, 1996, as amended at 61 FR 43177, Aug. 21, 1996; 79 FR 63562, Oct. 24, 2014; 80 FR 5050, Jan. 30, 2015]

§76.1507 Competitive access to satellite cable programming.

(a) Any provision that applies to a cable operator under §§76.1000 through 76.1003 shall also apply to an operator of an open video system and its affiliate which provides video programming on its open video system, except as limited by paragraph (a) (1)–(3) of this section. Any such provision that applies to a satellite cable programming vendor in which a cable operator has an attributable interest shall also apply to any satellite cable programming vendor in which an open video system operator has an attributable interest, except as limited by paragraph (a) (1)–(3) of this section.

(1) Section 76.1002(c)(1) shall only restrict the conduct of an open video system operator, its affiliate that provides video programming on its open video system and a satellite cable programming vendor in which an open video system operator has an attributable interest, as follows: No open video system operator or its affiliate that provides video programming on its open video system shall engage in any practice or activity or enter into any understanding or arrangement, including exclusive contracts, with a satellite cable programming vendor or satellite broadcast programming vendor for satellite cable programming or satellite broadcast programming that prevents a multichannel video programming distributor from obtaining such programming from any satellite cable programming vendor in which an open video system operator has an attributable interest, or any satellite broadcasting vendor in which an open video system operator has an attributable interest for distribution to person in areas not served by a cable operator as of October 5, 1992.

(2) [Reserved]

(3) Section 76.1002(c)(3)(i) and (ii) shall only restrict the conduct of an open video system operator, its affiliate that provides video programming on its open video system and a satellite cable programming vendor in which an open video system operator has an attributable interest, as follows: No open video system operator shall enter into any subdistribution agreement or arrangement for satellite cable programming or satellite broadcast programming with a satellite cable programming vendor in which an open video system operator has an attributable interest or a satellite broadcast programming vendor in which an open video system operator has an attributable interest for distribution to persons in areas not served by a cable operator as of October 5, 1992 unless such agreement or arrangement complies with the limitations set forth in §76.1002(c)(3)(ii).

(b) No open video system programming provider in which a cable operator has an attributable interest shall

engage in any practice or activity or enter into any understanding or arrangement, including exclusive contracts, with a satellite cable programming vendor or satellite broadcast programming vendor for satellite cable programming or satellite broadcast programming that prevents a multichannel video programming distributor from obtaining such programming from any satellite cable programming vendor in which a cable operator has an attributable interest, or any satellite broadcasting vendor in which a cable operator has an attributable interest for distribution to person in areas not served by a cable operator as of October 5, 1992.

[61 FR 28708, June 5, 1996, as amended at 77 FR 66048, Oct. 31, 2012]

§ 76.1508 Network non-duplication.

(a) Sections 76.92 through 76.97 shall apply to open video systems in accordance with the provisions contained in this section.

(b) Any provision of § 76.92 that refers to a ''cable community unit'' or ''community unit'' shall apply to an open video system or that portion of an open video system that operates or will operate within a separate and distinct community or municipal entity (including unincorporated communities within unincorporated areas and including single, discrete unincorporated areas). Any provision of § 76.92 that refers to a ''cable television community'' shall apply to an open video system community. Any provision of § 76.92 that refers to a ''cable television system's mandatory signal carriage obligations'' shall apply to an open video system's mandatory signal carriage obligations.

(c) Any provision of § 76.94 that refers to a ''cable system operator'' or ''cable television system operator'' shall apply to an open video system operator. Any provision of § 76.94 that refers to a ''cable system'' or ''cable television system'' shall apply to an open video system except § 76.94 (e) and (f) which shall apply to an open video system operator. Open video system operators shall make all notifications and information regarding the exercise of network non-duplication rights immediately available to all appropriate video programming provider on the system. An open video system operator shall not be subject to sanctions for any violation of these rules by an unaffiliated program supplier if the operator provided proper notices to the program supplier and subsequently took prompt steps to stop the distribution of the infringing program once it was notified of a violation.

(d) Any provision of § 76.95 that refers to a ''cable system'' or a ''cable community unit'' shall apply to an open video system or that portion of an open video system that operates or will operate within a separate and distinct community or municipal entity (including unincorporated communities within unincorporated areas and including single, discrete unincorporated areas).

§ 76.1509 Syndicated program exclusivity.

(a) Sections 76.151 through 76.163 shall apply to open video systems in accordance with the provisions contained in this section.

(b) Any provision of § 76.151 that refers to a ''cable community unit'' shall apply to an open video system.

(c) Any provision of § 76.155 that refers to a ''cable system operator'' or ''cable television system operator'' shall apply to an open video system operator. Any provision of § 76.155 that refers to a ''cable system'' or ''cable television system'' shall apply to an open video system except § 76.155(c) which shall apply to an open video system operator. Open video system operators shall make all notifications and information regarding exercise of syndicated program exclusivity rights immediately available to all appropriate video programming provider on the system. An open video system operator shall not be subject to sanctions for any violation of these rules by an unaffiliated program supplier if the operator provided proper notices to the program supplier and subsequently took prompt steps to stop the distribution of the infringing program once it was notified of a violation.

(d) Any provision of § 76.156 that refers to a ''cable community'' shall

apply to an open video system community. Any provision of §76.156 that refers to a ''cable community unit'' or ''community unit'' shall apply to an open video system or that portion of an open video system that operates or will operate within a separate and distinct community or municipal entity (including unincorporated communities within unincorporated areas and including single, discrete unincorporated areas). Any provision of §§76.156 through 76.158, and 76.163 that refers to a ''cable system'' shall apply to an open video system.

(e) Any provision of §76.159 that refers to ''cable television'' or a ''cable system'' shall apply to an open video system.

(f) Any provision of §76.161 that refers to a ''community unit'' shall apply to an open video system or that portion of an open video system that is affected by this rule.

§ 76.1510 Application of certain Title VI provisions.

The following sections within part 76 shall also apply to open video systems: §§76.71, 76.73, 76.75, 76.77, 76.79, 76.1702, and 76.1802 (Equal Employment Opportunity Requirements); §§76.503 and 76.504 (ownership restrictions); §76.981 (negative option billing); and §§76.1300, 76.1301 and 76.1302 (regulation of carriage agreements); §76.611 (signal leakage restrictions); §76.1803 and 76.1804 (signal leakage monitoring and aeronautical frequency notifications); provided, however, that these sections shall apply to open video systems only to the extent that they do not conflict with this subpart S. Section 631 of the Communications Act (subscriber privacy) shall also apply to open video systems.

[69 FR 57862, Sept. 28, 2004]

§ 76.1511 Fees.

An open video system operator may be subject to the payment of fees on the gross revenues of the operator for the provision of cable service imposed by a local franchising authority or other governmental entity, in lieu of the franchise fees permitted under Section 622 of the Communications Act. Local governments shall have the authority to assess and receive the gross revenue fee. Gross revenues under this paragraph means all gross revenues received by an open video system operator or its affiliates, including all revenues received from subscribers and all carriage revenues received from unaffiliated video programming providers. In addition gross revenues under this paragraph includes any advertising revenues received by an open video system operator or its affiliates in connection with the provision of video programming, where such revenues are included in the calculation of the incumbent cable operator's cable franchise fee. Gross revenues does not include revenues collected by unaffiliated video programming providers, such as subscriber or advertising revenues. Any gross revenues fee that the open video system operator or its affiliate collects from subscribers or video programming providers shall be excluded from gross revenues. An operator of an open video system or any programming provider may designate that portion of a subscriber's bill attributable to the fee as a separate item on the bill. An operator of an open video system may recover the gross revenue fee from programming providers on a proportional basis as an element of the carriage rate.

[61 FR 43177, Aug. 21, 1996]

§ 76.1512 Programming information.

(a) An open video system operator shall not unreasonably discriminate in favor of itself or its affiliates with regard to material or information (including advertising) provided by the operator to subscribers for the purpose of selecting programming on the open video system, or in the way such material or information is provided to subscribers.

NOTE TO PARAGRAPH (a): ''Material or information'' as used in paragraph (a) of this section means material or information that a subscriber uses to actively select programming at the point of program selection.

(b) In accordance with paragraph (a) of this section:

(1) An open video system operator shall not discriminate in favor of itself or its affiliate on any navigational device, guide or menu;

(2) An open video system operator shall not omit television broadcast stations or other unaffiliated video programming services carried on the open video system from any navigational device, guide (electronic or paper) or menu;

(3) An open video system operator shall not restrict a video programming provider's ability to use part of the provider's channel capacity to provide an individualized guide or menu to the provider's subscribers;

(4) Where an open video system operator provides no navigational device, guide or menu, its affiliate's navigational device, guide or menu shall be subject to the requirements of Section 653(b)(1)(E) of the Communications Act;

(5) An open video system operator may permit video programming providers, including its affiliate, to develop and use their own navigational devices. If an open video system operator permits video programming providers, including its affiliate, to develop and use their own navigational devices, the operator must create an electronic menu or guide that all video programming providers must carry containing a non-discriminatory listing of programming providers or programming services available on the system and informing the viewer how to obtain additional information on each of the services listed;

(6) An open video system operator must grant access, for programming providers that do not wish to use their own navigational device, to the navigational device used by the open video system operator or its affiliate; and

(7) If an operator provides an electronic guide or menu that complies with paragraph (b)(5) of this section, its programming affiliate may create its own menu or guide without being subject to the requirements of Section 653(b)(1)(E) of the Communications Act.

(c) An open video system operator shall ensure that video programming providers or copyright holders (or both) are able to suitably and uniquely identify their programming services to subscribers.

(d) An open video system operator shall transmit programming identification without change or alteration if such identification is transmitted as part of the programming signal.

[61 FR 28708, June 5, 1996, as amended at 61 FR 43177, Aug. 21, 1996]

§ 76.1513 Open video dispute resolution.

(a) *Complaints.* Any party aggrieved by conduct that it believes constitute a violation of the regulations set forth in this part or in section 653 of the Communications Act (47 U.S.C. 573) may commence an adjudicatory proceeding at the Commission to obtain enforcement of the rules through the filing of a complaint. The Commission shall resolve any such dispute within 180 days after the filing of a complaint. The complaint shall be filed and responded to in accordance with the procedures specified in § 76.7 of this part with the following additions or changes.

(b) *Alternate dispute resolution.* An open video system operator may not provide in its carriage contracts with programming providers that any dispute must be submitted to arbitration, mediation, or any other alternative method for dispute resolution prior to submission of a complaint to the Commission.

(c) *Notice required prior to filing of complaint.* Any aggrieved party intending to file a complaint under this section must first notify the potential defendant open video system operator that it intends to file a complaint with the Commission based on actions alleged to violate one or more of the provisions contained in this part or in Section 653 of the Communications Act. The notice must be in writing and must be sufficiently detailed so that its recipient(s) can determine the specific nature of the potential complaint. The potential complainant must allow a minimum of ten (10) days for the potential defendant(s) to respond before filing a complaint with the Commission.

(d) *Contents of complaint.* In addition to the requirements of § 76.7 of this part, an open video system complaint shall contain:

(1) The type of entity that describes complainant (e.g., individual, private association, partnership, or corporation), the address and telephone number of the complainant, and the address

and telephone number of each defendant;

(2) If discrimination in rates, terms, and conditions of carriage is alleged, documentary evidence shall be submitted such as a preliminary carriage rate estimate or a programming contract that demonstrates a differential in price, terms or conditions between complainant and a competing video programming provider or, if no programming contract or preliminary carriage rate estimate is submitted with the complaint, an affidavit signed by an officer of complainant alleging that a differential in price, terms or conditions exists, a description of the nature and extent (if known or reasonably estimated by the complainant) of the differential, together with a statement that defendant refused to provide any further specific comparative information;

NOTE TO PARAGRAPH (d)(2): Upon request by a complainant, the preliminary carriage rate estimate shall include a calculation of the average of the carriage rates paid by the unaffiliated video programming providers receiving carriage from the open video system operator, including the information needed for any weighting of the individual carriage rates that the operator has included in the average rate.

(3) If a programming contract or a preliminary carriage rate estimate is submitted with the complaint in support of the alleged violation, specific references to the relevant provisions therein.

(4) The complaint must be accompanied by appropriate evidence demonstrating that the required notification pursuant to paragraph (c) of this section has been made.

(e) *Answer*. (1) Any open video system operator upon which a complaint is served under this section shall answer within thirty (30) days of service of the complaint, unless otherwise directed by the Commission.

(2) An answer to a discrimination complaint shall state the reasons for any differential in prices, terms or conditions between the complainant and its competitor, and shall specify the particular justification relied upon in support of the differential. Any documents or contracts submitted pursuant to this paragraph may be protected as proprietary pursuant to §76.9 of this part.

(f) *Reply*. Within twenty (20) days after service of an answer, the complainant may file and serve a reply which shall be responsive to matters contained in the answer and shall not contain new matters.

(g) *Time limit on filing of complaints*. Any complaint filed pursuant to this subsection must be filed within one year of the date on which one of the following events occurs

(1) The open video system operator enters into a contract with the complainant that the complainant alleges to violate one or more of the rules contained in this part; or

(2) The open video system operator offers to carry programming for the complainant pursuant to terms that the complainant alleges to violate one or more of the rules contained in this part, and such offer to carry programming is unrelated to any existing contract between the complainant and the open video system operator; or

(3) The complainant has notified an open video system operator that it intends to file a complaint with the Commission based on a request for such operator to carry the complainant's programming on its open video system that has been denied or unacknowledged, allegedly in violation of one or more of the rules contained in this part.

(h) *Remedies for violations*—(1) *Remedies authorized*. Upon completion of such adjudicatory proceeding, the Commission shall order appropriate remedies, including, if necessary, the requiring carriage, awarding damages to any person denied carriage, or any combination of such sanctions. Such order shall set forth a timetable for compliance, and shall become effective upon release.

(2) *Additional sanctions*. The remedies provided in paragraph (h)(1) of this section are in addition to and not in lieu of the sanctions available under title V or any other provision of the Communications Act.

[61 FR 28708, June 5, 1996, as amended at 61 FR 43178, Aug. 21, 1996; 62 FR 26239, May 13, 1997; 64 FR 6575, Feb. 10, 1999]

§ 76.1514 Bundling of video and local exchange services.

An open video system operator may offer video and local exchange services for sale in a single package at a single price, *provided that:*

(a) The open video system operator, where it is the incumbent local exchange carrier, may not require that a subscriber purchase its video service in order to receive local exchange service; and

(b) Any local exchange carrier offering such a package must impute the unbundled tariff rate for the regulated service.

[61 FR 28708, June 5, 1996, as amended at 61 FR 43178, Aug. 21, 1996]

Subpart T—Notices

SOURCE: 65 FR 53617, Sept. 5, 2000, unless otherwise noted.

§ 76.1601 Deletion or repositioning of broadcast signals.

Effective April 2, 1993, a cable operator shall provide written notice to any broadcast television station at least 30 days prior to either deleting from carriage or repositioning that station. Such notification shall also be provided to subscribers of the cable system.

[65 FR 53617, Sept. 5, 2000, as amended at 80 FR 11330, Mar. 3, 2015]

§ 76.1602 Customer service—general information.

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (b) of this section against cable operators. The franchise authority must provide affected cable operators 90 days written notice of its intent to enforce standards.

(b) Effective July 1, 1993, the cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

(1) Products and services offered;

(2) Prices and options for programming services and conditions of subscription to programming and other services;

(3) Installation and service maintenance policies;

(4) Instructions on how to use the cable service;

(5) Channel positions of programming carried on the system; and

(6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

(7) Effective May 1, 2011, any assessed fees for rental of navigation devices and single and additional CableCARDs; and,

(8) Effective May 1, 2011, if such provider includes equipment in the price of a bundled offer of one or more services, the fees reasonably allocable to:

(i) The rental of single and additional CableCARDs; and

(ii) The rental of operator-supplied navigation devices.

(c) Subscribers shall be advised of the procedures for resolution of complaints about the quality of the television signal delivered by the cable system operator, including the address of the responsible officer of the local franchising authority.

[65 FR 53617, Sept. 5, 2000, as amended at 76 FR 40279, July 8, 2011]

§ 76.1603 Customer service—rate and service changes.

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (b) of this section against cable operators. The franchise authority must provide affected cable operators 90 days written notice of its intent to enforce standards.

(b) Customers will be notified of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers 30 days in advance of any significant changes in the other information required by § 76.1602.

(c) In addition to the requirement of paragraph (b) of this section regarding advance notification to customers of any changes in rates, programming services or channel positions, cable

systems shall give 30 days written notice to both subscribers and local franchising authorities before implementing any rate or service change. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, change in external costs or the addition/deletion of channels). When the change involves the addition or deletion of channels, each channel added or deleted must be separately identified. For purposes of the carriage of digital broadcast signals, the operator need only identify for subscribers, the television signal added and not whether that signal may be multiplexed during certain dayparts.

(d) A cable operator shall provide written notice to a subscriber of any increase in the price to be charged for the basic service tier or associated equipment at least 30 days before any proposed increase is effective. If the equipment is provided to the consumer without charge pursuant to §76.630, the cable operator shall provide written notice to the subscriber no more than 60 days before the increase is effective. The notice should include the price to be charged, and the date that the new charge will be effective, and the name and address of the local franchising authority.

(e) To the extent the operator is required to provide notice of service and rate changes to subscribers, the operator may provide such notice using any reasonable written means at its sole discretion.

(f) Notwithstanding any other provision of part 76 of this chapter, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.

NOTE 1 TO §76.1603: Section 624(h) of the Communications Act, 47 U.S.C. 544(h), contains additional notification requirements which a franchising authority may enforce.

NOTE 2 TO §76.1603: Section 624(d)(3) of the Communications Act, 47 U.S.C. 544(d)(3), contains additional notification provisions pertaining to cable operators who offer a premium channel without charge to cable subscribers who do not subscribe to such premium channel.

NOTE 3 TO §76.1603: Section 631 of the Communications Act, 47 U.S.C. 551, contains additional notification requirements pertaining to the protection of subscriber privacy.

[65 FR 53617, Sept. 5, 2000, as amended at 66 FR 16554, Mar. 26, 2001; 77 FR 67302, Dec. 10, 2012]

§76.1604 Charges for customer service changes.

If a cable operator establishes a higher charge for changes effected solely by coded entry on a computer terminal or by other similarly simple methods, as provided in §76.980(d), the cable system must notify all subscribers in writing that they may be subject to such a charge for changing service tiers more than the specified number of times in any 12 month period.

§76.1607 Principal headend.

A cable operator shall provide written notice by certified mail to all stations carried on its system pursuant to the must-carry rules at least 60 days prior to any change in the designation of its principal headend.

§76.1608 System technical integration requiring uniform election of must-carry or retransmission consent status.

A cable system that changes its technical configuration in such a way as to integrate two formerly separate cable systems must give 90 days notice of its intention to do so to any television broadcast stations that have elected must-carry status with respect to one system and retransmission consent status with respect to the other. If the system and the station do not agree on a uniform election 45 days prior to integration, the cable system may require the station to make such a uniform election 30 days prior to integration.

§76.1609 Non-duplication and syndicated exclusivity.

Within 60 days following the provision of service to 1,000 subscribers, the operator of each such system shall file

a notice to that effect with the Commission, and serve a copy of that notice on every television station that would be entitled to exercise network non-duplication protection or syndicated exclusivity protection against it.

§ 76.1610 Change of operational information.

The Operator shall inform the Commission on FCC Form 324 whenever there is a change of cable television system operator; change of legal name, change of the operator's mailing address or FCC Registration Number (FRN); or change in the operational status of a cable television system. Notification must be done within 30 days from the date the change occurs and must include the following information, as appropriate:

(a) The legal name of the operator and whether the operator is an individual, private association, partnership, corporation, or government entity. See §76.5(cc). If the operator is a partnership, the legal name of the partner responsible for communications with the Commission shall be supplied;

(b) The assumed name (if any) used for doing business in each community;

(c) The physical address, including zip code, and e-mail address, if applicable, to which all communications are to be directed;

(d) The nature of the operational status change (e.g., operation terminated, merged with another system, inactive, deleted, etc.);

(e) The names and FCC identifiers (e.g., CA 0001) of the system communities affected.

(f) The operator's FCC Registration Number (FRN) as required under part 1, subpart W of this chapter.

(g) The FCC Registration Number (FRN).

NOTE 1 TO §76.1610: FCC system community identifiers are routinely assigned upon registration. They have been assigned to all reported system communities based on previous Form 325 data. If a system community in operation prior to March 31, 1972, has not previously been assigned a system community identifier, the operator shall provide the following information in lieu of the identifier: Community Name, Community Type (*i.e.*, incorporated town, unincorporated settlement, etc.), County Name, State, Operator Legal Name, Operator Assumed Name for Doing Business in the Community, Operator Mail Address, and Year and Month service was first provided by the physical system.

[65 FR 53617, Sept. 5, 2000, as amended at 66 FR 47897, Sept. 14, 2001; 68 FR 27003, May 19, 2003]

§ 76.1611 Political cable rates and classes of time.

If a system permits a candidate to use its cablecast facilities, the system shall disclose to all candidates information about rates, terms, conditions and all value-enhancing discount privileges offered to commercial advertisers. Systems may use reasonable discretion in making the disclosure; provided, however, that the disclosure includes, at a minimum, the following information:

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

(b) 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;

(c) A description of the system'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;

(d) An approximation of the likelihood of preemption for each kind of preemptible time; and

(e) An explanation of the system'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.

§ 76.1614 Identification of must-carry signals.

A cable operator shall respond in writing within 30 days to any written request by any person for the identification of the signals carried on its system in fulfillment of the must-carry requirements of §76.56.

§ 76.1615 Sponsorship identification.

(a) When a cable television system operator engaged in origination cablecasting presents 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 cable television system operator, the cable television system operator, at the time of the cablecast, shall announce that such matter is sponsored, paid for, or furnished, either in whole or in part, and 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 cablecast 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 cablecast. For the purposes of this section, the term ''sponsored'' shall be deemed to have the same meaning as ''paid for.'' In the case of any political advertisement cablecast under this paragraph that concerns 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) Each cable television system operator engaged in origination cablecasting shall exercise reasonable diligence to obtain from employees, and from other persons with whom the system operator deals directly in connection with any matter for cablecasting, information to enable such system operator to make the announcement required by this section.

(c) In the case of any political origination cablecast matter or any origination cablecast matter involving the discussion of public controversial issues for which any film, record, transcription, talent, script, or other material or service of any kind is furnished, either directly or indirectly, to a cable television system operator as an inducement for cablecasting such matter, an announcement shall be made both at the beginning and conclusion of such cablecast 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 cable television system operator in connection with the transmission of such cablecast matter: *Provided, however*, that in the case of any cablecast of 5 minutes' duration or less, only one such announcement need be made either at the beginning or conclusion of the cablecast.

(d) The announcement required by this section shall, in addition to stating the fact that the origination cablecasting 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 (c) of this section are furnished. Where an agent or other person or entity contracts or otherwise makes arrangements with a cable television system operator 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 system operator, 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.

(e) In the case of an origination cablecast 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 cablecast.

(f) The announcement otherwise required by this section is waived with respect to the origination cablecast 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 sponsorship by any form of business enterprise, corporate or otherwise.

(g) The announcements required by this section are waived with respect to feature motion picture film produced initially and primarily for theatre exhibition.

NOTE TO § 76.1615(g): 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(e) of this chapter, the predecessor television rule, went into effect.

(h) Commission interpretations in connection with the provisions of the sponsorship identification rules for the broadcasting services 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. The interpretations made for the broadcasting services are equally applicable to origination cablecasting.

§ 76.1616 Contracts with local exchange carriers.

Within 10 days of final execution of a contract permitting a local exchange carrier to use that part of the transmission facilities of a cable system extending from the last multi-user terminal to the premises of the end use, the parties shall submit a copy of such contract, along with an explanation of how such contract is reasonably limited in scope and duration, to the Commission for review. The parties shall serve a copy of this submission on the local franchising authority, along with a notice of the local franchising authority's right to file comments with the Commission consistent with § 76.7.

§ 76.1617 Initial must-carry notice.

(a) Within 60 days of activation of a cable system, a cable operator must notify all qualified NCE stations of its designated principal headend by certified mail.

(b) Within 60 days of activation of a cable system, a cable operator must notify all local commercial and NCE stations that may not be entitled to carriage because they either:

(1) Fail to meet the standards for delivery of a good quality signal to the cable system's principal headend, or

(2) May cause an increased copyright liability to the cable system.

(c) Within 60 days of activation of a cable system, a cable operator must send by certified mail a copy of a list of all broadcast television stations carried by its system and their channel positions to all local commercial and noncommercial television stations, including those not designated as must-carry stations and those not carried on the system.

§ 76.1618 Basic tier availability.

A cable operator shall provide written notification to subscribers of the availability of basic tier service to new subscribers at the time of installation. This notification shall include the following information:

(a) That basic tier service is available;

(b) The cost per month for basic tier service;

(c) A list of all services included in the basic service tier.

§ 76.1619 Information on subscriber bills.

(a) Effective July 1, 1993, bills must be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(b) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

(c) A cable franchise authority may enforce the customer service standards set forth in this section against cable operators. The franchise authority must provide affected cable operators 90 days written notice of its intent to enforce standards.

§ 76.1620 Availability of signals.

If a cable operator authorizes subscribers to install additional receiver connections, but does not provide the

subscriber with such connections, or with the equipment and materials for such connections, the operator shall notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box and shall offer to sell or lease such a converter box to such subscribers. Such notification must be provided by June 2, 1993, and annually thereafter and to each new subscriber upon initial installation. The notice, which may be included in routine billing statements, shall identify the signals that are unavailable without an additional connection, the manner for obtaining such additional connection and instructions for installation.

§ 76.1621 Equipment compatibility offer.

Cable system operators that use scrambling, encryption or similar technologies in conjunction with cable system terminal devices, as defined in §15.3(e) of this chapter, that may affect subscribers' reception of signals shall offer to supply each subscriber with special equipment that will enable the simultaneous reception of multiple signals. The equipment offered shall include a single terminal device with dual descramblers/decoders and/or timers and bypass switches. Other equipment, such as two independent set-top terminal devices may be offered at the same time that the single terminal device with dual tuners/descramblers is offered. For purposes of this rule, two set-top devices linked by a control system that provides functionality equivalent to that of a single device with dual descramblers is considered to be the same as a terminal device with dual descramblers/decoders.

(a) The offer of special equipment shall be made to new subscribers at the time they subscribe and to all subscribers at least once each year.

(b) Such special equipment shall, at a minimum, have the capability:

(1) To allow simultaneous reception of any two scrambled or encrypted signals and to provide for tuning to alternative channels on a pre-programmed schedule; and

(2) To allow direct reception of all other signals that do not need to be processed through descrambling or decryption circuitry (this capability can generally be provided through a separate by-pass switch or through internal by-pass circuitry in a cable system terminal device).

(c) Cable system operators shall determine the specific equipment needed by individual subscribers on a case-by-case basis, in consultation with the subscriber. Cable system operators are required to make a good faith effort to provide subscribers with the amount and types of special equipment needed to resolve their individual compatibility problems.

(d) Cable operators shall provide such equipment at the request of individual subscribers and may charge for purchase or lease of the equipment and its installation in accordance with the provisions of the rate regulation rules for customer premises equipment used to receive the basic service tier, as set forth in §76.923. Notwithstanding the required annual offering, cable operators shall respond to subscriber requests for special equipment for reception of multiple signals that are made at any time.

§ 76.1622 Consumer education program on compatibility.

Cable system operators shall provide a consumer education program on compatibility matters to their subscribers in writing, as follows:

(a) The consumer information program shall be provided to subscribers at the time they first subscribe and at least once a year thereafter. Cable operators may choose the time and means by which they comply with the annual consumer information requirement. This requirement may be satisfied by a once-a-year mailing to all subscribers. The information may be included in one of the cable system's regular subscriber billings.

(b) The consumer information program shall include the following information:

(1) Cable system operators shall inform their subscribers that some models of TV receivers and videocassette recorders may not be able to receive all of the channels offered by the cable system when connected directly to the cable system. In conjunction with this

information, cable system operators shall briefly explain, the types of channel compatibility problems that could occur if subscribers connected their equipment directly to the cable system and offer suggestions for resolving those problems. Such suggestions could include, for example, the use of a cable system terminal device such as a set-top channel converter. Cable system operators shall also indicate that channel compatibility problems associated with reception of programming that is not scrambled or encrypted programming could be resolved through use of simple converter devices without descrambling or decryption capabilities that can be obtained from either the cable system or a third party retail vendor.

(2) In cases where service is received through a cable system terminal device, cable system operators shall indicate that subscribers may not be able to use special features and functions of their TV receivers and videocassette recorders, including features that allow the subscriber to: view a program on one channel while simultaneously recording a program on another channel; record two or more consecutive programs that appear on different channels; and, use advanced picture generation and display features such as ''Picture-in-Picture,'' channel review and other functions that necessitate channel selection by the consumer device.

(3) In cases where cable system operators offer remote control capability with cable system terminal devices and other customer premises equipment that is provided to subscribers, they shall advise their subscribers that remote control units that are compatible with that equipment may be obtained from other sources, such as retail outlets. Cable system operators shall also provide a representative list of the models of remote control units currently available from retailers that are compatible with the customer premises equipment they employ. Cable system operators are required to make a good faith effort in compiling this list and will not be liable for inadvertent omissions. This list shall be current as of no more than six months before the date the consumer education program is distributed to subscribers. Cable operators are also required to encourage subscribers to contact the cable operator to inquire about whether a particular remote control unit the subscriber might be considering for purchase would be compatible with the subscriber's customer premises equipment.

§ 76.1630 MVPD digital television transition notices.

(a) Multichannel video programming distributors (MVPDs) shall provide subscribers with notices about the transition for over-the-air full power broadcasting from analog to digital service (the ''DTV Transition'') in the monthly bills or bill notices received by subscribers beginning April 1, 2009 and concluding on June 30, 2009.

(b) The notice must be provided as part of an information section on the bill or bill notice itself or on a secondary document mailed with the bill or bill notice, in the same language or languages as the bill or bill notice. These notices must:

(1) Be in clear and conspicuous print;

(2) Convey at least the following information about the DTV transition:

(i) The nationwide switch to digital television broadcasting will be complete on June 12, 2009, but your local television stations may switch sooner. After the switch, analog-only television sets that receive TV programming through an antenna will need a converter box to continue to receive over-the-air TV. Watch your local stations to find out when they will turn off their analog signal and switch to digital-only broadcasting. Analog-only TVs should continue to work as before to receive low power, Class A or translator television stations and with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products.

(ii) Information about the DTV transition is available from your local television stations, *http://www.DTV.gov*, 1–888–CALL–FCC (TTY 1–888–TELL–FCC), or this MVPD at [telephone number and Web site if available], and from *http://www.dtv2009.gov* or 1–888–DTV–2009 (TTY 1–877–530–2634) for information about subsidized coupons for digital-to-analog converter boxes;

(3) And explain clearly what effect, if any, the DTV Transition will have on

the subscriber's access to MVPD service. It must also note that analog sets not connected to an MVPD service may need additional equipment (*i.e.*, converter box) or may have to be replaced.

(c) To the extent that a given customer does not receive paper versions of either a bill or a notice of billing, that customer must be provided with equivalent monthly notices in whatever medium they receive information about their monthly bill.

[73 FR 15451, Mar. 24, 2008, as amended at 74 FR 8879, Feb. 27, 2009]

Subpart U—Documents to be Maintained for Inspection

SOURCE: 65 FR 53621, Sept. 5, 2000, unless otherwise noted.

§ 76.1700 Records to be maintained by cable system operators.

(a) *Public inspection file.* The following records must be placed in the online public file hosted by the Commission, except as indicated in paragraph (d) of this section and except that the records listed in paragraph (a)(1) of this section (political file) that are in existence 30 days after the effective date of this provision, if not placed in the online file, shall continue to be retained at the system and made available to the public in the manner discussed in paragraph (e) of this section until the end of the retention period. In addition, any cable system with fewer than 5,000 subscribers shall continue to retain the political file at the system in the manner discussed in paragraph (e) of this section until March 1, 2018. For these systems, effective March 1, 2018, any new political file material shall be placed in the online file hosted by the Commission, while the material in the political file as of March 1, 2018, if not placed in the Commission's online public file, shall continue to be retained at the system in the manner discussed in paragraph (e) of this section until the end of its retention period. However, any system that is not required to place its political file in the Commission's online public file before March 1, 2018 may choose to do so, instead of retaining the political file at the system in the manner discussed in paragraph (e) of this section.

(1) *Political file.* All requests for cablecast time made by or on behalf of a candidate for public office and all other information required to be maintained pursuant to § 76.1701;

(2) *Equal employment opportunity.* All EEO materials described in § 76.1702 except for any EEO program annual reports, which the Commission will link to the electronic version of all systems' public inspection files;

(3) *Commercial records on children's programs.* Sufficient records to verify compliance with § 76.225 in accordance with § 76.1703;

(4) *Performance tests (channels delivered).* The operator of each cable television system shall maintain a current listing of the cable television channels which that system delivers to its subscribers in accordance with § 76.1705;

(5) *Leased access.* If a cable operator adopts and enforces written policy regarding indecent leased access programming, such a policy shall be published in accordance with § 76.1707;

(6) *Availability of signals.* The operator of every cable television system shall maintain a list of all broadcast television stations carried by its system in fulfillment of the must-carry requirements in accordance with § 76.1709;

(7) *Operator interests in video programming.* Cable operators shall maintain records regarding the nature and extent of their attributable interests in all video programming services as well as information regarding their carriage of such vertically integrated video programming services on cable systems in which they have an attributable interests in accordance with § 76.1710;

(8) *Sponsorship identification.* Whenever sponsorship announcements are omitted pursuant to § 76.1615(f) of Subpart T, the cable television system operator shall maintain a list in accordance with § 76.1715;

(9) *Compatibility with consumer electronics equipment.* Cable system operators generally may not scramble or otherwise encrypt signals carried on the basic service tier. Copies of requests for waivers of this prohibition must be available in the public inspection file in accordance with § 76.630.

(b) *Information available to the franchisor.* These records must be made available by cable system operators to local franchising authorities on reasonable notice and during regular business hours, except as indicated in paragraph (d) of this section.

(1) *Proof-of-performance test data.* The proof of performance tests shall be made available upon request in accordance with § 76.1704;

(2) *Complaint resolution.* Cable system operators shall establish a process for resolving complaints from subscribers about the quality of the television signal delivered. Aggregate data based upon these complaints shall be made available for inspection in accordance with § 76.1713.

(c) *Information available to the Commission.* These records must be made available by cable system operators to the Commission on reasonable notice and during regular business hours, except as indicated in paragraph (d) of this section.

(1) *Proof-of-performance test data.* The proof of performance tests shall be made available upon request in accordance with § 76.1704;

(2) *Signal leakage logs and repair records.* Cable operators shall maintain a log showing the date and location of each leakage source in accordance with § 76.1706;

(3) *Emergency alert system and activations.* Every cable system shall keep a record of each test and activation of the Emergency Alert System (EAS). The test is performed pursuant to the procedures and requirements of part 11 of this chapter and the EAS Operating Handbook. The records are kept in accordance with part 11 of this chapter and § 76.1711;

(4) *Complaint resolution.* Cable system operators shall establish a process for resolving complaints from subscribers about the quality of the television signal delivered. Aggregate data based upon these complaints shall be made available for inspection in accordance with § 76.1713;

(5) *Subscriber records and public inspection file.* The operator of a cable television system shall make the system, its public inspection file, and its records of subscribers available for inspection upon request in accordance with § 76.1716.

(d) *Exceptions to the public inspection file requirements.* The operator of every cable television system having fewer than 1,000 subscribers is exempt from the online public file and from the public record requirements contained in § 76.1701 (political file); § 76.1702 (EEO records available for public inspection); § 76.1703 (commercial records for children's programming); § 76.1704 (proof-of-performance test data); § 76.1706 (signal leakage logs and repair records); § 76.1714 (FCC rules and regulations); and § 76.1715 (sponsorship identification).

(e) *Location of records.* Public file material that continues to be retained at the system shall be retained in a public inspection file maintained at the office in the community served by the system that the system operator maintains for the ordinary collection of subscriber charges, resolution of subscriber complaints, and other business and, if the system operator does not maintain such an office in the community, at any accessible place in the communities served by the system (such as a public registry for documents or an attorney's office). Public file locations will be open at least during normal business hours and will be conveniently located. The public inspection file shall be available for public inspection at any time during regular business hours for the facility where they are kept. All or part of the public inspection file may be maintained in a computer database, as long as a computer terminal capable of accessing the database is made available, at the location of the file, to members of the public who wish to review the file.

(f) *Links and contact and geographic information.* A system must provide a link to the public inspection file hosted on the Commission's Web site from the home page of its own Web site, if the system has a Web site, and provide contact information on its Web site for a system representative who can assist any person with disabilities with issues related to the content of the public files. A system also is required to include in the online public file the address of the system's local public file, if the system retains documents in the

local file that are not available in the Commission's online file, and the name, phone number, and email address of the system's designated contact for questions about the public file. In addition, a system must provide on the online public file a list of the five digit ZIP codes served by the system. To the extent this section refers to the local public inspection file, it refers to the public file of a physical system, which is either maintained at the location described in paragraph (e) or on the Commission's Web site, depending upon where the documents are required to be maintained under the Commission's rules.

(g) *Reproduction of records.* Copies of any material in the public inspection file that is not also available in the Commission's online file shall be available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable cost of reproduction. Requests for machine copies shall be fulfilled at a location specified by the system operator, within a reasonable period of time, which in no event shall be longer than seven days. The system operator is not required to honor requests made by mail but may do so if it chooses.

[81 FR 10125, Feb. 29, 2016, as amended at 82 FR 11412, Feb. 23, 2017]

§ 76.1701 Political file.

(a) Every cable television system shall keep and permit public inspection of a complete and orderly record (political file) of all requests for cablecast time made by or on behalf of a candidate for public office, together with an appropriate notation showing the disposition made by the system 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.

(d) Where origination cablecasting material is a 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 matter, the system operator shall, in addition to making the announcement required by §76.1616(a), require that a list of the chief executive officers or members of the executive committee or 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 local office of the system. Such lists shall be kept and made available for a period of two years.

§ 76.1702 Equal employment opportunity.

(a) Every employment unit with six or more full-time employees shall maintain for public inspection a file containing copies of all EEO program annual reports filed with the Commission pursuant to §76.77 and the equal employment opportunity program information described in paragraph (b) of this section. These materials shall be placed in the Commission's online public inspection file(s), maintained on the Commission's database, for each cable system associated with the employment unit. These materials shall be placed in the Commission's online public inspection file annually by the date that the unit's EEO program annual report is due to be filed and shall be retained for a period of five years. A headquarters employment unit file and a file containing a consolidated set of all documents pertaining to the other employment units of a multichannel video programming distributor that operates multiple units shall be maintained in the online public inspection file(s), maintained on the Commission's database, for every cable system associated with the headquarters employment unit.

(b) The following equal employment opportunity program information shall be included annually in the unit's public file, and on the unit's web site, if it

has one, at the time of the filing of its FCC Form 396–C:

(1) A list of all full-time vacancies filled by the multichannel video programming distributor employment unit during the preceding year, identified by job title;

(2) For each such vacancy, the recruitment source(s) utilized to fill the vacancy (including, if applicable, organizations entitled to notification pursuant to § 76.75(b)(1)(ii) of this section, which should be separately identified), identified by name, address, contact person and telephone number;

(3) The recruitment source that referred the hiree for each full-time vacancy during the preceding year;

(4) Data reflecting the total number of persons interviewed for full-time vacancies during the preceding year and the total number of interviewees referred by each recruitment source utilized in connection with such vacancies; and

(5) A list and brief description of the initiatives undertaken pursuant to § 76.75(b)(2) during the preceding year, if applicable.

[68 FR 693, Jan. 7, 2003, as amended at 81 FR 10126, Feb. 29, 2016]

§ 76.1703 Commercial records on children's programs.

Cable operators airing children's programming must maintain records sufficient to verify compliance with § 76.225 and make such records available to the public. Such records must be maintained for a period sufficient to cover the limitations period specified in 47 U.S.C. 503(b)(6)(B).

§ 76.1704 Proof-of-performance test data.

(a) The proof of performance tests required by § 76.601 shall be maintained on file at the operator's local business office for at least five years. The test data shall be made available for inspection by the Commission or the local franchiser, upon request.

(b) The provisions of paragraph (a) of this section shall not apply to any cable television system having fewer than 1,000 subscribers, subject to the requirements of § 76.601(d).

NOTE TO § 76.1704: If a signal leakage log is being used to meet proof of performance test recordkeeping requirements in accordance with § 76.601, such a log must be retained for the period specified in § 76.601(d).

§ 76.1705 Performance tests (channels delivered).

The operator of each cable television system shall maintain at its local office a current listing of the cable television channels which that system delivers to its subscribers.

§ 76.1706 Signal leakage logs and repair records.

Cable operators shall maintain a log showing the date and location of each leakage source identified pursuant to § 76.614, the date on which the leakage was repaired, and the probable cause of the leakage. The log shall be kept on file for a period of two years and shall be made available to authorized representatives of the Commission upon request.

NOTE TO § 76.1705: If a signal leakage log is being used to meet proof of performance test recordkeeping requirements in accordance with § 76.601, such a log must be retained for the period specified in § 76.601(d).

§ 76.1707 Leased access.

If a cable operator adopts and enforces a written policy regarding indecent leased access programming pursuant to § 76.701, such a policy will be considered published pursuant to that rule by inclusion of the written policy in the operator's public inspection file.

§ 76.1708 [Reserved]

§ 76.1709 Availability of signals.

(a) The operator of every cable television system shall maintain for public inspection a file containing a list of all broadcast television stations carried by its system in fulfillment of the must-carry requirements pursuant to § 76.56. Such list shall include the call sign, community of license, broadcast channel number, cable channel number, and in the case of a noncommercial educational broadcast station, whether that station was carried by the cable system on March 29, 1990.

(b) Such records must be maintained in accordance with the provisions of § 76.1700.

(c) A cable operator shall respond in writing within 30 days to any written

request by any person for the identification of the signals carried on its system in fulfillment of the requirements of § 76.56.

[65 FR 53621, Sept. 5, 2000, as amended at 81 FR 10126, Feb. 29, 2016]

§ 76.1710 Operator interests in video programming.

(a) Cable operators are required to maintain records in their public file for a period of three years regarding the nature and extent of their attributable interests in all video programming services as well as information regarding their carriage of such vertically integrated video programming services on cable systems in which they have an attributable interest. These records must be made available to local franchise authorities, the Commission, or members of the public on reasonable notice and during regular business hours.

(b) ''Attributable interest'' shall be defined by reference to the criteria set forth in the Notes to § 76.501.

§ 76.1711 Emergency alert system (EAS) tests and activation.

Every cable system of 1,000 or more subscribers shall keep a record of each test and activation of the Emergency Alert System (EAS) procedures pursuant to the requirement of part 11 of this chapter and the EAS Operating Handbook. These records shall be kept for three years.

§ 76.1712 Open video system (OVS) requests for carriage.

An open video system operator shall maintain a file of qualified video programming providers who have requested carriage or additional carriage since the previous allocation of capacity. Information regarding how a video programming provider should apply for carriage must be made available upon request.

NOTE 1 TO § 76.1712: An open video system operator will not be required to comply with the regulations contained in this section if there is no open capacity to be allocated at the end of the three year period described in § 76.1503(c)(2)(ii).

§ 76.1713 Complaint resolution.

Cable system operators shall establish a process for resolving complaints from subscribers about the quality of the television signal delivered. Aggregate data based upon these complaints shall be made available for inspection by the Commission and franchising authorities, upon request. These records shall be maintained for at least a one-year period.

NOTE 1 TO § 76.1713: Prior to being referred to the Commission, complaints from subscribers about the quality of the television signal delivered must be referred to the local franchising authority and the cable system operator.

§ 76.1714 FCC rules and regulations.

(a) The operator of a cable television system shall have a current copy of part 76 and, if subject to the Emergency Alert System (EAS) rules contained in part 11 of this chapter, an EAS Operating Handbook, and is expected to be familiar with the rules governing cable television systems and the EAS. Copies of the Commission's rules may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, at nominal cost. Copies of the EAS Operating Handbook may be obtained from the Commission's EAS staff, in Washington, DC.

(b) The provisions of paragraph (a) of this section are not applicable to any cable television system serving fewer than 1000 subscribers.

(c) The licensee of a cable television relay station (CARS) shall have a current copy of part 78 of this chapter, and, in cases where aeronautical obstruction markings of antennas is required, part 17 of this chapter shall be available for use by the operator in charge. Both the licensee and the operator or operators responsible for the proper operation of the station are expected to be familiar with the rules governing cable television relay stations. Copies of the Commission's rules may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, at nominal cost.

§ 76.1715 Sponsorship identification.

Whenever sponsorship announcements are omitted pursuant to § 76.1615(f) of subpart T, the cable television system operator shall observe the following conditions:

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

(b) Make this list available to members of the public who have a legitimate interest in obtaining the information contained in the list.

§ 76.1716 Subscriber records and public inspection file.

The operator of a cable television system shall make the system, its public inspection file, and its records of subscribers available for inspection upon request by an authorized representative of the Commission at any reasonable hour.

§ 76.1717 Compliance with technical standards.

Each system operator shall be prepared to show, on request by an authorized representative of the Commission or the local franchising authority, that the system does, in fact, comply with the technical standards rules in part 76, subpart K.

Subpart V—Reports and Filings

SOURCE: 65 FR 53623, Sept. 5, 2000, unless otherwise noted.

§ 76.1800 Additional reports and filings.

In addition to the reports and filings required by this subpart, cable operators must provide all notifications which are required by § 1.1155 of this chapter (annual regulatory user fees). In addition, all cable systems subject to rate regulation must file FCC rate forms pursuant to the Commission's rate rules contained in subparts N and R of this part.

NOTE 1 TO § 76.1800: Cable operators are required by the Copyright Act to make semi-annual filings of Statements of Account with the Licensing Division of the Copyright Office, Library of Congress, Washington, DC 20557.

NOTE 2 TO § 76.1800: The Commission may require certain financial information to be submitted pursuant to Section 623(g) of the Communications Act, 47 U.S.C. 543(g).

§ 76.1801 Registration statement.

(a) A system community unit shall be authorized to commence operation only after filing with the Commission the following information on FCC Form 322.

(1) The legal name of the operator, entity identification or social security number, and whether the operator is an individual, private association, partnership, or corporation. If the operator is a partnership, the legal name of the partner responsible for communications with the Commission shall be supplied;

(2) The assumed name (if any) used for doing business in the community;

(3) The mailing address, including zip code; e-mail address, if applicable; and telephone number to which communications are to be directed;

(4) The month and year the system began service to subscribers;

(5) The name of the community or area served and the county in which it is located;

(6) The television broadcast signals to be carried which previously have not been certified or registered; and

(7) The FCC Registration Number (FRN).

(b) Registration statements, FCC Form 322, shall be signed by the operator; by one of the partners, if the operator is a partnership; by an officer, if the operator is a corporation; by a member who is an officer, if the operator is an unincorporated association; or by any duly authorized employee of the operator.

(c) Registration statements, FCC Form 322, may be signed by the operator's attorney in case of the operator's physical disability or of his absence from the United States. The attorney shall in that event separately set forth the reasons why the registration statement was not signed by the operator. In addition, if any matter is stated on the basis of the attorney's belief only (rather than the attorney's knowledge), the attorney shall separately set forth the reasons for believing that such statements are true.

[68 FR 27003, May 19, 2003]

§ 76.1802 Annual employment report.

Each employment unit with six or more full-time employees shall file an annual employment report on FCC Form 395–A with the Commission on or before September 30 of each year.

NOTE TO § 76.1802: Data concerning the gender, race and ethnicity of an employment unit's workforce collected in the annual employment report will be used only for purposes of analyzing industry trends and making reports to Congress. Such data will not be used for the purpose of assessing any aspect of an individual employment unit's compliance with our EEO rules for multichannel video program distributors.

[69 FR 34954, June 23, 2004]

§ 76.1803 Signal leakage monitoring.

MVPDs subject to § 76.611 must submit the results of ground based measurements derived in accordance with § 76.611(a)(1) or airspace measurements derived in accordance with § 76.611(a)(2), including a description of the method by which compliance with basic signal leakage criteria is achieved and the method of calibrating the measurement equipment. This information shall be provided to the Commission each calendar year via FCC Form 320.

[68 FR 27003, May 19, 2003]

§ 76.1804 Aeronautical frequencies: leakage monitoring (CLI).

An MVPD shall notify the Commission before transmitting any carrier or other signal component with an average power level across a 25 kHz bandwidth in any 160 microsecond time period equal to or greater than 10^{-4} watts at any point in the cable distribution system on any new frequency or frequencies in the aeronautical radio frequency bands (108–137 and 225–400 MHz). The notification shall be made on FCC Form 321. Such notification shall include:

(a) Legal name and local address of the MVPD;

(b) The names and FCC identifiers (e.g., CA0001) of the system communities affected, for a cable system, and the name and FCC identifier (e.g., CAB901), for other MVPDs;

(c) The names and telephone numbers of local system officials who are responsible for compliance with §§ 76.610 through 76.616 and § 76.1803;

(d) Carrier frequency, tolerance, and type of modulation of all carriers in the aeronautical bands at any location in the cable distribution system and the maximum of those average powers measured over a 2.5 kHz bandwidth as described in the introductory paragraph to this rule section;

(e) The geographical coordinates (in NAD83) of a point near the center of the system, together with the distance (in kilometers) from the designated point to the most remote point of the plant, existing or planned, that defines a circle enclosing the entire plant;

(f) Certification that the monitoring procedure used is in compliance with § 76.614 or description of the routine monitoring procedure to be used; and

(g) For MVPDs subject to § 76.611, the cumulative signal leakage index derived under § 76.611(a)(1) or the results of airspace measurements derived under § 76.611(a)(2), including a description of the method by which compliance with the basic signal leakage criteria is achieved and the method of calibrating the measurement equipment.

(h) Aeronautical Frequency Notifications, FCC Form 321, shall be personally signed either electronically or manually by the operator; by one of the partners, if the operator is a partnership; by an officer, if the operator is a corporation; by a member who is an officer, if the operator is an unincorporated association; or by any duly authorized employee of the operator.

(i) Aeronautical Frequency Notifications, FCC Form 321, may be signed by the operator's attorney in case of the operator's physical disability or of his absence from the United States. The attorney shall in that event separately set forth the reasons why the FCC Form 321 was not signed by the operator. In addition, if any matter is stated on the basis of the attorney's belief only (rather than the attorney's knowledge), the attorney shall separately set forth the reasons for believing that such statements are true.

(j) The FCC Registration Number (FRN).

[68 FR 27003, May 19, 2003]

§ 76.1805 Alternative rate regulation agreements.

Small systems owned by small cable companies must file with the Commission a copy of any operative alternative rate regulation agreement entered into with a local franchising authority pursuant to § 76.934(g), within 30 days after its effective date.

Subpart W—Encoding Rules

SOURCE: 68 FR 66735, Nov. 28, 2003, unless otherwise noted.

§ 76.1901 Applicability.

(a) Each multi-channel video programming distributor shall comply with the requirements of this subpart.

(b) This subpart shall not apply to distribution of any content over the Internet, nor to a multichannel video programming distributor's operations via cable modem or DSL.

(c) With respect to cable system operators, this subpart shall apply only to cable services. This subpart shall not apply to cable modem services, whether or not provided by a cable system operator or affiliate.

§ 76.1902 Definitions.

(a) *Commercial advertising messages* shall mean, with respect to any service, program, or schedule or group of programs, commercial advertising messages other than:

(1) Advertising relating to such service itself or the programming contained therein,

(2) Interstitial programming relating to such service itself or the programming contained therein, or

(3) Any advertising which is displayed concurrently with the display of any part of such program(s), including but not limited to ''bugs,'' ''frames'' and ''banners.''

(b) *Commercial audiovisual content* shall mean works that consist of a series of related images which are intrinsically intended to be shown by the use of machines, or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied, transmitted by a covered entity and that are:

(1) Not created by the user of a covered product, and

(2) Offered for transmission, either generally or on demand, to subscribers or purchasers or the public at large or otherwise for commercial purposes, not uniquely to an individual or a small, private group.

(c) *Commercially adopted access control method* shall mean any commercially adopted access control method including digitally controlled analog scrambling systems, whether now or hereafter in commercial use.

(d) *Copy never* shall mean, with respect to commercial audiovisual content, the encoding of such content so as to signal that such content may not to be copied by a covered product.

(e) *Copy one generation* shall mean, with respect to commercial audiovisual content, the encoding of such content so as to permit a first generation of copies to be made by a covered product but not copies of such first generation of copies.

(f) *Copy no more* shall mean, with respect to commercial audiovisual content, the encoding of such content so as to reflect that such content is a first generation copy of content encoded as copy one generation and no further copies are permitted.

(g) *Covered product* shall mean a device used by consumers to access commercial audiovisual content offered by a covered entity (excluding delivery via cable modem or the Internet); and any device to which commercial audiovisual content so delivered from such covered product may be passed, directly or indirectly.

(h) *Covered entity* shall mean any entity that is subject to this subpart.

(i) *Defined business model* shall mean video-on-demand, pay-per view, pay television transmission, non-premium subscription television, free conditional access delivery and unencrypted broadcast television.

(j) *Encode* shall mean, in the transmission of commercial audiovisual content, to pass, attach, embed, or otherwise apply to, associate with, or allow to persist in or remain associated with such content, data or information which when read or responded to in a

covered device has the effect of preventing, pausing, or limiting copying, or constraining the resolution of a program when output from the covered device.

(k) *Encoding rules* shall mean the requirements or prohibitions describing or limiting encoding of audiovisual content as set forth in this subpart.

(l) *Free conditional access delivery* shall mean a delivery of a service, program, or schedule or group of programs via a commercially-adopted access control method, where viewers are not charged any fee (other than government-mandated fees) for the reception or viewing of the programming contained therein, other than unencrypted broadcast television.

(m) *Non-premium subscription television* shall mean a service, or schedule or group of programs (which may be offered for sale together with other services, or schedule or group of programs), for which subscribers are charged a subscription fee for the reception or viewing of the programming contained therein, other than pay television, subscription-on-demand and unencrypted broadcast television. By way of example, ''basic cable service'' and ''extended basic cable service'' (other than unencrypted broadcast television) are ''non-premium subscription television.''

(n) *Pay-per-view shall* mean a delivery of a single program or a specified group of programs, as to which each such single program is generally uninterrupted by commercial advertising messages and for which recipients are charged a separate fee for each program or specified group of programs. The term pay-per-view shall also include delivery of a single program for which multiple start times are made available at time intervals which are less than the running time of such program as a whole. If a given delivery qualifies both as pay-per-view and a pay television transmission, then, for purposes of this subpart, such delivery shall be deemed pay-per-view rather than a pay television transmission.

(o) *Pay television transmission* shall mean a transmission of a service or schedule of programs, as to which each individual program is generally uninterrupted by commercial advertising messages and for which service or schedule of programs subscribing viewers are charged a periodic subscription fee, such as on a monthly basis, for the reception of such programming delivered by such service whether separately or together with other services or programming, during the specified viewing period covered by such fee. If a given delivery qualifies both as a pay television transmission and pay-per-view, video-on-demand, or subscription-on-demand then, for purposes of this subpart, such delivery shall be deemed pay-per-view, video-on-demand or subscription-on-demand rather than a pay television transmission.

(p) *Program* shall mean any work of commercial audiovisual content.

(q) *Subscription-on-demand* shall mean the delivery of a single program or a specified group of programs for which:

(1) A subscriber is able, at his or her discretion, to select the time for commencement of exhibition thereof,

(2) Where each such single program is generally uninterrupted by commercial advertising messages; and

(3) For which program or specified group of programs subscribing viewers are charged a periodic subscription fee for the reception of programming delivered by such service during the specified viewing period covered by the fee. In the event a given delivery of a program qualifies both as a pay television transmission and subscription-on-demand, then for purposes of this subpart, such delivery shall be deemed subscription-on-demand rather than a pay television transmission.

(r) *Undefined business model* shall mean a business model that does not fall within the definition of a defined business model.

(s) *Unencrypted broadcast television* means any service, program, or schedule or group of programs, that is a substantially simultaneous retransmission of a broadcast transmission (*i.e.*, an over-the-air transmission for reception by the general public using radio frequencies allocated for that purpose) that is made by a terrestrial television broadcast station located within the country or territory in which the entity retransmitting such broadcast transmission also is located, where

such broadcast transmission is not subject to a commercially-adopted access control method (e.g., is broadcast in the clear to members of the public receiving such broadcasts), regardless of whether such entity subjects such retransmission to an access control method.

(t) *Video-on-demand* shall mean a delivery of a single program or a specified group of programs for which:

(1) Each such individual program is generally uninterrupted by commercial advertising messages;

(2) Recipients are charged a separate fee for each such single program or specified group of programs; and

(3) A recipient is able, at his or her discretion, to select the time for commencement of exhibition of such individual program or specified group of programs. In the event a delivery qualifies as both video-on-demand and a pay television transmission, then for purposes of this subpart, such delivery shall be deemed video-on-demand.

[68 FR 66735, Nov. 28, 2003, as amended at 69 FR 4082, Jan. 28, 2004; 76 FR 40280, July 8, 2011]

§ 76.1903 Interfaces.

A covered entity shall not attach or embed data or information with commercial audiovisual content, or otherwise apply to, associate with, or allow such data to persist in or remain associated with such content, so as to prevent its output through any analog or digital output authorized or permitted under license, law or regulation governing such covered product.

§ 76.1904 Encoding rules for defined business models.

(a) Commercial audiovisual content delivered as unencrypted broadcast television shall not be encoded so as to prevent or limit copying thereof by covered products or, to constrain the resolution of the image when output from a covered product.

(b) Except for a specific determination made by the Commission pursuant to a petition with respect to a defined business model other than unencrypted broadcast television, or an undefined business model subject to the procedures set forth in § 76.1906:

(1) Commercial audiovisual content shall not be encoded so as to prevent or limit copying thereof except as follows:

(i) To prevent or limit copying of video-on-demand or pay-per-view transmissions, subject to the requirements of paragraph (b)(2) of this section; and

(ii) To prevent or limit copying, other than first generation of copies, of pay television transmissions, non-premium subscription television, and free conditional access delivery transmissions; and

(2) With respect to any commercial audiovisual content delivered or transmitted in form of a video-on-demand or pay-per-view transmission, a covered entity shall not encode such content so as to prevent a covered product, without further authorization, from pausing such content up to 90 minutes from initial transmission by the covered entity (e.g., frame-by-frame, minute-by-minute, megabyte by megabyte).

§ 76.1905 Petitions to modify encoding rules for new services within defined business models.

(a) The encoding rules for defined business models in § 76.1904 reflect the conventional methods for packaging programs in the MVPD market as of December 31, 2002, and are presumed to be the appropriate rules for defined business models. A covered entity may petition the Commission for approval to allow within a defined business model, other than unencrypted broadcast television, the encoding of a new service in a manner different from the encoding rules set forth in § 76.1904(b)(1) and (2). No such petition will be approved under the public interest test set forth in paragraph (c)(4) of this section unless the new service differs from existing services provided by any covered entity under the applicable defined business model prior to December 31, 2002.

(b) *Petitions.* A petition to encode a new service within a defined business model other than as permitted by the encoding rules set forth in § 76.1904(b)(1) and (2) shall describe:

(1) The defined business model, the new service, and the proposed encoding terms, including the use of copy never and copy one generation encoding, and

the encoding of content with respect to ''pause'' set forth in § 76.1904(b)(2).

(2) Whether the claimed benefit to consumers of the new service, including, but not limited to, the availability of content in earlier release windows, more favorable terms, innovation or original programming, outweighs the limitation on the consumers' control over the new service;

(3) The ways in which the new service differs from existing services offered by any covered entity within the applicable defined business model prior to December 31, 2002;

(4) All other pertinent facts and considerations relied on to support a determination that grant of the petition would serve the public interest.

(5) Factual allegations shall be supported by affidavit or declaration of a person or persons with actual knowledge of the facts, and exhibits shall be verified by the person who prepares them.

(c) *Petition process*—(1) *Public notice.* The Commission shall give public notice of any such petition.

(2) *Comments.* Interested persons may submit comments or oppositions to the petition within thirty (30) days after the date of public notice of the filing of such petition. Comments or oppositions shall be served on the petitioner and on all persons listed in petitioner's certificate of service, and shall contain a detailed full statement of any facts or considerations relied on. Factual allegations shall be supported by affidavit or declaration of a person or persons with actual knowledge of the facts, and exhibits shall be verified by the person who prepares them.

(3) *Replies.* The petitioner may file a reply to the comments or oppositions within ten (10) days after their submission, which shall be served on all persons who have filed pleadings and shall also contain a detailed full showing, supported by affidavit or declaration, of any additional facts or considerations relied on. There shall be no further pleadings filed after petitioner's reply, unless authorized by the Commission.

(4) *Commission determination as to encoding rules for a new service within a defined business model.* (i) Proceedings initiated by petitions pursuant to this section shall be permit-but-disclose proceedings, unless otherwise specified by the Commission. The covered entity shall have the burden of proof to establish that the proposed change in encoding rules for a new service is in the public interest. In making its determination, the Commission shall take into account the following factors:

(A) Whether the benefit to consumers of the new service, including but not limited to earlier release windows, more favorable terms, innovation or original programming, outweighs the limitation on the consumers' control over the new service;

(B) Ways in which the new service differs from existing services offered by any covered entity within the applicable defined business model prior to December 31, 2002; and

(ii) The Commission may specify other procedures, such as oral argument, evidentiary hearing, or further written submissions directed to particular aspects, as it deems appropriate.

(iii) A petition may, upon request of the petitioner, be dismissed without prejudice as a matter of right prior to the adoption date of any final action taken by the Commission with respect to the petition. A petitioner's request for the return of a petition will be regarded as a request for dismissal.

(d) *Complaint regarding a new service not subject to petition.* In an instance in which an interested party has a substantial basis to believe and does believe in good faith that a new service within a defined business model has been launched without a petition as required by this section, such party may file a complaint pursuant to § 76.7.

§ 76.1906 Encoding rules for undefined business models.

(a) Upon public notice and subject to requirements as set forth herein, a covered entity may launch a program service pursuant to an undefined business model. Subject to Commission review upon complaint, the covered entity may initially encode programs pursuant to such undefined business model without regard to limitations set forth in § 76.1904(b).

(1) *Notice.* Concurrent with the launch of an undefined business model

by a covered entity, the covered entity shall issue a press release to the PR Newswire so as to provide public notice of the undefined business model, and the proposed encoding terms. The notice shall provide a concise summary of the commercial audiovisual content to be provided pursuant to the undefined business model, and of the terms on which such content is to be available to consumers. Immediately upon request from a party entitled to be a complainant, the covered entity shall make available information that indicates the proposed encoding terms, including the use of copy never or copy one generation encoding, and the encoding of content with respect to ''pause'' as defined in § 76.1904(b)(2).

(2) *Complaint process.* Any interested party (''complainant'') may file a complaint with the Commission objecting to application of encoding as set forth in the notice.

(i) *Pre-complaint resolution.* Prior to initiating a complaint with the Commission under this section, the complainant shall notify the covered entity that it may file a complaint under this section. The notice must be sufficiently detailed so that the covered entity can determine the specific nature of the potential complaint. The potential complainant must allow a minimum of thirty (30) days from such notice before filing such complaint with the Commission. During this period the parties shall endeavor in good faith to resolve the issue(s) in dispute. If the parties fail to reach agreement within this 30 day period, complainant may initiate a complaint in accordance with the procedures set forth herein.

(ii) *Complaint.* Within two years of publication of a notice under paragraph (a)(1) of this section, a complainant may file a complaint with the Commission objecting to application of the encoding terms to the service at issue. Such complaint shall state with particularity the basis for objection to the encoding terms.

(A) The complaint shall contain the name and address of the complainant and the name and address of the covered entity.

(B) The complaint shall be accompanied by a certification of service on the named covered entity.

(C) The complaint shall set forth with specificity all information and arguments relied upon. Specific factual allegations shall be supported by a declaration of a person or persons with actual knowledge of the facts, and exhibits shall be verified by the person who prepares them.

(D) The complaint shall set forth attempts made by the complainant to resolve its complaint pursuant to paragraph (a)(2)(i) of this section.

(iii) *Public notice.* The Commission shall give public notice of the filing of the complaint. Once the Commission has issued such public notice, any person otherwise entitled to be a complainant shall instead have the status of a person submitting comments under paragraph (a)(2)(iv) of this section rather than a complainant.

(iv) *Comments and reply.* (A) Any person may submit comments regarding the complaint within thirty (30) days after the date of public notice by the Commission. Comments shall be served on the complainant and the covered entity and on any persons listed in relevant certificates of service, and shall contain a detailed full statement of any facts or considerations relied on. Specific factual allegations shall be supported by a declaration of a person or persons with actual knowledge of the facts, and exhibits shall be verified by the person who prepares them.

(B) The covered entity may file a response to the complaint and comments within twenty (20) days after the date that comments are due. Such response shall be served on all persons who have filed complaints or comments and shall also contain a detailed full showing, supported by affidavit or declaration, of any additional facts or considerations relied on. Replies shall be due ten (10) days from the date for filing a response.

(v) *Basis for Commission determination as to encoding terms for an undefined business model.* In a permit-but-disclose proceeding, unless otherwise specified by the Commission, to determine whether encoding terms as noticed may be applied to an undefined business model, the covered entity shall have the burden of proof to establish that application of the encoding terms in the undefined business model is in

the public interest. In making any such determination, the Commission shall take into account the following factors:

(A) Whether the benefit to consumers of the new service, including but not limited to earlier release windows, more favorable terms, innovation or original programming, outweighs the limitation on the consumers' control over the new service;

(B) Ways in which the new service differs from services offered by any covered entity prior to December 31, 2002;

(vi) *Determination procedures.* The Commission may specify other procedures, such as oral argument, evidentiary hearing, or further written submissions directed to particular aspects, as it deems appropriate.

(b) *Complaint regarding a service not subject to notice.* In an instance in which an interested party has a substantial basis to believe and believes in good faith that a service pursuant to an undefined business model has been launched without requisite notice, such party may file a complaint pursuant to § 76.7.

§ 76.1907 Temporary bona fide trials.

The obligations and procedures as to encoding rules set forth in §§ 76.1904(b) and (c) and 76.1905(a) and (b) do not apply in the case of a temporary bona fide trial of a service.

§ 76.1908 Certain practices not prohibited.

Nothing in this subpart shall be construed as prohibiting a covered entity from:

(a) Encoding, storing or managing commercial audiovisual content within its distribution system or within a covered product under the control of a covered entity's commercially adopted access control method, provided that the outcome for the consumer from the application of the encoding rules set out in § 76.1904(a) and (b) is unchanged thereby when such commercial audiovisual content is released to consumer control and provided that all other laws, regulations, or licenses applicable to such encoding, storage, or management shall be unaffected by this section, or

(b) Causing, with respect to a specific covered product, the output of content from such product in a format as necessary to match the display format of another device connected to such product, including but not limited to providing for content conversion between widely-used formats for the transport, processing and display of audiovisual signals or data, such as between analog and digital formats and between PAL and NTSC or RGB and Y,Pb,Pr.

[68 FR 66735, Nov. 28, 2003, as amended at 76 FR 40280, July 8, 2011]

§ 76.1909 Redistribution control of unencrypted digital terrestrial broadcast content.

(a) For the purposes of this section, the terms unencrypted digital terrestrial broadcast content, EIT, PMT, broadcast flag, covered demodulator product, and marked content shall have the same meaning as set forth in § 73.9000 of this chapter.

(b) *Encrypted retransmission.* Where a multichannel video programming distributor retransmits unencrypted digital terrestrial broadcast content in encrypted form, such distributor shall, upon demodulation of the 8–VSB, 16–VSB, 64–QAM or 256–QAM signal, inspect either the EIT or PMT for the broadcast flag, and if the broadcast flag is present:

(1) Securely and robustly convey that information to the consumer product used to decrypt the distributor's signal information, and

(2) Require that such consumer product, following such decryption, protect the content of such signal as if it were a covered demodulator product receiving marked content.

(c) *Unencrypted retransmission.* Where a multichannel video programming distributor retransmits unencrypted digital terrestrial broadcast content in unencrypted form, such distributor shall, upon demodulation:

(1) Preserve the broadcast flag, if present, in both the EIT and PMT; and

(2) Use 8–VSB, 16–VSB, 64–QAM, or 256–QAM signal modulation for the retransmission.

(d) *Unmarked content.* Where a multichannel video programming distributor retransmits unencrypted digital terrestrial broadcast content that is not

marked with the broadcast flag, the multichannel video programming distributor shall not encode such content to restrict its redistribution.

[68 FR 67607, Dec. 3, 2003]

Subpart X—Access to MDUs

§ 76.2000 Exclusive access to multiple dwelling units generally.

(a) *Prohibition.* No cable operator or other provider of MVPD service subject to 47 U.S.C. 548 shall enforce or execute any provision in a contract that grants to it the exclusive right to provide any video programming service (alone or in combination with other services) to a MDU. All such exclusivity clauses are null and void.

(b) *Definition.* For purposes of this rule, MDU shall include a multiple dwelling unit building (such as an apartment building, condominium building or cooperative) and any other centrally managed residential real estate development (such as a gated community, mobile home park, or garden apartment); provided however, that MDU shall not include time share units, academic campuses and dormitories, military bases, hotels, rooming houses, prisons, jails, halfway houses, hospitals, nursing homes or other assisted living facilities.

[73 FR 1089, Jan. 7, 2008]

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[50 FR 38536, Sept. 23, 1985; 50 FR 39114, Sept. 27, 1985, as amended at 51 FR 34622, Sept. 30, 1986; 52 FR 37316, Oct. 6, 1987]

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ALPHABETICAL INDEX—PART 78

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SOURCE: 37 FR 3292, Feb. 12, 1972, unless otherwise noted.

Subpart A—General

§ 78.1 Purpose.

The rules and regulations set forth in this part provide for the licensing and operation of fixed or mobile cable television relay service stations (CARS) used for the transmission of television and related audio signals, signals of standard and FM broadcast stations, signals of BRS/EBS fixed stations, and cablecasting from the point of reception to a terminal point from which the signals are distributed to the public by cable. In addition CARS stations may be used to transmit television and related audio signals to TV translator and low-power TV stations.

[69 FR 72046, Dec. 10, 2004]

§ 78.3 Other pertinent rules.

Other pertinent provisions of the Commission's rules and regulations relating to the cable television relay service (CARS) are included in the following parts of this chapter:

Part 0—Commission Organization.
Part 1—Practice and Procedure.
Part 2—Frequency Allocations and Radio Treaty Matters; General Rules and Regulations.
Part 17—Construction Marking and Lighting of Antenna Structures.
Part 21—Domestic Public Fixed Radio Services.
Part 74—Experimental, Auxiliary, and Special Broadcast, and Other Program Distribution Services.
Part 76—Cable Television Service.
Part 101—Fixed Microwave Services.

[55 FR 46014, Oct. 31, 1990, as amended at 65 FR 38326, June 20, 2000]

§ 78.5 Definitions.

For purposes of this part, the following definitions are applicable. For other definitions, see part 76 (Cable Television Service) of this chapter.

(a) *Cable television relay service (CARS) station.* A fixed or mobile station used for the transmission of television and related audio signals, signals of standard and FM broadcast stations, signals of instructional television fixed stations, and cablecasting from the point of reception to a terminal point from the point of reception to a terminal point from which the signals are distributed to the public.

NOTE: Except where the rules contained in this part make separate provision, the term ''Cable Television Relay service'' or ''CARS'' includes the term ''Local Distribution Service'' or ''LDS,'' the term ''Cable Television Relay service Studio to Headend Link'' or ''SHL,'' and the term ''Cable Television Relay PICKUP,'' as defined in paragraphs (b), (c), and (d) of this section.

(b) *Local distribution service* (*LDS*) *station*. A fixed CARS station used within a cable television system or systems for the transmission of television signals and related audio signals, signals of standard and FM broadcast stations, signals of instructional television fixed stations, and cablecasting from a local transmission point to one or more receiving points, from which the communications are distributed to the public. LDS stations may also engage in repeatered operation.

(c) *Cable Television Relay Service Studio to Headend Link* (*SHL*) *station*. A fixed CARS station used for the transmission of television program material and related communications from a cable television studio to the headend of a cable television system.

(d) *Cable Television Relay Service PICKUP station*. A land mobile CARS station used for the transmission of television signals and related communications from the scenes of events occurring at points removed from cable television studios to cable television studios or headends.

(e) *Remote control operation*. Operation of a station by a qualified operator on duty at a control position from which the transmitter is not visible but which control position is equipped with suitable control and telemetering circuits so that the essential functions that could be performed at the transmitter can also be performed from the control point.

(f) *Attended operation*. Operation of a station by a qualified operator on duty at the place where the transmitting apparatus is located with the transmitter in plain view of the operator.

(g) *Unattended operation*. Operation of a station by automatic means whereby the transmitter is turned on and off and performs its functions without attention by a qualified operator.

(h) *Authorized bandwidth*. The maximum bandwidth authorized to be used by a station as specified in the station license. (See §§ 2.202 and 78.104.)

(i) *Cable network-entity*. A cable network-entity is an organization which produces programs available for simultaneous transmission by cable systems serving a combined total of at least 5,000,000 subscribers and having distribution facilities or circuits available to such affiliated stations or cable systems.

(j) *Other eligible system.* A system comprised of microwave radio channels in the BRS/EBS spectrum (as defined in subpart M of part 27 of this chapter) that delivers multichannel television service over the air to subscribers.

[37 FR 3292, Feb. 12, 1972, as amended at 38 FR 16647, June 25, 1973; 39 FR 26025, July 16, 1974; 43 FR 1953, Jan. 13, 1978; 52 FR 7143, Mar. 9, 1987; 55 FR 46015, Oct. 31, 1990; 69 FR 72046, Dec. 10, 2004]

Subpart B—Applications and Licenses

§ 78.11 Permissible service.

(a) CARS stations are authorized to relay TV broadcast and low-power TV and related audio signals, the signals of AM and FM broadcast stations, signals of BRS/EBS fixed stations, and cablecasting intended for use by one or more cable television systems or other eligible systems. LDS stations are authorized to relay television broadcast and related audio signals, the signals of AM and FM broadcast stations, signals of BRS/EBS fixed stations, cablecasting, and such other communications as may be authorized by the Commission. Relaying includes retransmission of signals by intermediate relay stations in the system. CARS licensees may interconnect their facilities with those of other CARS, common carrier, or television auxiliary licensees, and may also retransmit the signals of such CARS, common carrier, or television auxiliary stations, provided that the program material retransmitted meets the requirements of this paragraph.

(b) The transmitter of a CARS station using FM transmission may be multiplexed to provide additional communication channels for the transmission of standard and FM broadcast station programs and operational communications directly related to the technical operation of the relay system (including voice communications, telemetry signals, alerting signals, fault reporting signals, and control signals).

A CARS station will be authorized only where the principal use is the transmission of television broadcast program material or cablecasting: *Provided, however,* That this requirement shall not apply to LDS stations.

(c) CARS station licenses may be issued to cable television owners or operators or other eligible system owners or operators, and to cooperative enterprises owned by cable television owners or operators or other eligible system owners or operators. Television translator licensees may be members of such cooperative enterprises.

(d) CARS systems shall supply program material to cable television systems, other eligible systems, and translator stations only in the following circumstances.

(1) Where the licensee of the CARS station or system is owner or operator of the cable television systems or other eligible systems supplied with program material; or

(2) Where the licensee of the CARS station or system supplies program material to cable television systems, other eligible systems, or television translator stations either without charge or on a non-profit, cost-sharing basis pursuant to a written contract between the parties involved which provides that the CARS licensee shall have exclusive control over the operation of the CARS stations licensed to him and that contributions to capital and operating expenses are accepted only on a cost-sharing, nonprofit basis, prorated on an equitable basis among all cable television systems or other eligible systems being supplied with program material in whole or in part. Charges for the programming material are not subject to this restriction and cable network-entities may fully charge for their services. Records showing the cost of the service and its nonprofit, cost-sharing nature shall be maintained by the CARS licensee and held available for inspection by the Commission.

(e) The license of a CARS pickup station authorizes the transmission of program material, and related communications necessary to the accomplishment of such transmission, from the scenes of events occurring in places other than a cable television studio or the studio of another eligible system, to the studio, headend, or transmitter of its associated cable television system or other eligible system, or to such other cable television or other eligible systems as are carrying the same program material. CARS pickup stations may be used to provide temporary CARS studio-to-headend links, studio-to-transmitter links, or CARS circuits consistent with this part without further authority of the Commission: Provided, however, That prior Commission authority shall be obtained if the transmitting antenna to be installed will increase the height of any natural formation or manmade structure by more than 6.1 meters (20 feet) and will be in existence for a period of more than 2 consecutive days: And provided, further, That if the transmitting equipment is to be operated for more than 1 day outside of the area to which the CARS station has been licensed, the Commission, the Regional Director for the area in which the station is licensed to operate, and the Regional Director for the area in which the equipment will be temporarily operated shall be notified at least 1 day prior to such operation. If the decision to continue operation for more than 1 day is not made until the operation has begun, notice shall be given to the Commission and the relevant Regional Directors within 1 day after such decision. In all instances, the Commission and the relevant Regional Directors shall be notified when the transmitting equipment has been returned to its licensed area.

(f) A cable network-entity may use CARS stations to transmit their own television program materials to cable television systems, other eligible systems, other cable network-entities, broadcast stations, and broadcast network-entities: *Provided, however,* That the bands 2025–2110 MHz, 6425–6526 MHz and 6875–7125 MHz may be used by cable network-entities only for CARS pickup stations.

(g) The provisions of paragraph (d) of this section and § 78.13 shall not apply to a licensee who has been licensed in the CARS service pursuant to § 101.705 of this chapter, except that paragraph

(d) of this section shall apply with respect to facilities added or cable television and other eligible systems first served after February 1, 1966.

[37 FR 3292, Feb. 12, 1972, as amended at 37 FR 15926, Aug. 8, 1972; 43 FR 1953, Jan. 13, 1978; 43 FR 25127, June 9, 1978; 44 FR 32382, June 6, 1979; 47 FR 21503, May 18, 1982; 50 FR 23421, June 4, 1985; 52 FR 7144, Mar. 9, 1987; 55 FR 46015, Oct. 31, 1990; 58 FR 44952, Aug. 25, 1993; 65 FR 38326, June 20, 2000; 65 FR 48181, Aug. 7, 2000; 69 FR 72046, Dec. 10, 2004; 80 FR 53751, Sept. 8, 2015]

§ 78.13 Eligibility for license.

A license for CARS station will be issued only:

(a) To the owner or one who is responsible for the management and operation of a cable television system,

(b) To a cooperative enterprise wholly owned by cable television owners or operators, or

(c) A cable network-entity upon showing that the applicant is qualified under the Communications Act of 1934, that frequencies are available for the proposed operation, and that the public interest, convenience, and necessity will be served by a grant thereof.

(d) Licensees and conditional licensees of channels in the BRS/EBS band as defined in § 27.5(i) of this chapter, or entities that hold an executed lease agreement with a BRS/EBS licensee or conditional licensee.

(e) To private cable operators and other multichannel video programming distributors not specifically identified in this section.

[52 FR 7144, Mar. 9, 1987, as amended at 55 FR 46015, Oct. 31, 1990; 56 FR 57601, Nov. 13, 1991; 67 FR 43259, June 27, 2002; 69 FR 72047, Dec. 10, 2004]

§ 78.15 Contents of applications.

(a) Applications for authorization in the Cable Television Relay Service shall be submitted on FCC Form 327, and shall contain the information requested therein. Applications requiring fees as set forth at part 1, subpart G of this chapter must be filed in accordance with § 0.401(b) of the rules.

(b) An application for a CARS studio to headend link or LDS station license shall contain a statement that the applicant has investigated the possibility of using cable rather than microwave and the reasons why it was decided to use microwave rather than cable.

NOTE: Each applicant filing pursuant to § 78.15 is responsible for the continuing accuracy and completeness of all information in such applications. The provisions of § 1.65 are wholly applicable to applications pursuant to § 78.15, as well as to amendments filed pursuant to § 78.17, and objections filed pursuant to § 78.22, except that where the specific provisins of §§ 78.15, 78.17, 78.22 conflict with the provisions of § 1.65, the specific provisions are controlling, e.g., where requirements for service on specified parties of certain information may vary.

(c) CARS applicants must follow the procedures prescribed in subpart 1 of part 1 of this chapter (§§ 1.1301 through 1.1319) regarding the filing of environmental assessments unless Commission action authorizing construction of a CARS station would be categorically excluded from the environmental processing requirements under § 1.1306 of this chapter.

[41 FR 3719, Jan. 23, 1976, as amended at 41 FR 32429, Aug. 3, 1976; 42 FR 61864, Dec. 7, 1977; 50 FR 23421, June 4, 1985; 52 FR 10231, Mar. 31, 1987; 55 FR 20398, May 16, 1990]

§ 78.16 Who may sign applications.

(a) Applications, amendments thereto, and related statements of fact required by the Commission shall be personally signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association. Applications, amendments, and related statements of fact filed on behalf of government entities shall be signed by such duly elected or appointed officials as may be competent to do so under the laws of the applicable jurisdiction.

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability or of his absence from the United States. The attorney shall in that event separately set forth the reasons why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his

knowledge), he shall separately set forth his reasons for believing that such statements are true.

(c) Only the original of applications, amendments, or related statements of fact need be signed; copies may be conformed.

(d) Applications, amendments, and related statements of fact need not be submitted under oath. Willful false statements made therein, however, are punishable by fine and imprisonment, United States Code, title 18, section 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to section 312(a)(1) of the Communications Act of 1934, as amended.

[37 FR 15926, Aug. 8, 1972]

§ 78.17 Amendment of applications.

Any application may be amended as a matter of right prior to the adoption date of any final action taken by the Commission with respect to the application. If a petition to deny has been filed, the amendment shall be served on the petitioner.

[68 FR 27004, May 19, 2003]

§ 78.18 Frequency assignments.

(a) The Cable Television Relay Service is assigned the band of frequencies from 12.70 to 13.20 GHz. This band is shared with the Fixed-Satellite Service (earth-to-space) from 12.70 to 12.75 GHz and Television Auxiliary Broadcast Stations from 12.70 to 13.20 GHz. The following channels may be assigned to CARS stations for the propagation of radio waves with the indicated polarization:

(1) For CARS stations using FM transmission:

GROUP A CHANNELS

Designation	Channel boundaries (GHz)
A01 [1]	12.700–12.725
A02 [1]	12.725–12.750
A03 [1]	12.750–12.775
A04 [1]	12.775–12.800
A05 [1]	12.800–12.825
A06 [1]	12.825–12.850
A07 [1]	12.850–12.875
A08 [1]	12.875–12.900
A09 [1]	12.900–12.925
A10 [1]	12.925–12.950
A11 [1]	12.950–12.975
A12 [1]	12.975–13.000

GROUP A CHANNELS—Continued

Designation	Channel boundaries (GHz)
A13 [1]	13.000–13.025
A14 [1]	13.025–13.050
A15 [1]	13.050–13.075
A16 [1]	13.075–13.100
A17 [1]	13.100–13.125
A18 [1]	13.125–13.150
A19 [1]	[2] 13.150–13.175
A20 [1]	[2] 13.170–13.200

[1] Appropriate polarization designation:

H = Horizontally polarized propagated radio wave.
V = Vertically polarized propagated radio wave.
R = Right-handed (clockwise) elliptically polarized propagated radio wave.
L = Left-handed (counter-clockwise) elliptically polarized propagated radio wave.

[2] See paragraph (l) of this section.

NOTE: Polarization designations shall be in accordance with IEEE standard 100–1972 as amended.

GROUP B CHANNELS

Designation	Channel boundaries (GHz)
B01 [1]	12.7125–12.7375
B02 [1]	12.7375–12.7625
B03 [1]	12.7625–12.7875
B04 [1]	12.7875–12.8125
B05 [1]	12.8125–12.8375
B06 [1]	12.8375–12.8625
B07 [1]	12.8625–12.8875
B08 [1]	12.8875–12.9125
B09 [1]	12.9125–12.9375
B10 [1]	12.9375–12.9625
B11 [1]	12.9625–12.9875
B12 [1]	12.9875–13.0125
B13 [1]	13.0125–13.0375
B14 [1]	13.0375–13.0625
B15 [1]	13.0625–13.0875
B16 [1]	13.0875–13.1125
B17 [1]	13.1125–13.1375
B18 [1]	[2] 13.1375–13.1625
B19 [1]	[2] 13.1625–13.1875

[1] See footnote 1 following GROUP A CHANNELS.
[2] See paragraph (l) of this section.

NOTE: Polarization designations shall be in accordance with IEEE standard 100–1972 as amended.

(2) CARS stations using vestigal sideband AM transmission and FM transmission requiring a necessary bandwidth of no more than 6 MHz.

GROUP C CHANNELS

Designation	Channel boundaries (GHz) [C channels]	Alternate change boundaries (GHz) [Ca channels]
C01 [1]	12.7005–12.7065	12.7005–12.7065
C02 [1]	12.7065–12.7125	12.7065–12.7125
C03 [1]	12.7125–12.7185	12.7125–12.7185
C04 [1]	12.7185–12.7225 [2]	12.7185–12.7245
C05 [1]	12.7225–12.7285	12.7245–12.7305
C06 [1]	12.7285–12.7345	12.7305–12.7365
C07 [1]	12.7345–12.7405	12.7365–12.7425
C08 [1]	12.7405–12.7465	12.7425–12.7485
C09 [1]	12.7465–12.7525	12.7485–12.7545
C10 [1]	12.7525–12.7545 [2]	

GROUP C CHANNELS—Continued

Designation	Channel boundaries (GHz) [C channels]	Alternate change boundaries (GHz) [Ca channels]
C11 [1]	12.7545–12.7605	12.7545–12.7605
C12 [1]	12.7605–12.7665	12.7605–12.7665
C13 [1]	12.7665–12.7725	12.7665–12.7725
C14 [1]	12.7725–12.7785	12.7725–12.7785
C15 [1]	12.7785–12.7845	12.7785–12.7845
C16 [1]	12.7845–12.7905	12.7845–12.7905
C17 [1]	12.7905–12.7965	12.7905–12.7965
C18 [1]	12.7965–12.8025	12.7965–12.8025
C19 [1]	12.8025–12.8085	12.8025–12.8085
C20 [1]	12.8085–12.8145	12.8085–12.8145
C21 [1]	12.8145–12.8205	12.8145–12.8205
C22 [1]	12.8205–12.8265	12.8205–12.8265
C23 [1]	12.8265–12.8325	12.8265–12.8325
C24 [1]	12.8325–12.8385	12.8325–12.8385
C25 [1]	12.8385–12.8445	12.8385–12.8445
C26 [1]	12.8445–12.8505	12.8445–12.8505
C27 [1]	12.8505–12.8565	12.8505–12.8565
C28 [1]	12.8565–12.8625	12.8565–12.8625

GROUP C CHANNELS—Continued

Designation	Channel boundaries (GHz) [C channels]	Alternate change boundaries (GHz) [Ca channels]
C29 [1]	12.8625–12.8685	12.8625–12.8685
C30 [1]	12.8685–12.8745	12.8685–12.8745
C31 [1]	12.8745–12.8805	12.8745–12.8805
C32 [1]	12.8805–12.8865	12.8805–12.8865
C33 [1]	12.8865–12.8925	12.8865–12.8925
C34 [1]	12.8925–12.8985	12.8925–12.8985
C35 [1]	12.8985–12.9045	12.8985–12.9045
C36 [1]	12.9045–12.9105	12.9045–12.9105
C37 [1]	12.9105–12.9165	12.9105–12.9165
C38 [1]	12.9165–12.9225	12.9165–12.9225
C39 [1]	12.9225–12.9285	12.9225–12.9285
C40 [1]	12.9285–12.9345	12.9285–12.9345
C41 [1]	12.9345–12.9405	12.9345–12.9405
C42 [1]	12.9405–12.9465	12.9405–12.9465
C43 [1]	12.9465–12.9525	12.9465–12.9525

[1] See footnote 1 following GROUP A CHANNELS.
[2] For transmission of pilot subcarriers or other authorized narrow band signals.

GROUP D CHANNELS

Designation	Channel boundaries (GHz) [D channels]	Alternate channel boundaries (GHz) [Da channels]
D01 [1]	12.7597–12.7657	12.7597–12.7657
D02 [1]	12.7657–12.7717	12.7657–12.7717
D03 [1]	12.7717–12.7777	12.7717–12.7777
D04 [1]	12.7777–12.7817 [2]	12.7777–12.7837
D05 [1]	12.7817–12.7877	12.7837–12.7897
D06 [1]	12.7877–12.7937	12.7897–12.7957
D07 [1]	12.7937–12.7997	12.7957–12.8017
D08 [1]	12.7997–12.8057	12.8017–12.8077
D09 [1]	12.8057–12.8117	12.8077–12.8137
D10 [1]	12.8117–12.8137 [2]	N/A
D11 [1]	12.8137–12.8197	12.8137–12.8197
D12 [1]	12.8197–12.8257	12.8197–12.8257
D13 [1]	12.8257–12.8317	12.8257–12.8317
D14 [1]	12.8317–12.8377	12.8317–12.8377
D15 [1]	12.8377–12.8437	12.8377–12.8437
D16 [1]	12.8437–12.8497	12.8437–12.8497
D17 [1]	12.8497–12.8557	12.8497–12.8557
D18 [1]	12.8557–12.8617	12.8557–12.8617
D19 [1]	12.8617–12.8677	12.8617–12.8677
D20 [1]	12.8677–12.8737	12.8677–12.8737
D21 [1]	12.8737–12.8797	12.8737–12.8797
D22 [1]	12.8797–12.8857	12.8797–12.8857
D23 [1]	12.8857–12.8917	12.8857–12.8917
D24 [1]	12.8917–12.8977	12.8917–12.8977
D25 [1]	12.8977–12.9037	12.8977–12.9037
D26 [1]	12.9037–12.9097	12.9037–12.9097
D27 [1]	12.9097–12.9157	12.9097–12.9157
D28 [1]	12.9157–12.9217	12.9157–12.9217
D29 [1]	12.9217–12.9277	12.9217–12.9277
D30 [1]	12.9277–12.9337	12.9277–12.9337
D31 [1]	12.9337–12.9397	12.9337–12.9397
D32 [1]	12.9397–12.9457	12.9397–12.9457
D33 [1]	12.9457–12.9517	12.9457–12.9517
D34 [1]	12.9517–12.9577	12.9517–12.9577
D35 [1]	12.9577–12.9637	12.9577–12.9637
D36 [1]	12.9637–12.9697	12.9637–12.9697
D37 [1]	12.9697–12.9757	12.9697–12.9757
D38 [1]	12.9757–12.9817	12.9757–12.9817
D39 [1]	12.9817–12.9877	12.9817–12.9877
D40 [1]	12.9877–12.9937	12.9877–12.9937
D41 [1]	12.9937–12.9997	12.9937–12.9997
D42 [1]	12.9997–13.0057	12.9997–13.0057
D43 [1]	13.0057–13.0117	13.0057–13.0117

[1] See footnote 1 following GROUP A CHANNELS.
[2] For transmission of pilot subcarriers or other authorized narrow band signals.

GROUP E CHANNELS

Designation	Channel boundaries (GHz) [E channels]	Alternate channel boundaries (GHz) [Ea channels]
E01[1]	12.9525–12.9585	12.9525–12.9585
E02[1]	12.9585–12.9645	12.9585–12.9645
E03[1]	12.9645–12.9705	12.9645–12.9705
E04[1]	12.9705–12.9745[2]	12.9705–12.9765
E05[1]	12.9745–12.9805	12.9765–12.9825
E06[1]	12.9805–12.9865	12.9825–12.9885
E07[1]	12.9865–12.9925	12.9885–12.9945
E08[1]	12.9925–12.9985	12.9945–13.0005
E09[1]	12.9985–13.0045	13.0005–13.0065
E10[1]	13.0045–13.0065[2]	N/A
E11[1]	13.0065–13.0125	13.0065–13.0125
E12[1]	13.0125–13.0185	13.0125–13.0185
E13[1]	13.0185–13.0245	13.0185–13.0245
E14[1]	13.0245–13.0305	13.0245–13.0305
E15[1]	13.0305–13.0365	13.0305–13.0365
E16[1]	13.0365–13.0425	13.0365–13.0425
E17[1]	13.0425–13.0485	13.0425–13.0485
E18[1]	13.0485–13.0545	13.0485–13.0545
E19[1]	13.0545–13.0605	13.0545–13.0605
E20[1]	13.0605–13.0665	13.0605–13.0665
E21[1]	13.0665–13.0725	13.0665–13.0725
E22[1]	13.0725–13.0785	13.0725–13.0785
E23[1]	13.0785–13.0845	13.0785–13.0845
E24[1]	13.0845–13.0905	13.0845–13.0905
E25[1]	13.0905–13.0965	13.0905–13.0965
E26[1]	13.0965–13.1025	13.0965–13.1025
E27[1]	13.1025–13.1085	13.1025–13.1085
E28[1]	13.1085–13.1145	13.1085–13.1145
E29[1]	13.1145–13.1205	13.1145–13.1205
E30[1]	13.1205–13.1265	13.1205–13.1265
E31[1]	13.1265–13.1325	13.1265–13.1325
E32[1]	13.1325–13.1385	13.1325–13.1385
E33[1]	13.1385–13.1445	13.1385–13.1445
E34[1]	13.1445–13.1505[3]	13.1445–13.1505[3]
E35[1]	13.1505–13.1565[3]	13.1505–13.1565[3]
E36[1]	13.1565–13.1625[3]	13.1565–13.1625[3]
E37[1]	13.1625–13.1685[3]	13.1625–13.1685[3]
E38[1]	13.1685–13.1745[3]	13.1685–13.1745[3]
E39[1]	13.1745–13.1805[3]	13.1745–13.1805[3]
E40[1]	13.1805–13.1865[3]	13.1805–13.1865[3]
E41[1]	13.1865–13.1925[3]	13.1865–13.1925[3]
E42[1]	13.1925–13.1985[3]	13.1925–13.1985[3]

[1] See footnote 1 following GROUP A CHANNELS.
[2] For transmission of pilot subcarriers or other authorized narrow band signals.
[3] See paragraph (l) of this section.

GROUP F CHANNELS

Designation	Channel boundaries (GHz) [F channels]	Alternate channel boundaries (GHz) [Fa channels]
F01[1]	13.0125–13.0185	13.0125–13.0185
F02[1]	13.0185–13.0245	13.0185–13.0245
F03[1]	13.0245–13.0305	13.0245–13.0305
F04[1]	13.0305–13.0345[2]	13.0305–13.0365
F05[1]	13.0345–13.0405	13.0365–13.0425
F06[1]	13.0405–13.0465	13.0425–13.0485
F07[1]	13.0465–13.0525	13.0485–13.0545
F08[1]	13.0525–13.0585	13.0545–13.0605
F09[1]	13.0585–13.0645	13.0605–13.0665
F10[1]	13.0645–13.0665[2]	N/A
F11[1]	13.0665–13.0725	13.0665–13.0725
F12[1]	13.0725–13.0785	13.0725–13.0785
F13[1]	13.0785–13.0845	13.0785–13.0845
F14[1]	13.0845–13.0905	13.0845–13.0905
F15[1]	13.0905–13.0965	13.0905–13.0965
F16[1]	13.0965–13.1025	13.0965–13.1025
F17[1]	13.1025–13.1085	13.1025–13.1085
F18[1]	13.1085–13.1145	13.1085–13.1145
F19[1]	13.1145–13.1205	13.1145–13.1205
F20[1]	13.1205–13.1265	13.1205–13.1265

GROUP F CHANNELS—Continued

Designation	Channel boundaries (GHz) [F channels]	Alternate channel boundaries (GHz) [Fa channels]
F21[1]	13.1265–13.1325	13.1265–13.1325
F22[1]	13.1325–13.1385	13.1325–13.1385
F23[1]	13.1385–13.1445	13.1385–13.1445
F24[1]	13.1445–13.1505[3]	13.1445–13.1505[3]
F25[1]	13.1505–13.1565[3]	13.1505–13.1565[3]
F26[1]	13.1565–13.1625[3]	13.1565–13.1625[3]
F27[1]	13.1625–13.1685[3]	13.1625–13.1685[3]
F28[1]	13.1685–13.1745[3]	13.1685–13.1745[3]
F29[1]	13.1745–13.1805[3]	13.1745–13.1805[3]
F30[1]	13.1805–13.1865[3]	13.1805–13.1865[3]
F31[1]	13.1865–13.1925[3]	13.1865–13.1925[3]
F32[1]	13.1925–13.1985[3]	13.1925–13.1985[3]

[1] See footnote 1 following GROUP A CHANNELS.
[2] For transmission of pilot subcarriers or other authorized narrow band signals.
[3] See paragraph (l) of this section.

(3) For CARS stations using AM and FM transmission requiring a necessary bandwidth of no more than 12.5 MHz.

GROUP K CHANNEL

Designation	Channel boundaries (GHz)
K01[1]	12.7000–12.7125
K02[1]	12.7125–12.7250
K03[1]	12.7250–12.7375
K04[1]	12.7375–12.7500
K05[1]	12.7500–12.7625
K06[1]	12.7625–12.7750
K07[1]	12.7750–12.7875
K08[1]	12.7875–12.8000
K09[1]	12.8000–12.8125
K10[1]	12.8125–12.8250
K11[1]	12.8250–12.8375
K12[1]	12.8375–12.8500
K13[1]	12.8500–12.8625
K14[1]	12.8625–12.8750
K15[1]	12.8750–12.8875
K16[1]	12.8875–12.9000
K17[1]	12.9000–12.9125
K18[1]	12.9125–12.9250
K19[1]	12.9250–12.9375
K20[1]	12.9375–12.9500
K21[1]	12.9500–12.9625
K22[1]	12.9625–12.9750
K23[1]	12.9750–12.9875
K24[1]	12.9875–13.0000
K25[1]	13.0000–13.0125
K26[1]	13.0125–13.0250
K27[1]	13.0250–13.0375
K28[1]	13.0375–13.0500
K29[1]	13.0500–13.0625
K30[1]	13.0625–13.0750
K31[1]	13.0750–13.0875
K32[1]	13.0875–13.1000
K33[1]	13.1000–13.1125
K34[1]	13.1125–13.1250
K35[1]	13.1250–13.1375
K36[1]	13.1375–13.1500
K37[1 2]	13.1500–13.1625
K38[1 2]	13.1625–13.1750
K39[1 2]	13.1750–13.1875
K40[1 2]	13.1875–13.2000

[1] See footnote 1 following GROUP A CHANNELS.
[2] See paragraph (l) of this section.

(4) The Cable Television Relay Service is also assigned the following frequencies in the 17,700–19,700 MHz band. These frequencies are co-equally shared with stations in other services under parts 25, 74, and 101 of this chapter. Cable Television Relay Service stations operating on frequencies in the sub-bands 18.3–18.58 GHz and 19.26–19.3 GHz that were licensed or had applications pending before the Commission as of September 18, 1998 may continue those operations on a shared co-primary basis with other services under parts 25, 74, and 101 of this chapter. Such stations, however, are subject to relocation by licensees in the fixed-satellite service. Such relocation is subject to the provisions of §§ 101.85 through 101.97 of this chapter. No new applications for part 78 licenses will be accepted in the 19.26–19.3 GHz band after June 8, 2000, and no new applications for part 78 licenses will be accepted in the 18.3–18.58 GHz band after November 19, 2002.

(i) 2 MHz maximum authorized bandwidth channel:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
18141.0	n/a

(ii) 6 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
216 MHz Separation	
18145.0	n/a

Transmit (receive) (MHz)	Receive (transmit) (MHz)
18151.0	18367.0
18157.0	18373.0
18163.0	18379.0
18169.0	18385.0
18175.0	18391.0
18181.0	18397.0
18187.0	18403.0
18193.0	18409.0
18199.0	18415.0
18205.0	18421.0
18211.0	18427.0
18217.0	18433.0
18223.0	18439.0
18229.0	18445.0
18235.0	18451.0
18241.0	18457.0
18247.0	18463.0
18253.0	18469.0
18259.0	18475.0
18265.0	18481.0
18271.0	18487.0
18277.0	18493.0
18283.0	18499.0
18289.0	18505.0
18295.0	18511.0
18301.0	18517.0
18307.0	18523.0
18313.0	18529.0
18319.0	18535.0
18325.0	18541.0
18331.0	18547.0
18337.0	18553.0
18343.0	18559.0
18349.0	18565.0
18355.0	18571.0
18361.0	18577.0

(iii) 10 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 MHz Separation	
17705.0	19265.0
17715.0	19275.0
17725.0	19285.0
17735.0	19295.0
17745.0	19305.0
17755.0	19315.0
17765.0	19325.0
17775.0	19335.0
17785.0	19345.0
17795.0	19355.0
17805.0	19365.0
17815.0	19375.0
17825.0	19385.0
17835.0	19395.0
17845.0	19405.0
17855.0	19415.0
17865.0	19425.0
17875.0	19435.0
17885.0	19445.0
17895.0	19455.0
17905.0	19465.0
17915.0	19475.0
17925.0	19485.0
17935.0	19495.0
17945.0	19505.0
17955.0	19515.0
17965.0	19525.0
17975.0	19535.0
17985.0	19545.0
17995.0	19555.0
18005.0	19565.0
18015.0	19575.0
18025.0	19585.0
18035.0	19595.0
18045.0	19605.0
18055.0	19615.0
18065.0	19625.0
18075.0	19635.0
18085.0	19645.0
18095.0	19655.0
18105.0	19665.0
18115.0	19675.0
18125.0	19685.0
18135.0	19695.0

(iv) 20 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 MHz Separation	
17710.0	19270.0
17730.0	19290.0
17750.0	19310.0
17770.0	19330.0
17790.0	19350.0
17810.0	19370.0
17830.0	19390.0
17850.0	19410.0
17870.0	19430.0
17890.0	19450.0
17910.0	19470.0
17930.0	19490.0
17950.0	19510.0
17970.0	19530.0
17990.0	19550.0
18010.0	19570.0
18030.0	19590.0
18050.0	19610.0
18070.0	19630.0
18090.0	19650.0
18110.0	19670.0
18130.0	19690.0

(v) 40 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 MHz Separation	
17720.0	19280.0
17760.0	19320.0
17800.0	19360.0
17840.0	19400.0
17880.0	19440.0
17920.0	19480.0
17960.0	19520.0
18000.0	19560.0
18040.0	19600.0
18080.0	19640.0
18120.0	19680.0

(vi) 80 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 MHz Separation	
17740.0	19300.0
17820.0	19380.0
17900.0	19460.0
17980.0	19540.0
18060.0	19620.0

(5) *6425 to 6525 MHz—Mobile only*. Paired and unpaired operations permitted. Use of this spectrum for direct delivery of video programs to the general public or multi-channel cable distribution is not permitted. This band is co-equally shared with mobile stations licensed pursuant to Parts 74 and 101 of the Commission's Rules. The following channel plans apply.

(i) 1 MHz maximum authorized bandwidth channels.

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
6425.5	6475.5
6450.5	6500.5

(ii) 8 MHz maximum authorized bandwidth channels.

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
6430.0	6480.0
6438.0	6488.0
6446.0	6596.0
6455.0	6505.0
6463.0	6513.0
6471.0	6521.0

(iii) 25 MHz maximum authorized bandwidth channels.

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
6437.5	6487.5
6462.5	6512.5

(6) *1990–2110 MHz—Mobile only*. (i) Use of this spectrum for direct delivery of video programs to the general public or multi-channel cable distribution is not permitted. This band is co-equally shared with stations licensed pursuant to parts 74 and 101 of the Commission's Rules. (Common carriers may use this band pursuant to provisions of §101.803(b)). The following channeling plan applies subject to the provisions of §74.604.

Frequency Band (MHz)

1990–2008
2008–2025
2025–2042
2042–2059
2059–2076
2076–2093
2093–2110

(ii) After a licensee has been relocated in accordance with the provisions of §78.40, operations will be in the band 2025–2110 MHz. The following channel plan will apply, subject to the provisions of §74.604 of this part:

Frequency Band (MHz)

2025.5–2037.5
2037.5–2049.5
2049.5–2061.5
2061.5–2073.5
2073.5–2085.5
2085.5–2097.5
2097.5–2109.5

(7) *6875–7125 MHz—Mobile only*. Use of this spectrum for direct delivery of video programs to the general public or multi-channel cable distribution is not permitted. This band is co-equally shared with stations licensed pursuant to parts 74 and 101 of the Commission's Rules. (Common carriers may use this band pursuant to provisions of §101.803(b)). The following channeling plan applies subject to the provisions of §74.604.

Frequency Band (MHz)

6875—6900
6900—6925
6925—6950
6950—6975
6975—7000
7000—7025
7025—7050
7050—7075
7075—7100
7100—7125

(b) Television Auxiliary Broadcast Service stations may be assigned channels in the band 12.70–13.20 GHz subject to the condition that no harmful interference is caused to fixed CARS stations authorized at the time of such grants. Translator Relay stations are assigned on a secondary basis. New CARS stations shall not cause harmful interference to television STL and intercity relay stations authorized at the time of such grants. Television

pickup stations and CARS pickup stations will be assigned channels in the band on a co-equal basis subject to the conditions that they accept interference from and cause no interference to existing or subsequently authorized television STL, television intercity relay, or fixed CARS stations. Channels in the 13.150–13.200 GHz band will be assigned exclusively to television pickup and CARS pickup stations on a co-equal basis. A cable television system operator will normally be limited in any one area to the assignment of not more than three channels for CARS pickup use: *Provided, however,* That additional channels may be assigned upon a satisfactory showing that additional channels are necessary and are available.

(c) An application for a CARS station shall be specific with regard to the channel or channels requested. Channels shall be identified by the appropriate designations set forth in paragraph (a) of this section.

(d) For CARS Fixed stations using FM transmission with an authorized bandwidth per channel of 25 MHz, to conserve spectrum applicants are encouraged to use alternate A and B channels such that adjacent R.F. carriers are spaced 12.5 MHz. As example, a fixed station in the CARS, relaying several channels, would use A01, B01, A02, B02, A03, etc.

(e) For CARS stations using vestigial sideband AM transmissions, channels from only the Groups C, D, E or F and those frequencies listed in paragraph (a)(4)(ii) of this section normally will be assigned a station, although upon adequate showing variations in the use of channels in Groups C, D, E or F and those frequencies listed in paragraph (a)(4)(ii) of this section may be authorized on a case-by-case basis in order to avoid potential interference or to permit a more efficient use. In situations where the number or the arrangement of channels available in these groups is not adequate, or in order to avoid potential interference, or in order to achieve the required VHF channelization arrangement on the cable television system or for repeated operations, or for two way transmission, or upon the showing of other good cause, the use of channels in the Groups C, D, E or F and those frequencies listed in paragraph (a)(4)(ii) of this section may be authorized. Applicants are encouraged to apply for adjacent channels within each group of channels, except that different channel arrangements may be authorized when required to conform to the required channelization arrangement at VHF on the cable television system, when it is necessary to transmit non-adjacent off-the-air channels or signals intended to fill non-adjacent slots in the spectrum, or to avoid potential interference, or upon other showing of good cause.

(f) For vestigial sideband AM transmission, the assigned visual carrier frequency for each channel listed in Groups C, D, E or F and those frequencies listed in paragraph (a)(4)(ii) of this section shall be 1.25 MHz above the lower channel-edge frequency. The center frequency for the accompanying FM aural carrier in each channel shall be 4.5 MHz above the corresponding visual carrier frequency.

(g) For CARS stations using double sideband AM transmission or FM transmission with authorized bandwidth of no more than 12.5 MHz, Group K channels normally will be assigned to a station, although upon adequate showing variations in the use of channels in Group K may be authorized on a case-by-case basis in order to avoid potential interference or to permit a more efficient use.

(h) For double sideband AM transmission, the assigned carrier frequency for each channel listed in Group K shall be 6.25 MHz above the lower boundary frequency for each channel, and the sideband frequencies corresponding to the carrier frequency of the accompanying FM aural signal shall be 4.5 MHz above and below the visual carrier frequency.

(i) All stations shall employ no more than a 12.5 MHz authorized bandwidth per channel except in any one or more of the following circumstances:

(1) The station is a CARS pickup station;

(2) The transmission path is more than 16.1 km (10 miles) in length;

(3) The station was authorized or an application was on file therefor prior to July 26, 1973.

(4) Other good cause has been shown that use of a bandwidth of 12.5 MHz or less per channel would be inefficient, impractical, or otherwise contrary to the public interest.

(j) Should any conflict arise among applications for stations in this band, priority will be based on the filing date of an application completed in accordance with the instructions thereon.

(k) Applicants for Group K channels shall apply for adjacent channels and the requested channels shall overlap the least possible number of Group A channels, except that different channel arrangements may be authorized upon an adequate showing that the foregoing arrangement cannot be used or would be contrary to the public interest, or in order to avoid potential interference or to permit a more efficient use.

(l) The band 13.15–13.20 GHz is reserved for television pickup and CARS pickup stations inside a 50 km radius of the 100 television markets delineated in §76.51 of this chapter. Outside a 50 km radius of the 100 television markets delineated in §76.51 of this chapter, television pickup stations, CARS stations and NGSO FSS gateway earth stations shall operate on a primary co-equal basis. The band 13.20–13.2125 GHz is reserved for television pickup stations on a primary basis and CARS pickup stations on a secondary basis inside a 50 km radius of the 100 television markets delineated in §76.51 of this chapter. Outside a 50 km radius of the 100 markets delineated in §76.51 of this chapter, television pickup stations and NGSO FSS gateway earth stations shall operate on a co-primary basis, CARS stations shall operate on a secondary basis. Fixed television auxiliary stations licensed pursuant to applications accepted for filing before September 1, 1979, may continue operation on channels in the 13.15–13.25 GHz band, subject to periodic license renewals. NGSO FSS gateway uplink transmissions in the 13.15–13.2125 GHz segment shall be limited to a maximum EIRP of 3.2 dBW towards 0 degrees on the radio horizon. These provisions shall not apply to GSO FSS operations in the 12.75–13.25 GHz band.

(m) CARS stations may be authorized for use of the band from 13.20 to 13.25 GHz on a secondary basis to Television Broadcast Auxiliary Stations. CARS stations are also secondary to NGSO FSS gateway earth station uplink operations. Any CARS application seeking authorization for use of the 13.20 to 13.25 GHz band must demonstrate that the applicant has exhausted all spectrum available to it in the 12.70 to 13.20 GHz band. Applications for use of this band must specify whether the channels are 6 MHz, 12.5 MHz, or 25 MHz wide and give the upper and lower boundaries and the polarization for each channel.

[37 FR 3292, Feb. 12, 1972. Redesignated at 37 FR 15926, Aug. 8, 1972]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §78.18, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§78.19 Interference.

(a) Applications for CARS stations shall endeavor to select an assignable frequency or frequencies which will be least likely to result in interference to other licensees in the same area since the FCC itself does not undertake frequency coordination.

(b) Applicants for CARS stations shall take full advantage of all known techniques, such as the geometric arrangement of transmitters and receivers, the use of minimum power required to provide the needed service, and the use of highly directive transmitting and receiving antenna systems, to prevent interference to the reception of television STL, television intercity relay, and other CARS stations.

(c)(1) *Radio Astronomy and Radio Research Installations.* In order to minimize harmful interference at the National Radio Astronomy Observatory site located at Green Bank, Pocahontas County, W. Va., and at the Naval Radio Research Observatory at Sugar Grove, Pendleton County, W.Va., an applicant for authority to construct a CARS station, except a CARS pickup station, or for authority to make changes in the frequency, power, antenna height, or antenna directivity of an existing station within the area bounded by 39°15′ N. on the north, 78°30′ W. on the east, 37°30′ N. on the south and 80°30′ W. on the west shall, at the time of filing

such application with the Commission, simultaneously notify the Director, National Radio Astronomy Observatory, Post Office Box No. 2, Green Bank, WV 24944, in writing, of the technical particulars of the proposed station. Such notification shall include the geographical coordinates of the antenna, antenna height, antenna directivity if any, proposed frequency, type of emission, and power. In addition, the applicant shall indicate in his application to the Commission the date notification was made to the Observatory. After receipt of such application, the Commission will allow a period of 20 days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the 20-day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

(2) Any applicant for a new permanent base or fixed station authorization to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of a station on these islands and would increase the likelihood of the authorized facility causing interference, shall notify the Interference Office, Arecibo Observatory, HC3 Box 53995, Arecibo, Puerto Rico 00612, in writing or electronically, of the technical parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information electronically should e-mail to: *prcz@naic.edu*.

(i) The notification to the Interference Office, Arecibo Observatory shall be made prior to, or simultaneously with, the filing of the application with the Commission. The notification shall state the geographical coordinates of the transmit antenna (NAD–83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, effective isotropic radiated power, and whether the proposed use is itinerant. Generally, submission of the information in the technical portion of the FCC license application is adequate notification. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Arecibo Observatory.

(ii) After receipt of such applications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory and to file either an amendment to the application or a modification application, as appropriate. If the Commission determines that an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, its application may be granted.

(iii) The provisions of this paragraph do not apply to operations that transmit on frequencies above 15 GHz.

(d) Protection for Table Mountain Radio Receiving Zone, Boulder County, Colorado: Applicants for a station authorization to operate in the vicinity of Boulder County, Colorado under this part are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. These are the research laboratories of the Department of Commerce, Boulder County, Colorado. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that the field strengths of any radiated signals (excluding reflected signals) received on this 1800 acre site (in the vicinity of coordinates 40°07′50″ N Latitude, 105°14′40″ W Longitude) resulting from new assignments (other than mobile stations) or from the modification or relocation of existing facilities do not exceed the following values:

Frequency range	In authorized bandwidth of service	
	Field strength (mV/m)	Power flux density [1] (dBW/m^2)
Below 540 kHz	10	−65.8
540 to 1600 kHz	20	−59.8
1.6 to 470 MHz	10	[2] −65.8
470 to 890 MHz	30	[2] −56.2
Above 890 MHz	1	[2] −85.8

[1] Equivalent values of power flux density are caculated assuming free space characteristic impedance of 376.7 = 120π ohms.

[2] Space stations shall conform to the power flux density limits at the earth's surface specified in appropriate parts of the FCC rules, but in no case should exceed the above levels in any 4 kHz band for all angles of arrival.

(1) Advance consultation is recomended particularly for those applicants who have no reliable data which indicates whether the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities (except mobile stations). In such instances, the following is a suggested guide for determining whether coordination is recommended:

(i) All stations within 2.4 km (1.5 statute miles);

(ii) Stations within 4.8 km (3 statute miles) with 50 watts or more effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations within 16 km (10 statute miles) with 1 kW or more ERP in the primary plane of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iv) Stations within 80 km (50 statute miles) with 25 kW or more ERP in the primary plane of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone.

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA R/E5X2, Boulder Laboratories, Boulder, CO 80303; telephone (303) 497–6548, in advance of filing their applications with the Commission.

(3) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Department of Commerce or proceedings to modify any authorization which may be granted which, in fact, delivers a signal at the site in excess of the field strength specified herein.

(e) Protection for Federal Communications Commission monitoring stations:

(1) Applicants in the vicinity of an FCC monitoring station for a radio station authorization to operate new transmitting facilities or changed transmitting facilities which would increase the field strength produced over the monitoring station over that previously authorized are advised to give consideration, prior to filing applications, to the possible need to protect the FCC stations from harmful interference. Geographical coordinates of the facilities which require protection are listed in §0.121(c) of the Commission's Rules. Applications for stations (except mobile stations) which will produce on any frequency a direct wave fundamental field strength of *greater than 10 mV/m* in the authorized bandwidth of service (−65.8 dBW/m^2 power flux density assuming a free space characteristic impedance of 120 ohms) at the referenced coordinates, may be examined to determine extent of possible interference. Depending on the theoretical field strength value and existing root-sum-square or other ambient radio field signal levels at the indicated coordinates, a clause protecting the monitoring station may be added to the station authorization.

(2) In the event that calculated value of expected field exceeds 10 mV/m (−65.8 dBW/m2) at the reference coordinates, or if there is any question whether field strength levels might exceed the threshold value, advance consultation with the FCC to discuss any protection necessary should be considered. Prospective applicants may communicate with the Public Safety and Homeland Security Bureau, Federal Communications Commission, Washington, DC 20554.

(3) Advance consultation is suggested particularly for those applicants who have no reliable data which indicates whether the field strength or power flux density figure indicated would be exceeded by their proposed radio facilities (except mobile stations). In such instances, the following is a suggested

guide for determining whether an applicant should coordinate:

(i) All stations within 2.4 kilometers (1.5 statute miles);

(ii) Stations within 4.8 kilometers (3 statute miles) with 50 watts or more average effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Monitoring Stations.

(iii) Stations within 16 kilometers (10 statute miles) with 1 kW or more average ERP in the primary plane of polarization in the azimuthal direction of the Monitoring Station;

(iv) Stations within 80 kilometers (50 statute miles) with 25 kW or more average ERP in the primary plane of polarization in the azimuthal direction of the Monitoring Station;

(4) Advance coordination for stations operating above 1000 MHz is recommended only where the proposed station is in the vicinity of a monitoring station designated as a satellite monitoring facility in section 0.121(c) of the Commission's Rules and also meets the criteria outlined in paragraphs (f)(2) and (3) of this section.

(5) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Federal Communications Commission or modification of any authorization which will cause harmful interference.

(f) *17.7–19.7 GHz band.* The following exclusion areas and coordination areas are established to minimize or avoid harmful interference to Federal Government earth stations receiving in the 17.7–19.7 GHz band:

(1) No application seeking authority to operate in the 17.7–19.7 GHz band will be accepted for filing if the proposed station is located within 50 km of Denver, CO (39°43′ N., 104°46′ W.) or Washington, DC (38°48′ N., 76°52′ W.).

(2) Any application seeking authority for a new fixed station license supporting the operations of Multichannel Video Programming Distributors (MVPD) in the 17.7–17.8 GHz band or to operate in the 17.8–19.7 GHz band for any service, or for modification of an existing station license in these bands which would change the frequency, power, emission, modulation, polarization, antenna height or directivity, or location of such a station, must be coordinated with the Federal Government by the Commission before an authorization will be issued, if the station or proposed station is located in whole or in part within any of the following areas:

(i) *Denver, CO area:*

(A) Between latitudes 41°30′ N. and 38°30′ N. and between longitudes 103°10′ W. and 106°30′ W.

(B) Between latitudes 38°30′ N. and 37°30′ N. and between longitudes 105°00′ W. and 105°50′ W.

(C) Between latitudes 40°08′ N. and 39°56′ N. and between longitudes 107°00′ W. and 107°15′ W.

(ii) *Washington, DC area:*

(A) Between latitudes 38°40′ N. and 38°10′ N. and between longitudes 78°50′ W. and 79°20′ W.

(B) Within 178 km of 38°48′ N, 76°52′ W.

(iii) *San Miguel, CA area:*

(A) Between latitudes 34°39′ N. and 34°00′ N. and between longitudes 118°52′ W. and 119°24′ W.

(B) Within 200 km of 35°44′ N., 120°45′ W.

(iv) *Guam area:* Within 100 km of 13°35′ N., 144°51′ E.

NOTE TO §78.19(f): The coordinates cited in this section are specified in terms of the ''North American Datum of 1983 (NAD 83).

[37 FR 3292, Feb. 12, 1972]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §78.19, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§78.20 Acceptance of applications; public notice.

(a) Applications which are tendered for filing are dated upon receipt and then forwarded to the Media Bureau where an examination is made to ascertain whether the applications are complete. Applications found to be complete or substantially complete, are accepted for filing and are given a file number. In case of minor defects as to completeness, the applicant will be required to supply the missing information. Applications which are not substantially complete will be returned to the applicant. Applications requiring fees as set forth at part 1, subpart G, of

this chapter must be filed in accordance with §0.401(b) of this chapter.

(b) Acceptance of an application for filing means only that it has been the subject of a preliminary review by the Commission's administrative staff as to completeness. Applications which are determined to be clearly not in accordance with the Commission's rules or other requirements, unless accompanied by an appropriate request for waiver, will be considered defective and will not be accepted for filing, or if inadvertently accepted for filing, will be dismissed. Requests for waiver shall show the nature of the waiver or exception desired and shall set forth the reasons in support thereof.

(c) The Commission will give public notice of all applications and major amendments thereto which have been accepted for filing. No application shall be acted on less than thirty (30) days from the date of public notice.

[37 FR 15926, Aug. 8, 1972, as amended at 52 FR 10231, Mar. 31, 1987; 67 FR 13235, Mar. 21, 2002; 68 FR 27004, May 19, 2003]

§ 78.21 Dismissal of applications.

(a) Any application may, on request of the applicant, be dismissed without prejudice as a matter of right prior to the adoption date of any final action taken by the Commission with respect to the application. An applicant's request for the return of an application will be regarded as a request for dismissal.

(b) Failure to prosecute an application, or failure to respond to official correspondence or request for additional information, will be cause for dismissal. Such dismissal will be without prejudice if it occurs prior to the adoption date of any final action taken by the Commission with respect to the application.

[37 FR 15927, Aug. 8, 1972]

§ 78.22 Objections to applications.

(a) Any party in interest may file a petition to deny any application (whether as originally filed or as amended) no later than thirty (30) days after issuance of a public notice of the acceptance for filing of any such application or amendment thereto. Petitions to deny shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with the public interest, convenience, and necessity. Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof.

(b) The applicant may file an opposition to any petition to deny, and the petitioner may file a reply to such opposition (see §1.45 of this chapter), in which allegations of fact or denials thereof shall be supported by affidavit of a person or persons with personal knowledge thereof.

(c) Notwithstanding the provisions of paragraph (a) of this section, before Commission action on any application for an instrument of authorization, any person may file informal objections to the grant. Such objections may be submitted in letter form (without extra copies) and shall be signed by the objector. The limitation on pleadings and time for filing pleadings provided for in §1.45 of this chapter shall not be applicable to any objections duly filed pursuant to this paragraph.

[37 FR 15927, Aug. 8, 1972, as amended at 50 FR 23421, June 4, 1985]

§ 78.23 Equipment tests.

(a) Following the grant of a CARS license, the licensee, during the process of construction of the station, may, without further authority from the Commission, conduct equipment tests for the purpose of such adjustments and measurements as may be necessary to assure compliance with the terms of the authorization, the technical provisions of the application therefore, the rules and regulations, and the applicable engineering standards.

(b) The Commission may notify the licensee to conduct no tests or may cancel, suspend, or change the date for the beginning of equipment tests as and when such action may appear to be in the public interest, convenience, and necessity.

(c) The test authorized in this section shall be conducted only as a necessary part of construction.

[50 FR 23421, June 4, 1985]

§ 78.27 License conditions.

(a) Authorizations (including initial grants, modifications, assignments or transfers of control, and renewals) in the Cable Television Relay Service to serve cable television systems and other eligible systems, shall contain the condition that cable television systems shall operate in compliance with the provisions of part 76 (Cable Television Service) of this chapter and that other eligible systems shall operate in compliance with the provisions of part 21 and part 74 of this chapter.

(b) CARS stations licensed under this subpart are required to commence operation within one year of the date of the license grant.

(1) The licensee of a CARS station shall notify the Commission in writing when the station commences operation. Such notification shall be submitted on or before the last day of the authorized one year construction period; otherwise, the station license shall be automatically forfeited.

(2) CARS licensees needing additional time to complete construction of the station and commence operation shall request an extension of time 30 days before the expiration of the one year construction period. Exceptions to the 30-day advance filing requirement may be granted where unanticipated delays occur.

[50 FR 23421, June 4, 1985, as amended at 55 FR 46015, Oct. 31, 1990; 69 FR 57862, Sept. 28, 2004]

§ 78.29 License period.

Licenses for CARS stations will be issued for a period not to exceed five (5) years. On and after February 1, 1966, licenses for CARS stations ordinarily will be issued for a period expiring on February 1, 1971, and, when regularly renewed, at 5-year intervals thereafter. When a license is granted subsequent to the last renewal date for CARS stations, the license will be issued only for the unexpired period of the current license term of such stations. The license renewal date applicable to CARS stations may be varied as necessary to permit the orderly processing of renewal applications, and individual station licenses may be granted or renwed for a shorter period of time than that generally prescribed for CARS stations, if the Commission finds that the public interest, convenience, and necessity would be served by such action.

§ 78.30 Forfeiture and termination of station authorizations.

(a) A CARS license will be automatically forfeited in whole or in part without further notice to the licensee upon the voluntary removal or alteration of the facilities, so as to render the station not operational for a period of 30 days or more.

(b) If a station licensed under this part discontinues operation on a permanent basis, the licensee must cancel the license. For purposes of this section, any station which has not operated for one year or more is considered to have been permanently discontinued.

[69 FR 57862, Sept. 28, 2004]

§ 78.31 Temporary extension of license.

Where there is pending before the Commission any application, investigation, or proceeding which, after hearing, might lead to or make necessary the modification of, revocation of or the refusal to renew an existing cable television relay station license, the Commission will grant a temporary extension of such license: *Provided, however,* That no such temporary extension shall be construed as a finding by the Commission that the operation of any CARS station thereunder will serve the public interest, convenience, and necessity beyond the express terms of such temporary extension of license: *And provided, further,* That such temporary extension of license will in nowise affect or limit the action of the Commission with respect to any pending application or proceeding.

§ 78.33 Special temporary authority.

(a) Notwithstanding the requirements of §§ 78.15 and 78.20, in circumstances requiring immediate or temporary use of facilities, a request may be made for special temporary authority to install and operate new equipment or to operate licensed equipment in a manner different from that authorized in a station license. Any such request may be in letter form, and

shall be submitted in duplicate: *Provided, however*, That in cases of emergency involving danger to life or property or due to damage to equipment, such request may be made by telephone or telegraph with the understanding that a written request shall be submitted within ten (10) days thereafter.

(b) Special temporary authority may also be requested to conduct a field survey to determine necessary data in connection with the preparation of a formal application for installation of a radio system under this part. Such authority may be granted to equipment suppliers and others who are not operators of cable television systems or other eligible systems, as well as to cable operators or other eligible system operators, to conduct equipment, program, service, and path tests.

(c) Any request for special temporary authority shall be clear and complete within itself as to the authority requested. In addition, such requests shall contain the following information:

(1) Name, address, and citizenship of applicant;

(2) Grounds for special action, including a description of any emergency or damage to equipment;

(3) Type of operation to be conducted;

(4) Purpose of operation;

(5) Time and date of proposed operation;

(6) Class of station and nature of service;

(7) Location of station;

(8) Equipment to be used, specifying manufacturer, model number, and number of units;

(9) Frequency or frequencies desired, consistent with §78.18: *Provided, however*, That in the case of events of widespread interest and importance that cannot be transmitted successfully on these frequencies, frequencies assigned to other services may be requested on a showing that operation thereon will not cause interference to established stations: *And provided, further*, That in no case will a cable television relay service operation be authorized on frequencies employed for the safety of life and property;

(10) Plate power input to final radio frequency stage;

(11) Type of emission;

(12) Description of antenna to be used, including height. In the event that the proposed antenna installations will increase the height of any natural formation, or existing man-made structure, by more than 6.1 meters (20 feet), a vertical plan sketch showing the height of the structures proposed to be erected, the height above ground of any existing structure, the elevation of the site above mean sea level, and the geographic coordinates of the proposed sites shall be submitted with the application.

(d) Except in emergencies involving safety of life or property or due to damage to equipment, a request for special temporary authority shall be filed at least ten (10) days prior to the date of proposed operation, or shall be accompanied by a statement of reasons for the delay in submitting such request.

(e) If the Commission finds that special temporary authority is in the public interest, it may grant such authority for a period not exceeding ninety (90) days, and, on a like finding, may extend such authority for one additional period not to exceed ninety (90) days.

[37 FR 15927, Aug. 8, 1972, as amended at 55 FR 46015, Oct. 31, 1990; 58 FR 44952, Aug. 25, 1993]

§ 78.35 Assignment or transfer of control.

(a) No assignment of the license of a cable television relay station or transfer of control of a CARS licensee shall occur without prior FCC authorization.

(b) If an assignment or transfer of control does not involve a substantial change of interests, the provisions of §§78.20(c) and 78.22, concerning public notice and objections, shall be waived.

(c) Licensees of CARS stations are not required to submit applications for assignment or transfer of control or otherwise notify the FCC in cases where the change in ownership does not affect the identity or controlling interest of the licensee.

(d) If an assignment or transfer of control involves a substantial change of interest, and requires prior FCC approval, the CARS licensee is required to file FCC Form 327 with the Commission.

(e) Licensees are required to notify the Commission of consummation of an approved transfer or assignment. The assignee or transferee is responsible for providing this notification, including the date the transaction was consummated. The transaction must be consummated and notification provided to the Commission within 60 days of public notice of approval, and notification of consummation must occur no later than 30 days after actual consummation, unless a request for an extension of time to consummate is filed.

[37 FR 15927, Aug. 8, 1972, as amended at 50 FR 23421, June 4, 1985; 68 FR 27004, May 19, 2003]

§ 78.36 Frequency coordination.

(a) Coordination of all frequency assignments for fixed stations in all bands above 2110 MHz, and for mobile (temporary fixed) stations in the bands 6425–6525 MHz and 17.7–19.7 GHz, will be in accordance with the procedure established in paragraph (b) of this section, except that the prior coordination process for mobile (temporary fixed) assignments may be completed orally and the period allowed for response to a coordination notification may be less than 30 days if the parties agree. Coordination of all frequency assignments for all mobile (temporary fixed) stations in all bands above 2110 MHz, except the bands 6425–6525 MHz and 17.7–19.7 GHz, will be conducted in accordance with the procedure established in paragraph (b) of this section or with the procedure in paragraph (d) of this section. Coordination of all frequency assignments for all fixed stations in the band 1990–2110 MHz will be in accordance with the procedure established in paragraph (c) of this section. Coordination of all frequency assignments for all mobile (temporary fixed) stations in the band 1990–2110 MHz will be conducted in accordance with the procedure in paragraph (d) of this section.

(b) For each frequency coordinated under this part, the interference protection criteria in 47 CFR 101.105(a), (b), and (c) and the following frequency usage coordination procedures will apply:

(1) *General requirements.* Proposed frequency usage must be prior coordinated with existing licensees, permittees, and applicants in the area, and other applicants with previously filed applications, whose facilities could affect or be affected by the new proposal in terms of frequency interference on active channels, applied-for channels, or channels coordinated for future growth. Coordination must be completed prior to filing an application for regular authorization, or a major amendment to a pending application, or any major modification to a license. In coordinating frequency usage with stations in the fixed satellite service, applicants must also comply with the requirements of 47 CFR 101.21(f). In engineering a system or modification thereto, the applicant must, by appropriate studies and analyses, select sites, transmitters, antennas and frequencies that will avoid interference in excess of permissible levels to other users. All applicants and licensees must cooperate fully and make reasonable efforts to resolve technical problems and conflicts that may inhibit the most effective and efficient use of the radio spectrum; however, the party being coordinated with is not obligated to suggest changes or re-engineer a proposal in cases involving conflicts. Applicants should make every reasonable effort to avoid blocking the growth of systems as prior coordinated. The applicant must identify in the application all entities with which the technical proposal was coordinated. In the event that technical problems are not resolved, an explanation must be submitted with the application. Where technical problems are resolved by an agreement or operating arrangement between the parties that would require special procedures be taken to reduce the likelihood of interference in excess of permissible levels (such as the use of artificial site shielding) or would result in a reduction of quality or capacity of either system, the details thereof may be contained in the application.

(2) Coordination procedure guidelines are as follows:

(i) Coordination involves two separate elements: Notification and response. Both or either may be oral or in written form. To be acceptable for filing, all applications and major technical amendments must certify that

coordination, including response, has been completed. The names of the licensees, permittees and applicants with which coordination was accomplished must be specified. If such notice and/or response is oral, the party providing such notice or response must supply written documentation of the communication upon request;

(ii) Notification must include relevant technical details of the proposal. At minimum, this should include, as applicable, the following:

(A) Applicant's name and address,

(B) Transmitting station name,

(C) Transmitting station coordinates,

(D) Frequencies and polarizations to be added, changed or deleted,

(E) Transmitting equipment type, its stability, actual output power, emission designator, and type of modulation (loading),

(F) Transmitting antenna type(s), model, gain and, if required, a radiation pattern provided or certified by the manufacturer,

(G) Transmitting antenna center line height(s) above ground level and ground elevation above mean sea level,

(H) Receiving station name,

(I) Receiving station coordinates,

(J) Receiving antenna type(s), model, gain, and, if required, a radiation pattern provided or certified by the manufacturer,

(K) Receiving antenna center line height(s) above ground level and ground elevation above mean sea level,

(L) Path azimuth and distance,

(M) Estimated transmitter transmission line loss expressed in dB,

(N) Estimated receiver transmission line loss expressed in dB,

(O) For a system utilizing ATPC, maximum transmit power, coordinated transmit power, and nominal transmit power.

NOTE TO PARAGRAPH (b)(2)(ii): The position location of antenna sites shall be determined to an accuracy of no less than ±1 second in the horizontal dimensions (latitude and longitude) and ±1 meter in the vertical dimension (ground elevation) with respect to the National Spacial Reference System.

(iii) For transmitters employing digital modulation techniques, the notification should clearly identify the type of modulation. Upon request, additional details of the operating characteristics of the equipment must also be furnished;

(iv) Response to notification should be made as quickly as possible, even if no technical problems are anticipated. Any response to notification indicating potential interference must specify the technical details and must be provided to the applicant, in writing, within the 30-day notification period. Every reasonable effort should be made by all applicants, permittees and licensees to eliminate all problems and conflicts. If no response to notification is received within 30 days, the applicant will be deemed to have made reasonable efforts to coordinate and may file its application without a response;

(v) The 30-day notification period is calculated from the date of receipt by the applicant, permittee, or licensee being notified. If notification is by mail, this date may be ascertained by:

(A) The return receipt on certified mail;

(B) The enclosure of a card to be dated and returned by the recipient; or

(C) A conservative estimate of the time required for the mail to reach its destination. In the last case, the estimated date when the 30-day period would expire should be stated in the notification.

(vi) An expedited prior coordination period (less than 30 days) may be requested when deemed necessary by a notifying party. The coordination notice should be identified as ''expedited'' and the requested response date should be clearly indicated. However, circumstances preventing a timely response from the receiving party should be accommodated accordingly. It is the responsibility of the notifying party to receive written concurrence (or verbal, with written to follow) from affected parties or their coordination representatives.

(vii) All technical problems that come to light during coordination must be resolved unless a statement is included with the application to the effect that the applicant is unable or unwilling to resolve the conflict and briefly the reason therefore;

(viii) Where a number of technical changes become necessary for a system during the course of coordination, an attempt should be made to minimize

the number of separate notifications for these changes. Where the changes are incorporated into a completely revised notice, the items that were changed from the previous notice should be identified. When changes are not numerous or complex, the party receiving the changed notification should make an effort to respond in less than 30 days. When the notifying party believes a shorter response time is reasonable and appropriate, it may be helpful for that party to so indicate in the notice and perhaps suggest a response date;

(ix) If, after coordination is successfully completed, it is determined that a subsequent change could have no impact on some parties receiving the original notification, these parties must be notified of the change and of the coordinator's opinion that no response is required;

(x) Applicants, permittees and licensees should supply to all other applicants, permittees and licensees within their areas of operations, the name, address and telephone number of their coordination representatives. Upon request from coordinating applicants, permittees and licensees, data and information concerning existing or proposed facilities and future growth plans in the area of interest should be furnished unless such request is unreasonable or would impose a significant burden in compilation;

(xi) Parties should keep other parties with whom they are coordinating advised of changes in plans for facilities previously coordinated. If applications have not been filed 6 months after coordination was initiated, parties may assume that such frequency use is no longer desired unless a second notification has been received within 10 days of the end of the 6 month period. Renewal notifications are to be sent to all originally notified parties, even if coordination has not been successfully completed with those parties; and

(xii) Any frequency reserved by a licensee for future use in the bands subject to this part must be released for use by another licensee, permittee, or applicant upon a showing by the latter that it requires an additional frequency and cannot coordinate one that is not reserved for future use.

(c) For each frequency coordinated under this part, the following frequency usage coordination procedures will apply:

(1) *General requirements.* Applicants are responsible for selecting the frequency assignments that are least likely to result in mutual interference with other licensees in the same area. Applicants may consult local frequency coordination committees, where they exist, for information on frequencies available in the area. Proposed frequency usage must be coordinated with existing licensees and applicants in the area whose facilities could affect or be affected by the new proposal in terms of frequency interference on active channels, applied-for channels, or channels coordinated for future growth. Coordination must be completed prior to filing an application for regular authorization, for major amendment to a pending application, or for major modification to a license.

(2) To be acceptable for filing, all applications for regular authorization, or major amendment to a pending application, or major modification to a license, must include a certification attesting that all co-channel and adjacent-channel licensees and applicants potentially affected by the proposed fixed use of the frequency(ies) have been notified and are in agreement that the proposed facilities can be installed without causing harmful interference to those other licensees and applicants.

(d) For each frequency coordinated under this part, applicants are responsible for selecting the frequency assignments that are least likely to result in mutual interference with other licensees in the same area. Applicants may consult local frequency coordination committees, where they exist, for information on frequencies available in the area. In selecting frequencies, consideration should be given to the relative location of receive points, normal transmission paths, and the nature of the contemplated operation.

[68 FR 12774, Mar. 17, 2003, as amended at 75 FR 17061, Apr. 5, 2010]

§ 78.40 Transition of the 1990–2025 MHz band from the Cable Television Relay Service to emerging technologies.

(a) New Entrants are collectively defined as those licensees proposing to use emerging technologies to implement Mobile Satellite Services in the 2000–2020 MHz band (MSS licensees), those licensees authorized after July 1, 2004 to implement new Fixed and Mobile services in the 1990–1995 MHz band, and those licensees authorized after September 9, 2004 in the 1995–2000 MHz and 2020–2025 MHz bands. New entrants may negotiate with Cable Television Relay Service licensees operating on a primary basis and fixed service licensees operating on a primary basis in the 1990–2025 MHz band (Existing Licensees) for the purpose of agreeing to terms under which the Existing Licensees would relocate their operations to the 2025–2110 MHz band, to other authorized bands, or to other media; or, alternatively, would accept a sharing arrangement with the New Entrants that may result in an otherwise impermissible level of interference to the Existing Licensee's operations. New licensees in the 1995–2000 MHz and 2020–2025 MHz bands are subject to the specific relocation procedures adopted in WT Docket 04–356.

(b) Existing Licensees in the 1990–2025 MHz band allocated for licensed emerging technology services will maintain primary status in the band until a New Entrant completes relocation of the Existing Licensee's operations or the Existing Licensee indicates to a New Entrant that it declines to be relocated.

(c) The Commission will amend the operating license of the Existing Licensee to secondary status only if the following requirements are met:

(1) The service applicant, provider, licensee, or representative using an emerging technology guarantees payment of all relocation costs, including all engineering, equipment, site and FCC fees, as well as any reasonable additional costs that the relocated Existing Licensee might incur as a result of operation in another authorized band or migration to another medium;

(2) The New Entrant completes all activities necessary for implementing the replacement facilities, including engineering and cost analysis of the relocation procedure and, if radio facilities are used, identifying and obtaining, on the incumbents' behalf, new microwave or Cable Television Relay Service frequencies and frequency coordination.

(3) The New Entrant builds the replacement system and tests it for comparability with the existing system.

(d) The Existing Licensee is not required to relocate until the alternative facilities are available to it for a reasonable time to make adjustments, determine comparability, and ensure a seamless handoff.

(e) If, within one year after the relocation to new facilities the Existing Licensee demonstrates that the new facilities are not comparable to the former facilities, the New Entrant must remedy the defect.

(f) Subject to the terms of this paragraph (f), the relocation of Existing Licensees will be carried out by MSS licensees in the following manner:

(1) Existing Licensees and MSS licensees may negotiate individually or collectively for relocation of Existing Licensees to one of the channel plans specified in §74.602(a)(3) of this part. Parties may not decline to negotiate, though Existing Licensees may decline to be relocated.

(i) MSS licensees may relocate all Existing Licensees in Nielsen Designated Market Areas (DMAs) 1–30, as such DMAs existed on September 6, 2000, except those Existing Licensees that decline relocation. Such relocation negotiations shall be conducted as ''mandatory negotiations,'' as that term is used in §101.73 of this chapter. If these parties are unable to reach a negotiated agreement, MSS Licensees may involuntarily relocate such Existing Licensees after December 8, 2004.

(ii) [Reserved]

(iii) On the date that the first MSS licensee begins operations in the 2000–2020 MHz band, a one-year mandatory negotiation period begins between MSS licensees and Existing Licensees in DMAs 31–210, as such DMAs existed on September 6, 2000. After the end of the mandatory negotiation period, MSS licensees may involuntary relocate any Existing Licensees with which they

have been unable to reach a negotiated agreement. As described elsewhere in this paragraph (f), MSS Licensees are obligated to relocate these Existing Licensees within the specified three- and five-year time periods.

(2) Before negotiating with MSS licensees, Existing Licensees in Nielsen Designated Market Areas where there is a BAS frequency coordinator must coordinate and select a band plan for the market area. If an Existing Licensee wishes to operate in the 2025–2110 MHz band using the channel plan specified in §78.18(a)(6)(i) of this part, then all licensees within that Existing Licensee's market must agree to such operation and all must operate on a secondary basis to any licensee operating on the channel plan specified in §78.18(a)(6)(ii). All negotiations must produce solutions that adhere to the market area's band plan.

(3)–(4) [Reserved]

(5) As of the date the first MSS Licensee begins operations in the 1990–2025 MHz band, MSS Licensees must relocate Existing Licensees in DMAs 31–100, as they existed as of September 6, 2000, within three years, and in the remaining DMAs, as they existed as of September 6, 2000, within five years.

(6) On December 9, 2013, all Existing Licensees will become secondary in the 1990–2025 MHz band. Upon written demand by any MSS Licensee, Existing Licensees must cease operations in the 1990–2025 MHz band within six months.

[65 FR 48181, Aug. 7, 2000, as amended at 67 FR 53756, Aug. 19, 2002; 68 FR 68253, Dec. 8, 2003; 69 FR 62622, Oct. 27, 2004; 69 FR 67836, Nov. 22, 2004; 74 FR 29613, June 23, 2009]

Subpart C—General Operating Requirements

§78.51 Remote control operation.

(a) A CARS station may be operated by remote control: *Provided*, That such operation is conducted in accordance with the conditions listed below: *And provided further*, That the Commission, in Washington, DC, is notified at least 10 days prior to the beginning of such operation and that such notification is accompanied by a detailed description showing the manner of compliance with the following conditions:

(1) The transmitter and associated control system shall be installed and protected in a manner designed to prevent tampering or operation by unauthorized persons.

(2) An operator shall be on duty at the remote control position and in actual charge thereof at all times when the station is in operation.

(3) Facilities shall be provided at the control position which will permit the operator to turn the transmitter on and off at will. The control position shall also be equipped with suitable devices for observing the overall characteristics of the transmissions and a carrier operated device which will give a continuous visual indication whenever the transmitting antenna is radiating a signal. The transmitting apparatus shall be inspected as often as may be necessary to insure proper operation.

(4) The control circuits shall be so designed and installed that short circuits, open circuits, other line faults, or any other cause which would result in loss of control of the transmitter will automatically cause the transmitter to cease radiating.

(b) An application for authority to construct a new station or to make changes in the facilities of an existing station and which proposes operation by remote control shall include an adequate showing of the manner of compliance with the requirements of this section.

(c) The Commission may notify the licensee not to commence remote control operation, or to cancel, suspend, or change the date of the beginning of such operation as and when such action may appear to be in the public interest, convenience, or necessity.

[37 FR 3292, Feb. 12, 1972, as amended at 41 FR 29695, July 19, 1976; 49 FR 20671, May 16, 1984; 50 FR 23421, June 4, 1985]

§78.53 Unattended operation.

(a) A CARS station may be operated unattended: *Provided*, That such operation is conducted in accordance with the conditions listed below: *And provided further*, That the Commission, in Washington, DC, is notified at least 10 days prior to the beginning of unattended operation if such operation is

not indicated on the station authorization.

(1) The transmitter and associated control circuits shall be installed and protected in a manner designed to prevent tampering or operation by unauthorized persons.

(2) If the transmitting apparatus is located at a site which is not readily accessible at all hours and in all seasons, means shall be provided for turning the transmitter on and off at will from a location which can be reached promptly at all hours and in all seasons.

(3) Personnel responsible for the maintenance of the station shall be available on call at a location which will assure expeditious performance of such technical servicing and maintenance as may be necessary whenever the station is operating. In lieu thereof, arrangements may be made to have a person or persons available at all times when the transmitter is operating, to turn the transmitter off in the event that it is operating improperly. The transmitter may not be restored to operation until the malfunction has been corrected by a technically qualified person.

(4) The station licensee shall be responsible for the proper operation of the station at all times and is expected to provide for observations, servicing and maintenance as often as may be necessary to ensure proper operation. All adjustments or tests during or coincident with the installation, servicing, or maintenance of the station which may affect its operation shall be performed by or under the immediate supervision of a technically qualified person.

(b) The Commission may notify the licensee not to commence unattended operation, or to cancel, suspend, or change the date of the beginning of such operation as and when such action may appear to be in the public interest, convenience, or necessity.

(Secs. 1, 2, 301, 307, 48 Stat., as amended 1064, 1081, 1083; (47 U.S.C. 151, 152, 301, 307))

[37 FR 3292, Feb. 12, 1972, as amended at 41 FR 29695, July 19, 1976; 42 FR 61864, Dec. 7, 1977; 43 FR 4617, Feb. 3, 1978; 43 FR 25127, June 9, 1978; 49 FR 20671, May 16, 1984; 50 FR 23422, June 4, 1985; 50 FR 32418, Aug. 12, 1985]

§ 78.55 Time of operation.

A CARS station is not expected to adhere to any prescribed schedule of operation. Continous radiation of the carrier without modulation is permitted provided harmful interference is not caused to other authorized stations.

[43 FR 25127, June 9, 1978]

§ 78.57 Station inspection.

The station and all records required to be kept by the licensee shall be made available for inspection upon request by any authorized representative of the Commission.

§ 78.59 Posting of station and operator licenses.

(a) The station license and any other instrument of authorization or individual order concerning the construction or the equipment or manner of operation shall be posted at the place where the transmitter is located, so that all terms thereof are visible except as otherwise provided in paragraphs (b) and (c) of this section.

(b) In cases where the transmitter is operated by remote control, the documents referred to in paragraph (a) of this section shall be posted in the manner described at the control point of the transmitter.

(c) In cases where the transmitter is operated unattended, the name of the licensee and the call sign of the unattended station shall be displayed at the transmitter site on the structure supporting the transmitting antenna, so as to be visible to a person standing on the ground at the transmitter site. The display shall be prepared so as to withstand normal weathering for a reasonable period of time and shall be maintained in a legible condition at all times by the licensee. The station license and other documents referred to in paragraph (a) of this section shall be kept at the nearest attended station or, in cases where the licensee of the unattended station does not operate attended stations, at the point of destination of the signals relayed by the unattended station.

[37 FR 3292, Feb. 12, 1972, as amended at 49 FR 20671, May 16, 1984]

§ 78.61 Operator requirements.

(a) Except in cases where a CARS station is operated unattended in accordance with § 78.53 or except as provided in other paragraphs of this section, a person shall be on duty at the place where the transmitting apparatus is located, in plain view and in actual charge of its operation or at a remote control point established pursuant to the provision of § 78.51, at all times when the station is in operation. Control and monitoring equipment at a remote control point shall be readily accessible and clearly visible to the operator at that position.

(b) Any transmitter tests, adjustments, or repairs during or coincident with the installation, servicing, operation or maintenance of a CARS station which may affect the proper operation of such station shall be made by or under the immediate supervision and responsibility of a person responsible for proper functioning of the station equipment.

(c) The operator on duty and in charge of a CARS station may, at the discretion of the licensee, be employed for other duties or for the operation of another station or stations in accordance with the rules governing such stations. However, such duties shall in no way impair or impede the required supervision of the CARS station.

(d) CARS stations operating with nominal transmitter power of 250 milliwatts or less may be operated by any person whom the licensee shall designate. Pursuant to this provision, the designated person shall perform as the licensee's agent and proper operation of the station shall remain the licensee's responsibility.

(e) Mobile CARS stations operating with nominal transmitter power in excess of 250 milliwatts may be operated by any person whom the licensee shall designate: Provided that a person is on duty at a receiving end of the circuit to supervise operation and to immediately institute measures sufficient to assure prompt correction of any condition of improper operation that may be observed.

(Secs. 1, 2, 301, 307, 48 Stat., as amended, 1064, 1081, 1083; (47 U.S.C. 151, 152, 301, 307))

[43 FR 4617, Feb. 3, 1978, as amended at 49 FR 20671, May 16, 1984; 50 FR 32418, Aug. 12, 1985]

§ 78.63 Antenna structure marking and lighting.

The owner of each antenna structure is responsible for ensuring that the structure, if required, is painted and/or illuminated in accordance with part 17 of this chapter. In the event of default by the owner, each licensee shall be responsible for ensuring that the structure complies with applicable painting and lighting requirements.

[61 FR 4368, Feb. 6, 1996]

§ 78.65 Additional orders.

In case the rules of this part do not cover all phases of operation with respect to external effects, the Commission may make supplemental or additional orders in each case as may be deemed necessary.

§ 78.67 Copies of rules.

The licensee of a CARS station shall have a current copy of this part 78, and, in cases where aeronautical obstruction marking of antennas is required, part 17 of this chapter shall be available for use by the operator in charge. Both the licensee and the operator or operators responsible for the proper operation of the station are expected to be familiar with the rules governing CARS stations. Copies of the Commission's rules may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, at nominal cost.

§ 78.69 Station records.

Each licensee of a CARS station shall maintain records showing the following:

(a) For all attended or remotely controlled stations, the date and time of the beginning and end of each period of transmission of each channel;

(b) For all stations, the date and time of any unscheduled interruptions to the transmissions of the station, the duration of such interruptions, and the causes thereof;

(c) For all stations, the results and dates of the frequency measurements made pursuant to § 78.113 and the name of the person or persons making the measurements;

(d) For all stations, when service or maintenance duties are performed, which may affect a station's proper operation, the responsible operator shall sign and date an entry in the station's records, giving:

(1) Pertinent details of all transmitter adjustments performed by the operator or under the operator's supervision.

(e) When a station in this service has an antenna structure which is required to be illuminated, appropriate entries shall be made as follows:

(1) The time the tower lights are turned on and off each day, if manually controlled.

(2) The time the daily check of proper operation of the tower lights was made, if an automatic alarm system is not employed.

(3) In the event of any observed or otherwise known failure of a tower light:

(i) Nature of such failure.

(ii) Date and time the failure was observed or otherwise noted.

(iii) Date, time, and nature of the adjustments, repairs, or replacements made.

(iv) Identification of Flight Service Station (Federal Aviation Administration) notified of the failure of any code or rotating beacon light not corrected within 30 minutes, and the date and time such notice was given.

(v) Date and time notice was given to the Flight Service Station (Federal Aviation Administration) that the required illumination was resumed.

(4) Upon completion of the 3-month periodic inspection required by § 78.63(c):

(i) The date of the inspection and the condition of all tower lights and associated tower lighting control devices, indicators, and alarm systems.

(ii) Any adjustments, replacements, or repairs made to insure compliance with the lighting requirements and the date such adjustments, replacements, or repairs were made.

(f) For all stations, station record entries shall be made in an orderly and legible manner by the person or persons competent to do so, having actual knowledge of the facts required, who shall sign the station record when starting duty and again when going off duty.

(g) For all stations, no station record or portion thereof shall be erased, obliterated, or willfully destroyed within the period of retention required by rule. Any necessary correction may be made only by the person who made the original entry who shall strike out the erroneous portion, initial the correction made, and show the date the correction was made.

(h) For all stations, station records shall be retained for a period of not less than 2 years. The Commission reserves the right to order retention of station records for a longer period of time. In cases where the licensee or permittee has notice of any claim or complaint, the station record shall be retained until such claim or complaint has been fully satisfied or until the same has been barred by statute limiting the time for filing of suits upon such claims.

[41 FR 29695, July 19, 1976, as amended at 49 FR 20672, May 16, 1984; 50 FR 23422, June 4, 1985]

§ 78.75 Equal employment opportunities.

See Subpart E, Part 76 of this chapter.

[51 FR 9966, Mar. 24, 1986]

Subpart D—Technical Regulations

§ 78.101 Power limitations.

(a) On any authorized frequency, the average power delivered to an antenna shall be the minimum amount of power necessary to carry out the communications desired. In no event shall the average transmitter power or equivalent isotropically radiated power (EIRP) exceed the values specified below.

Frequency band (MHz)	Maximum allowable transmitter power—mobile (W)	Maximum allowable EIRP [1] [2]	
		Fixed (dBW)	Mobile (dBW)
2,025 to 2,110	20.0	.....	+ 35
6,425 to 6,525	20.0	.....	+ 35
6,875 to 7,125	20.0	.....	+ 35
12,700 to 13,250	1.5	+ 55	+ 45
17,700 to 18,600	.....	+ 55	.....
18,600 to 18,800[1]	.....	+ 35	.....
18,800 to 19,700	.....	+ 55	.....

[1] The power delivered to the antenna is limited to −3 dBW.
[2] Stations licensed based on an application filed before April 16, 2003, for EIRP values exceeding those specified above, may continue to operate indefinitely in accordance with the terms of their current authorizations, subject to periodic renewal.

(b) LDS stations shall use for the visual signal-vestigial sideband AM transmission. When vestigial sideband AM transmission is used the peak power of the visual signal on all channels shall be maintained within 2 dB of equality. The mean power of the aural signal on each channel shall not exceed a level of 7 dB below the peak power of the visual signal.

(c) The EIRP of transmitters that use Automatic Transmitter Power Control (ATPC) shall not exceed the EIRP specified on the station authorization. The EIRP of non-ATPC transmitters shall be maintained as near as practicable to the EIRP specified on the station authorization.

[45 FR 78694, Nov. 26, 1980, as amended at 52 FR 7144, Mar. 9, 1987; 65 FR 48182, Aug. 7, 2000; 68 FR 12776, Mar. 17, 2003]

§ 78.103 Emissions and emission limitations.

(a) A CARS station may be authorized to employ any type of emission, for which there are technical standards incorporated in Subpart D of this part, suitable for the simultaneous transmission of visual and aural television signals.

(b) Any emission appearing on a frequency outside of the channel authorized for a transmitter shall be attenuated below the power of the emission in accordance with the following schedule:

(1) For stations using FM or double sideband AM transmission:

(i) On any frequency above the upper channel limit or below the lower channel limit by between zero and 50 percent of the authorized channel width: At least 25 decibels below the mean power of the emission;

(ii) On any frequency above the upper channel limit or below the lower channel limit by more than 50 percent and up to 150 percent of the authorized channel width: At least 35 decibels below the mean power of the emission; and

(iii) On any frequency above the upper channel limit or below the lower channel limit by more than 150 percent of the authorized channel width: At least 43 + 10 $\log^1_0$ (power in watts) decibels below the mean power of the emission.

(2) For CARS stations using vestigial sideband AM transmission: At least 50 decibels below the peak power of the emission.

(c) For operation in the 17.7.7–19.7 GHz band:

The mean power of any emission shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(1) When using frequency modulation:

(i) On any frequency removed from the assigned (center) frequency by more than 50% up to and including 100% of the authorized bandwidth: At least 25 dB;

(ii) On any frequency removed from the assigned (center) frequency by more than 100% up to and including 250% of the authorized bandwidth: At least 35 dB;

(iii) On any frequency removed from the assigned (center) frequency by more than 250% of the authorized bandwidth: At least 43 + 10 log 10 (mean output power in watts) dB, or 80 dB, whichever is the lesser attenuation.

(2) When using digital modulation:

(i) In any 1 MHz band, the center frequency of which is removed from the assigned frequency by more than 50%

up to and including 250% of the authorized bandwidth: As specified by the following equation but in no event less than 11 dB.

$$A = 11 + 0.4\,(P - 50) + 10 \log_{10} B$$

where:

A = Attenuation (in dB) below the mean output power level.
P = Percent removed from the carrier frequency.
B = Authorized bandwidth in MHz.

[Attenuation greater than 56 decibels is not required.]

(ii) In any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 250% of the authorized bandwidth: At least $43 = 10 \log_{10}$ (mean output power in watts) dB, or 80 dB, whichever is the lesser attenuation.

(3) Amplitude Modulation:

For vestigial sideband AM video: On any frequency removed from the center frequency of the authorized band by more than 50%: at least 50 dB below peak power of the emission.

(d) In the event that interference to other stations is caused by emissions outside the authorized channel, the Commission may require greater attenuation than that specified in paragraph (b) of this section.

(e) The maximum bandwidth that will be authorized per frequency assignment is set out in the table that follows. Regardless of the maximum authorized bandwidth specified for each frequency band, the Commission reserves the right to issue a license for less than the maximum bandwidth if it appears that a bandwidth less than the maximum would be sufficient to support an applicant's intended communications.

Frequency band (MHz)	Maximum authorized band-width (MHz)
1,990 to 2,110	17 or 18.[1]
6,425 to 6,525	8 or 25.
6,875 to 7,125	25.
12,700 to 13,250	25.
17,700 to 19,700	80.

[1] After a licensee has been relocated in accordance with § 78.40, the maximum authorized bandwidth in the frequency band 2025 to 2010 MHz will be 12 megahertz.

[37 FR 3292, Feb. 12, 1972, as amended at 37 FR 15927, Aug. 8, 1972; 38 FR 16648, June 25, 1973; 39 FR 26025, July 16, 1974; 48 FR 50736, Nov. 3, 1983; 49 FR 37779, Sept. 26, 1984; 52 FR 7145, Mar. 9, 1987; 65 FR 48182, Aug. 7, 2000; 68 FR 12776, Mar. 17, 2003; 68 FR 68253, Dec. 8, 2003]

§ 78.104 Authorized bandwidth and emission designator.

(a) The authorized bandwidth permitted to be used by a CARS station and specified in the station license shall be the occupied or necessary bandwidth, whichever is greater, except when otherwise authorized by the Commission in accordance with paragraph (b) of this section.

(b) As an exception to the provision of paragraph (a) of this section, the Commission may approve requests to base the authorized bandwidth for the station on the lesser of the occupied or necessary bandwidth where a persuasive showing is made that:

(1) The frequency stability of the transmitting equipment to be used will permit compliance with § 78.103(b)(1) and, additionally, will permit 99 percent of the total radiated power to be kept within the frequency limits of the assigned channel.

(c) The emission designator shall be specified in terms of the necessary bandwidth. (See § 2.201(a) of this chapter.)

[39 FR 26025, July 16, 1974, as amended at 45 FR 78694, Nov. 26, 1980]

§ 78.105 Antenna systems.

(a) For fixed stations operating in the 12.7–13.2 GHz and 17.7–19.7 GHz bands, the following standards apply:

(1) Fixed CARS stations shall use directional antennas that meet the performance standards indicated in the following table.

(i) Stations must employ an antenna that meets the performance standards for Category B. In areas subject to frequency congestion, where proposed facilities would be precluded by continued use of a Category B antenna, a Category A antenna must be employed. The Commission may require the use of a high performance antenna where interference problems can be resolved by the use of such antennas.

(ii) Upon adequate showing of need to serve a larger sector, or more than a

single sector, greater beamwidth or multiple antennas may be authorized. Applicants shall request and authorization for stations in this service will specify the polarization of each transmitted signal.

(iii) Licensees shall comply with the antenna standards table shown in this paragraph in the following manner:

(A) With either the maximum beamwidth to 3 dB points requirement or with the minimum antenna gain requirement; and

(B) With the minimum radiation suppression to angle requirement.

ANTENNA STANDARDS

Frequency (MHz)	Category	Maximum beamwidth to 3 dB points [1] (included angle in degrees)	Minimum antenna gain (dbi)	Minimum radiation suppression to angle in degrees from centerline of main beam in decibels						
				5° to 10°	10° to 15°	15° to 20°	20° to 30°	30° to 100°	100° to 140°	140° to 180°
12,700 to 13,250	A	1.0	n/a	23	28	35	39	41	42	50
	B	2.0	n/a	20	25	28	30	32	37	47
17,700 to 19,700	A	2.2	38	25	29	33	36	42	55	55
	B	2.2	38	20	24	28	32	35	36	36

[1] If a licensee chooses to show compliance using maximum beamwidth to 3 dB points, the beamwidth limit shall apply in both the azimuth and the elevation planes.

(2) New periscope antenna systems will be authorized upon a certification that the radiation, in a horizontal plane, from an illuminating antenna and reflector combination meets or exceeds the antenna standards of this section. This provision similarly applies to passive repeaters employed to redirect or repeat the signal from a station's directional antenna system.

(3) The choice of receiving antennas is left to the discretion of the licensee. However, licensees will not be protected from interference which results from the use of antennas with poorer performance than defined in paragraph (a) of this section.

(4) Pickup stations are not subject to the performance standards herein stated. The provisions of this paragraph are effective for all new applications accepted for filing after October 1, 1981.

(b) Any fixed station licensed pursuant to an application accepted for filing prior to October 1, 1981, may continue to use its existing antenna system, subject to periodic renewal until April 1, 1992, After April 1, 1992, all licensees are to use antenna systems in conformance with the standards of this section. TV auxiliary broadcast stations are considered to be located in an area subject to frequency congestion and must employ a Category A antenna when:

(1) A showing by an applicant of a new CAR service or TV auxiliary broadcast, which shares the 12.7–13.20 GHz band with CARS, indicates that use of a category B antenna limits a proposed project because of interference, and

(2) That use of a category A antenna will remedy the interference thus allowing the project to be realized.

(c) As an exception to the provisions of this section, the FCC may approve requests for use of periscope antenna systems where a persuasive showing is made that no frequency conflicts exist in the area of proposed use. Such approvals shall be conditioned to require conversion to a standard antenna as required in paragraph (a) of this section when an applicant of a new TV auxiliary broadcast or Cable Television Relay station indicates that the use of the existing antenna system will cause interference and the use of a category A or B antenna will remedy the interference.

(d) As a further exception to the provision of paragraph (a) of this section the Commission may approve antenna systems not conforming to the technical standards where a persuasive showing is made that:

(1) Indicates in detail why an antenna system complying with the requirements of paragraph (a) of this section cannot be installed, and

(2) Includes a statement indicating that frequency coordination as required in § 78.18a was accomplished.

[45 FR 78694, Nov. 26, 1980, as amended at 49 FR 37779, Sept. 26, 1984; 50 FR 7343, Feb. 22, 1985; 51 FR 19841, June 3, 1986; 56 FR 50664, Oct. 8, 1991; 62 FR 4923, Feb. 3, 1997; 68 FR 12776, Mar. 17, 2003]

§ 78.106 Interference to geostationary-satellites.

Applicants and licensees must comply with § 101.145 of this chapter to minimize the potential of interference to geostationary-satellites.

[68 FR 12776, Mar. 17, 2003]

§ 78.107 Equipment and installation.

(a) Applications for new cable television relay stations, other than fixed stations, will not be accepted unless the equipment specified therein has been certificated. In the case of fixed stations, the equipment must be authorized under the verification procedure for use pursuant to the provisions of this subpart. Transmitters designed for use in the 31.0 to 31.3 GHz band shall be authorized under the verification procedure.

(1) All transmitters first licensed or marketed shall comply with technical standards of this subpart. This paragraph (b)(1) of this section is effective October 1, 1981.

(2) Neither certification nor verification is required for the following transmitters:

(i) Those which have an output power not greater than 250 mW and which are used in a CARS pickup station operating in the 12.7–13.2 GHz band; and

(ii) Those used under a developmental authorization.

(b) Cable television relay station transmitting equipment authorized to be used pursuant to an application accepted for filing prior to October 1, 1981, may continue to be used, provided, that if operation of such equipment causes harmful interference due to its failure to comply with the technical standards set forth in this subpart the Commission may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

(c) The installation of a CARS station shall be made by or under the immediate supervision of a qualified engineer. Any tests or adjustments requiring the radiation of signals and which could result in improper operation shall be conducted by or under the immediate supervision of a person with required knowledge and skill to perform such tasks.

(d) Simple repairs such as the replacement of tubes, fuses, or other plug-in components which require no particular skill may be made by an unskilled person. Repairs requiring replacement of attached components or the adjustment of critical circuits or corroborative measurements shall be made only by a person with required knowledge and skill to perform such tasks.

[37 FR 3292, Feb. 12, 1972, as amended at 45 FR 78695, Nov. 26, 1980; 49 FR 4001, Feb. 1, 1984; 49 FR 20672, May 16, 1984; 50 FR 7343, Feb. 22, 1985; 63 FR 36606, July 7, 1998; 63 FR 49870, Sept. 18, 1998]

§ 78.108 Minimum path lengths for fixed links.

(a) The distance between end points of a fixed link must equal or exceed the value set forth in the table below or the EIRP must be reduced in accordance with the equation set forth below.

Frequency band (MHz)	Minimum path length (km)
12,200 to 13,250	5
Above 17,700	N/A

(b) For paths shorter than those specified in the Table, the EIRP shall not exceed the value derived from the following equation.

$$EIRP = MAXEIRP - 40 \log(A/B) \text{ dBW}$$

Where:

EIRP = The new maximum EIRP (equivalent isotropically radiated power) in dBW.

MAXEIRP = Maximum EIRP as set forth in the Table in § 74.636 of this part.

A = Minimum path length from the Table above for the frequency band in kilometers.

B = The actual path length in kilometers.

NOTE TO PARAGRAPH (b): For transmitters using Automatic Transmitter Power Control, EIRP corresponds to the maximum

transmitter power available, not the coordinated transmit power or the nominal transmit power.

(c) Upon an appropriate technical showing, applicants and licensees unable to meet the minimum path length requirement may be granted an exception to these requirements.

NOTE: Links authorized prior to April 1, 1987, are excluded from this requirement, except that, effective April 1, 1992, the Commission will require compliance with the criteria where an existing link would otherwise preclude establishment of a new link.

[52 FR 7145, Mar. 9, 1987, as amended at 68 FR 12776, Mar. 17, 2003]

§ 78.109 Major and minor modifications to stations.

(a) Amendments to applications and modifications to stations are classified as major or minor. A major modification requires a formal application. A major amendment to an application is treated as a new application.

(b) Major modifications to a station or amendments to an application include, but are not limited to:

(1) Any increase in bandwidth;

(2) Any change in the transmitting antenna system of a station, other than a CARS pickup station, including the direction of the main radiation lobe, directive pattern, antenna gain or transmission line, antenna height or location;

(3) Any change in the type of modulation;

(4) Any change in the location of a station transmitter, other than a CARS pickup station transmitter, except a move within the same building or upon the tower or mast or a change in the area of operation of a CARS pickup station;

(5) Any change in frequency assignment, including polarization;

(6) Any increase in authorized operating power;

(7) Any substantial change in ownership or control;

(8) Any addition or change in frequency, excluding removing a frequency;

(9) Any modification or amendment requiring an environmental assessment (as governed by §§1.1301 through 1319 of this chapter, including changes affecting historic preservation under §1.1307(a)(4) of this chapter and 16 U.S.C. 470 (National Historic Preservation Act));

(10) Any request requiring frequency coordination; or

(11) Any modification or amendment requiring notification to the Federal Aviation Administration as defined in 47 CFR 17, subpart B.

(c) Minor changes may be made at the discretion of the licensee, provided proper notice is given to the Commission within 30 days of implementing the change and provided further, that the changes are appropriately reflected in the next application for renewal of the license for the station.

(d) For applications and modifications, the following changes are considered minor:

(1) Any name change not involving change in ownership or control of the license;

(2) Any change to administrative information, e.g., address, telephone number, or contact person;

(3) Any change in ownership that does not affect the identity or controlling interest of the licensee;

(4) Lowering power;

(5) Removing one or more channels; or

(6) Deleting a path.

[68 FR 27004, May 19, 2003]

§ 78.111 Frequency tolerance.

Stations in this service shall maintain the carrier frequency of each authorized transmitter to within the following percentage of the assigned frequency.

Frequency band (MHz)	Frequency tolerance	
	Fixed (percent)	Mobile (percent)
1,990 to 2,110	.....	0.005
6,425 to 6,525	.....	0.005
6,875 to 7,125	.....	0.005
12,700 to 13,250 [1]	0.005	0.005
17,700 to 18,820	0.003	.....
18,820 to 18,920	0.001	.....
18,920 to 19,700	0.003	.....

[1] Stations that employing vestigal sideband AM transmissions shall maintain their operating frequency within 0.0005% the visual carrier, and the aural carrier shall be 4.5 MHz ±1 kHz above the visual carrier frequency.

[52 FR 7145, Mar. 9, 1987, as amended at 68 FR 12776, Mar. 17, 2003]

§ 78.113 Frequency monitors and measurements.

(a) The licensee of each CARS station shall employ a suitable procedure to determine that the carrier frequency of each transmitter is maintained within the tolerance prescribed in § 78.111 at all times. The determination shall be made, and the results thereof entered in the station records: when a transmitter is initially installed; when any change is made in a transmitter which may affect the carrier frequency or the stability thereof; or in any case at intervals not exceeding one year.

(b) The choice of apparatus to measure the operating frequency is left to the discretion of the licensee. However, failure of the apparatus to detect departures of the operating frequency in excess of the prescribed tolerance will not be deemed an acceptable excuse for the violation.

[37 FR 3292, Feb. 12, 1972, as amended at 41 FR 29696, July 19, 1976; 50 FR 23422, June 4, 1985]

§ 78.115 Modulation limits.

(a) If amplitude modulation is employed, negative modulation peaks shall not exceed 100 percent modulation.

[37 FR 3292, Feb. 12, 1972, as amended at 45 FR 78696, Nov. 26, 1980]

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[50 FR 38537, Sept. 23, 1985, as amended at 63 FR 36606, July 7, 1998]

PART 79—ACCESSIBILITY OF VIDEO PROGRAMMING

Subpart A—Video Programming Owners, Providers, and Distributors

Sec.
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AUTHORITY: 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, 310, 330, 544a, 613, 617.

SOURCE: 62 FR 48493, Sept. 16, 1997, unless otherwise noted.

Subpart A—Video Programming Owners, Providers, and Distributors

SOURCE: 78 FR 77251, Dec. 20, 2013, unless otherwise noted.

§ 79.1 Closed captioning of televised video programming.

(a) *Definitions.* For purposes of this section the following definitions shall apply:

(1) *Captioning vendor.* Any entity that is responsible for providing captioning services to a video programmer.

(2) *Closed captioning, or captioning.* The visual display of the audio portion of video programming pursuant to the technical specifications set forth in this part.

(3) *Live programming.* Video programming that is shown on television substantially simultaneously with its performance.

(4) *Near-live programming.* Video programming that is performed and recorded less than 24 hours prior to the time it is first aired on television.

(5) *New programming.* Video programming that is first published or exhibited on or after January 1, 1998.

(i) Analog video programming that is first published or exhibited on or after January 1, 1998.

(ii) Digital video programming that is first published or exhibited on or after July 1, 2002.

(6) *Non-exempt programming.* Video programming that is not exempt under paragraph (d) of this section and, accordingly, is subject to closed captioning requirements set forth in this section.

(7) *Prerecorded programming.* Video programming that is not ''live'' or ''near-live''.

(8) *Pre-rule programming.* (i) Analog video programming that was first published or exhibited before January 1, 1998.

(ii) Digital video programming that was first published or exhibited before July 1, 2002.

(9) *Video programmer.* Any entity that provides video programming that is intended for distribution to residential households including, but not limited to, broadcast or nonbroadcast television networks and the owners of such programming.

(10) *Video programming.* Programming provided by, or generally considered comparable to programming provided by, a television broadcast station that is distributed and exhibited for residential use. Video programming includes

advertisements of more than five minutes in duration but does not include advertisements of five minutes' duration or less.

(11) *Video programming distributor*. Any television broadcast station licensed by the Commission and any multichannel video programming distributor as defined in §76.1000(e) of this chapter, and any other distributor of video programming for residential reception that delivers such programming directly to the home and is subject to the jurisdiction of the Commission. An entity contracting for program distribution over a video programming distributor that is itself exempt from captioning that programming pursuant to paragraph (e)(9) of this section shall itself be treated as a video programming distributor for purposes of this section To the extent such video programming is not otherwise exempt from captioning, the entity that contracts for its distribution shall be required to comply with the closed captioning requirements of this section.

(12) *Video programming owner*. Any person or entity that either:

(i) Licenses video programming to a video programming distributor or provider that is intended for distribution to residential households; or

(ii) Acts as the video programming distributor or provider and also possesses the right to license linear video programming to a video programming distributor or provider that is intended for distribution to residential households.

(13) *Video programming provider*. Any video programming distributor and any other entity that provides video programming that is intended for distribution to residential households including, but not limited to broadcast or nonbroadcast television network and the owners of such programming.

(b) *Requirements for closed captioning of video programming*—(1) *Requirements for new programming*. (i) Video programming distributors must ensure that 100% of new, nonexempt English language and Spanish language video programming that is being distributed and exhibited on each channel during each calendar quarter is closed captioned.

(ii) Video programmers must provide closed captioning for 100% of new, nonexempt English language and Spanish language video programming that is being distributed and exhibited on each channel during each calendar quarter.

(2) *Requirements for pre-rule programming*. (i) Video programming distributors must ensure that 75% of pre-rule, nonexempt English language and Spanish language video programming that is being distributed and exhibited on each channel during each calendar quarter is closed captioned.

(ii) Video programmers must provide closed captioning for 75% of pre-rule, nonexempt English language and Spanish video programming that is being distributed and exhibited on each channel during each calendar quarter.

(3) Video programming distributors shall continue to provide captioned video programming at substantially the same level as the average level of captioning that they provided during the first six (6) months of 1997 even if that amount of captioning exceeds the requirements otherwise set forth in this section.

(c) *Obligation to pass through captions of already captioned programs; obligation to maintain equipment and monitor for captions*. (1) All video programming distributors shall deliver all programming received from the video programmer containing closed captioning to receiving television households with the original closed captioning data intact in a format that can be recovered and displayed by decoders meeting the standards of this part unless such programming is recaptioned or the captions are reformatted by the programming distributor.

(2) Video programming distributors shall take any steps needed to monitor and maintain their equipment and signal transmissions associated with the transmission and distribution of closed captioning to ensure that the captioning included with video programming reaches the consumer intact. In any enforcement proceeding involving equipment failure, the Commission will require video programming distributors to demonstrate that they have monitored their equipment and signal transmissions, have performed technical equipment checks, and have promptly undertaken repairs as needed

to ensure that equipment is operational and in good working order.

(3) Each video programming distributor shall maintain records of the video programming distributor's monitoring and maintenance activities, which shall include, without limitation, information about the video programming distributor's monitoring and maintenance of equipment and signal transmissions to ensure the pass through and delivery of closed captioning to viewers, and technical equipment checks and other activities to ensure that captioning equipment and other related equipment are maintained in good working order. Each video programming distributor shall maintain such records for a minimum of two years and shall submit such records to the Commission upon request.

(d) *Exempt programs and providers.* For purposes of determining compliance with this section, any video programming or video programming provider that meets one or more of the following criteria shall be exempt to the extent specified in this paragraph.

(1) *Programming subject to contractual captioning restrictions.* Video programming that is subject to a contract in effect on or before February 8, 1996, but not any extension or renewal of such contract, for which an obligation to provide closed captioning would constitute a breach of contract.

(2) *Video programming or video programming provider for which the captioning requirement has been waived.* Any video programming or video programming provider for which the Commission has determined that a requirement for closed captioning is economically burdensome on the basis of a petition for exemption filed in accordance with the procedures specified in paragraph (f) of this section.

(3) *Programming other than English or Spanish language.* All programming for which the audio is in a language other than English or Spanish, except that scripted programming that can be captioned using the ''electronic news room'' technique is not exempt.

(4) *Primarily textual programming.* Video programming or portions of video programming for which the content of the soundtrack is displayed visually through text or graphics (e.g., program schedule channels or community bulletin boards).

(5) *Programming distributed in the late night hours.* Programming that is being distributed to residential households between 2 a.m. and 6 a.m. local time. Video programming distributors providing a channel that consists of a service that is distributed and exhibited for viewing in more than a single time zone shall be exempt from closed captioning that service for any continuous 4 hour time period they may select, commencing not earlier than 12 a.m. local time and ending not later than 7 a.m. local time in any location where that service is intended for viewing. This exemption is to be determined based on the primary reception locations and remains applicable even if the transmission is accessible and distributed or exhibited in other time zones on a secondary basis. Video programming distributors providing service outside of the 48 contiguous states may treat as exempt programming that is exempt under this paragraph when distributed in the contiguous states.

(6) *Interstitials, promotional announcements and public service announcements.* Interstitial material, promotional announcements, and public service announcements that are 10 minutes or less in duration.

(7) *EBS programming.* Video programming transmitted by an Educational Broadband Service licensee pursuant to part 27 of this chapter.

(8) *Locally produced and distributed non-news programming with no repeat value.* Programming that is locally produced by the video programming distributor, has no repeat value, is of local public interest, is not news programming, and for which the ''electronic news room'' technique of captioning is unavailable.

(9) *Programming on new networks.* Programming on a video programming network for the first four years after it begins operation, except that programming on a video programming network that was in operation less than four (4) years on January 1, 1998 is exempt until January 1, 2002.

(10) *Primarily non-vocal musical programming*. Programming that consists primarily of non-vocal music.

(11) *Captioning expense in excess of 2 percent of gross revenues*. No video programming provider shall be required to expend any money to caption any video programming if such expenditure would exceed 2 percent of the gross revenues received from that channel during the previous calendar year.

(12) *Channels/Streams producing revenues of under $3,000,000*. No video programming provider shall be required to expend any money to caption any channel or stream of video programming producing annual gross revenues of less than $3,000,000 during the previous calendar year other than the obligation to pass through video programming closed captioned when received pursuant to paragraph (c) of this section. For the purposes of this paragraph, each programming stream on a multicast digital television channel shall be considered separately for purposes of the $3,000,000 revenue limit.

(13) *Locally produced educational programming*. Instructional programming that is locally produced by public television stations for use in grades K–12 and post secondary schools.

(e) *Responsibility for and determination of compliance*. (1) Compliance shall be calculated on a per channel, calendar quarter basis;

(2) Open captioning or subtitles in the language of the target audience may be used in lieu of closed captioning;

(3) The major national broadcast television networks (*i.e.,* ABC, CBS, Fox and NBC), affiliates of these networks in the top 25 television markets as defined by Nielsen's Designated Market Areas (DMAs) and national nonbroadcast networks serving at least 50% of all homes subscribing to multichannel video programming services shall not count electronic newsroom captioned programming towards compliance with these rules. The live portions of noncommercial broadcasters' fundraising activities that use automated software to create a continuous captioned message will be considered captioned;

(4) Compliance will be required with respect to the type of video programming generally distributed to residential households. Programming produced solely for closed circuit or private distribution is not covered by these rules;

(5) Video programming that is exempt pursuant to paragraph (d) of this section that contains captions, except that video programming exempt pursuant to paragraph (d)(5) of this section (late night hours exemption), can count towards compliance with the requirements for pre-rule programming.

(6) For purposes of paragraph (d)(11) of this section, captioning expenses include direct expenditures for captioning as well as allowable costs specifically allocated by a video programmer through the price of the video programming to that video programming provider. To be an allowable allocated cost, a video programmer may not allocate more than 100 percent of the costs of captioning to individual video programming providers. A video programmer may allocate the captioning costs only once and may use any commercially reasonable allocation method.

(7) For purposes of paragraphs (d)(11) and (d)(12) of this section, annual gross revenues shall be calculated for each channel individually based on revenues received in the preceding calendar year from all sources related to the programming on that channel. Revenue for channels shared between network and local programming shall be separately calculated for network and for non-network programming, with neither the network nor the local video programming provider being required to spend more than 2 percent of its revenues for captioning. Thus, for example, compliance with respect to a network service distributed by a multichannel video service distributor, such as a cable operator, would be calculated based on the revenues received by the network itself (as would the related captioning expenditure). For local service providers such as broadcasters, advertising revenues from station-controlled inventory would be included. For cable operators providing local origination programming, the annual gross revenues received for each channel will be used to determine compliance. Evidence of compliance could include certification from the network

supplier that the requirements of the test had been met. Multichannel video programming distributors, in calculating non-network revenues for a channel offered to subscribers as part of a multichannel package or tier, will not include a pro rata share of subscriber revenues, but will include all other revenues from the channel, including advertising and ancillary revenues. Revenues for channels supported by direct sales of products will include only the revenues from the product sales activity (e.g., sales commissions) and not the revenues from the actual products offered to subscribers. Evidence of compliance could include certification from the network supplier that the requirements of this test have been met.

(8) If two or more networks (or sources of programming) share a single channel, that channel shall be considered to be in compliance if each of the sources of video programming are in compliance where they are carried on a full time basis;

(9) Video programming distributors shall not be required to ensure the provision of closed captioning for video programming that is by law not subject to their editorial control, including but not limited to the signals of television broadcast stations distributed pursuant to sections 614 and 615 of the Communications Act or pursuant to the compulsory copyright licensing provisions of sections 111 and 119 of the Copyright Act (Title 17 U.S.C. 111 and 119); programming involving candidates for public office covered by sections 315 and 312 of the Communications Act and associated policies; commercial leased access, public access, governmental and educational access programming carried pursuant to sections 611 and 612 of the Communications Act; video programming distributed by direct broadcast satellite (DBS) services in compliance with the noncommercial programming requirement pursuant to section 335(b)(3) of the Communications Act to the extent such video programming is exempt from the editorial control of the video programming provider; and video programming distributed by a common carrier or that is distributed on an open video system pursuant to section 653 of the Communications Act by an entity other than the open video system operator. To the extent such video programming is not otherwise exempt from captioning, the entity that contracts for its distribution shall be required to comply with the closed captioning requirements of this section.

(10) In evaluating whether a video programming provider has complied with the requirement that all new nonexempt video programming must include closed captioning, the Commission will consider showings that any lack of captioning was de minimis and reasonable under the circumstances.

(11) *Use of ''Electronic Newsroom Technique'' (ENT).* (i) A broadcast station that uses ENT to provide closed captioning for live programming or programming originally transmitted live and that is not subject to the current prohibition on the use of ENT in paragraph (e)(3) of this section shall be deemed in compliance with the Commission's rules requiring captioning of live programming or programming originally transmitted live if it adheres to the following procedures in the ordinary course of business:

(A) In-studio produced news, sports, weather, and entertainment programming will be scripted.

(B) For weather interstitials where there may be multiple segments within a news program, weather information explaining the visual information on the screen and conveying forecast information will be scripted, although the scripts may not precisely track the words used on air.

(C) Pre-produced programming will be scripted (to the extent technically feasible).

(D) If live interviews or live on-the scene or breaking news segments are not scripted, stations will supplement them with crawls, textual information, or other means (to the extent technically feasible).

(E) The station will provide training to all news staff on scripting for improving ENT.

(F) The station will appoint an ''ENT Coordinator'' accountable for compliance.

(ii) Nothing in this paragraph (e)(11) shall relieve a broadcast station of its obligations under §79.2 of this chapter

regarding the accessibility of programming providing emergency information.

(iii) *Informal complaints.* The Commission will forward an informal complaint regarding captioning to a broadcast station that utilizes ENT to provide captioning pursuant to the procedures set forth in paragraph (e)(11)(i) of this section only if the informal complaint contains the television channel number, network, or call sign, the name of the subscription service, if relevant, the date and time of the captioning problems, the name of the affected program, and a detailed and specific description of the captioning problems, including the frequency and type of problem.

(iv) *Compliance*—(A) *Initial response to pattern or trend of noncompliance.* If the Commission notifies a broadcast station that the Commission has identified a pattern or trend of possible noncompliance by the station with this paragraph (e)(11), the station shall respond to the Commission within 30 days regarding such possible noncompliance, describing corrective measures taken, including those measures the station may have undertaken in response to informal complaints and inquiries from viewers.

(B) *Corrective action plan.* If, after the date for a broadcast station to respond to a notification under paragraph (e)(11)(iv)(A) of this section, the Commission subsequently notifies the broadcast station that there is further evidence indicating a pattern or trend of noncompliance with this paragraph (e)(11), the broadcast station shall submit to the Commission, within 30 days of receiving such subsequent notification, an action plan describing specific measures it will take to bring the station's ENT performance into compliance with this paragraph (e)(11). In addition, the station shall be required to conduct spot checks of its ENT performance and report to the Commission on the results of such action plan and spot checks 180 days after the submission of such action plan.

(C) *Continued evidence of a pattern or trend of noncompliance.* If, after the date for submission of a report on the results of an action plan and spot checks pursuant to paragraph (e)(11)(iv)(B) of this section, the Commission finds continued evidence of a pattern or trend of noncompliance, additional enforcement actions may be taken, which may include admonishments, forfeitures, and other corrective actions, including, but not limited to, requiring the station to cease using ENT and to use real-time captioning for live programming.

(v) *Progress report.* No later than one year after the effective date of this paragraph (e)(11), broadcast stations that adhere to the procedures set forth in paragraph (e)(11)(i) shall jointly prepare and submit to the Commission, in consultation with individuals who rely on captions to watch television and organizations representing such individuals, a report on their experiences with following such procedures, and the extent to which they have been successful in providing full and equal access to live programming.

(f) *Procedures for exemptions based on economically burdensome standard.* (1) A video programming provider, video programming producer or video programming owner may petition the Commission for a full or partial exemption from the closed captioning requirements. Exemptions may be granted, in whole or in part, for a channel of video programming, a category or type of video programming, an individual video service, a specific video program or a video programming provider upon a finding that the closed captioning requirements will be economically burdensome.

(2) A petition for an exemption must be supported by sufficient evidence to demonstrate that compliance with the requirements to closed caption video programming would be economically burdensome. The term ''economically burdensome'' means significant difficulty or expense. Factors to be considered when determining whether the requirements for closed captioning are economically burdensome include:

(i) The nature and cost of the closed captions for the programming;

(ii) The impact on the operation of the provider or program owner;

(iii) The financial resources of the provider or program owner; and

(iv) The type of operations of the provider or program owner.

(3) In addition to these factors, the petition shall describe any other factors the petitioner deems relevant to the Commission's final determination and any available alternatives that might constitute a reasonable substitute for the closed captioning requirements including, but not limited to, text or graphic display of the content of the audio portion of the programming. The extent to which the provision of closed captions is economically burdensome shall be evaluated with regard to the individual outlet.

(4) A petition requesting an exemption based on the economically burdensome standard, and all subsequent pleadings, shall be filed electronically in accordance with §0.401(a)(1)(iii) of this chapter.

(5) The Commission will place the petition on public notice.

(6) Any interested person may file comments or oppositions to the petition within 30 days of the public notice of the petition. Within 20 days of the close of the comment period, the petitioner may reply to any comments or oppositions filed.

(7) Comments or oppositions to the petition shall be filed electronically and served on the petitioner and shall include a certification that the petitioner was served with a copy. Replies to comments or oppositions shall be filed electronically and served on the commenting or opposing party and shall include a certification that the commenting or opposing party was served with a copy. Comments or oppositions and replies may be served upon a party, its attorney, or other duly constituted agent by delivering or mailing a copy to the last known address in accordance with §1.47 of this chapter or by sending a copy to the email address last provided by the party, its attorney, or other duly constituted agent.

(8) Upon a showing of good cause, the Commission may lengthen or shorten any comment period and waive or establish other procedural requirements.

(9) All petitions and responsive pleadings shall contain a detailed, full showing, supported by affidavit, of any facts or considerations relied on.

(10) The Commission may deny or approve, in whole or in part, a petition for an economically burdensome exemption from the closed captioning requirements.

(11) During the pendency of an economically burdensome determination, the video programming subject to the request for exemption shall be considered exempt from the closed captioning requirements.

(g) *Complaint procedures*—(1) *Filing closed captioning complaints.* Complaints concerning an alleged violation of the closed captioning requirements of this section shall be filed with the Commission or with the video programming distributor responsible for delivery and exhibition of the video programming within sixty (60) days after the problem with captioning.

(2) *Complaints filed with the Commission.* A complaint filed with the Commission must be in writing, must state with specificity the alleged Commission rule violated, and must include:

(i) The consumer's name, postal address, and other contact information, if available, such as telephone number or email address, along with the consumer's preferred format or method of response to the complaint (such as letter, facsimile transmission, telephone (voice/TRS/TTY), email, or some other method that would best accommodate the consumer.

(ii) The channel number; channel name, network, or call sign; the name of the multichannel video program distributor, if applicable; the date and time when the captioning problem occurred; the name of the program with the captioning problem; and a detailed description of the captioning problem, including specific information about the frequency and type of problem.

(3) *Process for forwarding complaints.* The Commission will forward complaints filed first with the Commission to the appropriate video programming distributor and video programmer. If the Commission cannot determine the appropriate video programmer, the Commission will forward the complaint to the video programming distributor and notify the video programming distributor of the Commission's inability

to determine the appropriate video programmer. The video programming distributor must respond in writing to the Commission with the name and contact information for the appropriate video programmer within ten (10) days after the date of such notification. The Commission will then forward the complaint to the appropriate video programmer.

(4) *Video programming distributor and video programmer responsibilities with respect to complaints forwarded by the Commission.* (i) In response to a complaint, the video programming distributor must conduct an investigation to identify the source of the captioning problem and resolve all aspects of the captioning problem that are within its control. At a minimum, a video programming distributor must perform the following actions as part of its investigation:

(A) *Program stream check.* The video programming distributor must capture program streams, defined as digitally encoded elementary streams such as video, audio, closed captioning, timing, and other data necessary for a viewer to receive a complete television viewing experience, of the programming network identified in the complaint and check the program streams for any caption-related impairments;

(B) *Processing equipment check.* If the video programming distributor's investigation indicates a problem with the program stream, and there is not prior knowledge as to where the problem originated, the video programming distributor must check post-processing equipment at the relevant headend or other video distribution facility to see if the issue was introduced by the video programming distributor or was present in the program stream when received by the video programming distributor from the video programmer; and

(C) *Consumer premises check.* If the video programming distributor's investigation indicates that the problem may lie with the consumer's customer premises equipment, including the set-top box, the video programming distributor must check the end user equipment, either remotely or, if necessary, at the consumer's premises, to ensure there are no issues that might interfere with the pass through, rendering, or display of closed captioning.

(ii) After conducting its investigation, the video programming distributor shall provide a response to the complaint in writing to the Commission, the appropriate video programmer, and the complainant within thirty (30) days after the date the Commission forwarded the complaint. The video programming distributor's response must:

(A) Acknowledge responsibility for the closed captioning problem and describe the steps taken to resolve the problem; or

(B) Certify that the video programming distributor has conducted an investigation into the closed captioning problems in accordance with paragraph (g)(4)(i) of this section and that the closed captioning problem is not within the video programming distributor's control and appears to have been present in the program steam when received by the video programming distributor; or

(C) Certify that the video programming distributor has conducted an investigation into the closed captioning problems in accordance with paragraph (g)(4)(i) of this section and that the closed captioning problem appears to have been caused by a third party DVR, television, or other third party device not within the video programming distributor's control.

(iii) If the video programming distributor provides a certification in accordance with paragraph (g)(4)(ii)(B) of this section, the video programmer to whom the complaint was referred must conduct an investigation to identify the source of the captioning problem and resolve all aspects of the captioning problem that are within its control.

(A) The video programmer may call upon the video programming distributor for assistance as needed, and the video programming distributor must provide assistance to the video programmer in resolving the complaint, as needed.

(B) After conducting its investigation, the video programmer must provide a response to the complaint in writing to the Commission, the appropriate video programming distributor,

and the complainant within thirty (30) days after the date of the video programming distributor's certification. Such response either must describe the steps taken by the video programmer to correct the captioning problem or certify that the video programmer has conducted an investigation into the closed captioning problems in accordance with paragraph (g)(4)(iii) of this section and that the captioning problem was not within its control, for example, because the program stream was not subject to the closed captioning problem at the time the program stream was handed off to the video programming distributor.

(C) If the video programmer certifies pursuant paragraph (g)(4)(iii)(B) of this section that the captioning problem was not within its control, and it has not been determined by either the video programmer or the video programming distributor that the problem was caused by a third party device or other causes that appear not to be within the control of either the video programming distributor or the video programmer, the video programming distributor and video programmer shall work together to determine the source of the captioning problem. Once the source of the captioning problem is determined, the video programming distributor and video programmer shall each correct those aspects of the captioning problem that are within its respective control. Within thirty (30) days after the date of the video programmer's certification provided pursuant to paragraph (g)(4)(iii)(B) of this section, the video programming distributor, after consulting with the video programmer, shall report in writing to the Commission and the complainant on the steps taken to correct the captioning problem.

(5) *Complaints filed with video programming distributors.* (i) If a complaint is first filed with the video programming distributor, the video programming distributor must respond in writing to the complainant with thirty (30) days after the date of the complaint. The video programming distributor's response must either:

(A) Acknowledge responsibility for the closed captioning problem and describe to the complainant the steps taken to resolve the problem; or

(B) Inform the complainant that it has referred the complaint to the appropriate video programmer or other responsible entity and provide the name and contact information of the video programmer or other responsible entity and the unique complaint identification number assigned to the complaint pursuant to paragraph (g)(5)(ii)(B) of this section; or

(C) Inform the complainant that the closed captioning problem appears to have been caused by a third party DVR, television, or other third party device not within the video programming distributor's control.

(ii) If the video programming distributor determines that the issue raised in the complaint was not within the video programming distributor's control and was not caused by a third party device, the video programming distributor must forward the complaint and the results of its investigation of the complaint to the appropriate video programmer or other responsible entity within thirty (30) days after the date of the complaint.

(A) The video programming distributor must either forward the complaint with the complainant's name, contact information and other identifying information redacted or provide the video programmer or other responsible entity with sufficient information contained in the complaint to achieve the complaint's investigation and resolution.

(B) The video programming distributor must assign a unique complaint identification number to the complaint and transmit that number to the video programmer with the complaint.

(iii) If a video programming distributor forwards a complaint to a video programmer or other responsible entity pursuant to paragraph (g)(5)(ii) of this section, the video programmer or other responsible entity must respond to the video programming distributor in writing in a form that can be forwarded to the complainant within thirty (30) days after the forwarding date of the complaint.

(A) The video programming distributor must forward the video programmer's or other responsible entity's response to the complainant within ten (10) days after the date of the response.

(B) If the video programmer or other responsible entity does not respond to the video programming distributor within thirty (30) days after the forwarding date of the complaint, the video programming distributor must inform the complainant of the video programmer's or other responsible entity's failure to respond within forty (40) days after the forwarding date of the complaint.

(iv) If a video programming distributor fails to respond to the complainant as required by paragraphs (g)(5)(i) of this section, or if the response received by the complainant does not satisfy the complainant, the complainant may file the complaint with the Commission within sixty (60) days after the time allotted for the video programming distributor to respond to the complainant. The Commission will forward such complaint to the video programming distributor and video programmer, and the video programming distributor and video programmer shall address such complaint as specified in paragraph (g)(4) of this section.

(v) If a video programmer or other responsible entity fails to respond to the video programming distributor as required by paragraph (g)(5)(iii) of this section, or if a video programming distributor fails to respond to the complainant as required by paragraph (g)(5)(iii)(A) or (B) of this section, or if the response from the video programmer or other responsible entity forwarded by the video programming distributor to the complainant does not satisfy the complainant, the complainant may file the complaint with the Commission within sixty (60) days after the time allotted for the video programming distributor to respond to the complainant pursuant to paragraph (g)(5)(iii)(A) or (B) of this section. The Commission will forward such complaints to the appropriate video programming distributor and video programmer, and the video programming distributor and video programmer shall handle such complaints as specified in paragraph (g)(4) of this section.

(6) *Provision of documents and records.* In response to a complaint, a video programming distributor or video programmer is obligated to provide the Commission with sufficient records and documentation to demonstrate that it is in compliance with the Commission's rules.

(7) *Reliance on certifications.* Video programming distributors may rely on certifications from video programmers made in accordance with paragraph (m) of this section to demonstrate compliance with paragraphs (b)(1)(i) and (b)(2)(i) of this section. Video programming distributors shall not be held responsible for situations where a video programmer falsely certifies under paragraph (m) of this section unless the video programming distributor knows or should have known that the certification is false.

(8) *Commission review of complaints.* The Commission will review complaints filed with the Commission, including all supporting evidence, and determine whether a violation has occurred. The Commission will, as needed, request additional information from the video programming distributor or video programmer.

(9) *Compliance*—(i) *Initial response to a pattern or trend of noncompliance.* If the Commission notifies a video programming distributor or video programmer of a pattern or trend of possible noncompliance with the Commission's rules for the quality of closed captioning by the video programming distributor or video programmer, the video programming distributor or video programmer shall respond to the Commission within thirty (30) days after the Commission's notice of such possible noncompliance, describing corrective measures taken, including those measures the video programming distributor or video programmer may have undertaken in response to informal complaints and inquiries from viewers.

(ii) *Corrective action plan.* If, after the date for a video programming distributor or video programmer to respond to a notification under paragraph (g)(8)(i) of this section, the Commission subsequently notifies the video

programming distributor or video programmer that there is further evidence indicating a pattern or trend of noncompliance with the Commission's rules for quality of closed captioning, the video programming distributor or video programmer shall submit to the Commission, within thirty (30) days after the date of such subsequent notification, a written action plan describing specific measures it will take to bring the video programming distributor's or video programmer's closed captioning performance into compliance with the Commission's closed captioning quality rules. In addition, the video programming distributor or video programmer shall conduct spot checks of its closed captioning quality performance and report to the Commission on the results of such action plan and spot checks 180 days after the submission of such action plan.

(iii) *Continued evidence of a pattern or trend of noncompliance.* If, after the date for submission of a report on the results of an action plan and spot checks pursuant to paragraph (g)(8)(ii) of this section, the Commission finds continued evidence of a pattern or trend of noncompliance, additional enforcement actions may be taken, which may include admonishments, forfeitures, and other corrective actions.

(iv) *Enforcement action.* The Commission may take enforcement action, which may include admonishments, forfeitures, and other corrective actions, without providing a video programming distributor or video programmer the opportunity for an initial response to a pattern or trend of noncompliance or a corrective action plan, or both, under paragraphs (g)(8)(i) and (ii) of this section, for a systemic closed captioning quality problem or an intentional and deliberate violation of the Commission's rules for the quality of closed captioning.

(h) *Private rights of action prohibited.* Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

(i) *Contact information.* (1) *Receipt and handling of immediate concerns.* Video programming distributors shall make publicly available contact information for the receipt and handling of immediate closed captioning concerns raised by consumers while they are watching a program. Video programming distributors must designate a telephone number, fax number (if the video programming distributor has a fax number), and email address for purposes of receiving and responding immediately to any closed captioning concerns. Video programming distributors shall include this information on their Web sites (if they have a Web site), in telephone directories, and in billing statements (to the extent the distributor issues billing statements). Video programming distributors shall keep this information current and update it to reflect any changes within ten (10) business days for Web sites, by the next billing cycle for billing statements, and by the next publication of directories. Video programming distributors shall ensure that any staff reachable through this contact information has the capability to immediately respond to and address consumers' concerns. To the extent that a distributor has personnel available, either on site or remotely, to address any technical problems that may arise, consumers using this dedicated contact information must be able to reach someone, either directly or indirectly, who can address the consumer's captioning concerns. This provision does not require that distributors alter their hours of operation or the hours during which they have staffing available; at the same time, however, where staff is available to address technical issues that may arise during the course of transmitting programming, they also must be knowledgeable about and be able to address closed captioning concerns. In situations where a video programming distributor is not immediately available, any calls or inquiries received, using this dedicated contact information, should be returned or otherwise addressed within 24 hours. In those situations where the captioning problem does not reside with the video programming distributor, the staff person receiving the inquiry shall refer the matter appropriately for resolution.

(2) *Complaints.* Video programming distributors shall make contact information publicly available for the receipt and handling of written closed captioning complaints that do not raise the type of immediate issues that are addressed in paragraph (i)(1) of this section. The contact information required for written complaints shall include the name of a person with primary responsibility for captioning issues and who can ensure compliance with the Commission's rules. In addition, this contact information shall include the person's title or office, telephone number, fax number (if the video programming distributor has a fax number), postal mailing address, and email address. Video programming distributors shall include this information on their Web sites (if they have a Web site), in telephone directories, and in billing statements (to the extent the distributor issues billing statements). Video programming distributors shall keep this information current and update it within ten (10) business days for Web sites, by the next billing cycle for billing statements, and by the next publication of directories.

(3) *Providing contact information to the Commission.* Video programming distributors and video programmers shall file contact information with the Commission through a web form located on the Commission's Web site. Such contact information shall include the name of a person with primary responsibility for captioning issues and ensuring compliance with the Commission's rules. In addition, such contact information shall include the person's title or office, telephone number, fax number (if the video programming distributor or video programmer has a fax number), postal mailing address, and email address. Contact information shall be available to consumers on the Commission's Web site or by telephone inquiry to the Commission's Consumer Center. Video programming distributors and video programmers shall notify the Commission each time there is a change in any of this required information within ten (10) business days.

(j) *Captioning quality obligation; standards.* (1) [Reserved]

(2) *Captioning quality standards.* Closed captioning shall convey the aural content of video programming in the original language (*i.e.* English or Spanish) to individuals who are deaf and hard of hearing to the same extent that the audio track conveys such content to individuals who are able to hear. Captioning shall be accurate, synchronous, complete, and appropriately placed as those terms are defined herein.

(i) *Accuracy.* Captioning shall match the spoken words (or song lyrics when provided on the audio track) in their original language (English or Spanish), in the order spoken, without substituting words for proper names and places, and without paraphrasing, except to the extent that paraphrasing is necessary to resolve any time constraints. Captions shall contain proper spelling (including appropriate homophones), appropriate punctuation and capitalization, correct tense and use of singular or plural forms, and accurate representation of numbers with appropriate symbols or words. If slang or grammatical errors are intentionally used in a program's dialogue, they shall be mirrored in the captions. Captioning shall provide nonverbal information that is not observable, such as the identity of speakers, the existence of music (whether or not there are also lyrics to be captioned), sound effects, and audience reaction, to the greatest extent possible, given the nature of the program. Captions shall be legible, with appropriate spacing between words for readability.

(ii) *Synchronicity.* Captioning shall coincide with the corresponding spoken words and sounds to the greatest extent possible, given the type of the programming. Captions shall begin to appear at the time that the corresponding speech or sounds begin and end approximately when the speech or sounds end. Captions shall be displayed on the screen at a speed that permits them to be read by viewers.

(iii) *Completeness.* Captioning shall run from the beginning to the end of the program, to the fullest extent possible.

(iv) *Placement.* Captioning shall be viewable and shall not block other important visual content on the screen, including, but not limited to, character faces, featured text (e.g., weather or

other news updates, graphics and credits), and other information that is essential to understanding a program's content when the closed captioning feature is activated. Caption font shall be sized appropriately for legibility. Lines of caption shall not overlap one another and captions shall be adequately positioned so that they do not run off the edge of the video screen.

(3) *Application of captioning quality standards.* Video Programmers shall ensure that captioning meet the standards of paragraph (j)(2) of this section for accuracy, synchronicity, completeness and placement, except for *de minimis* captioning errors. In determining whether a captioning error is *de minimis*, the Commission will consider the particular circumstances presented, including the type of failure, the reason for the failure, whether the failure was one-time or continuing, the degree to which the program was understandable despite the errors, and the time frame within which corrective action was taken to prevent such failures from recurring. When applying such standards to live and near-live programming, the Commission will also take into account, on a case-by-case basis, the following factors:

(i) *Accuracy.* The overall accuracy or understandability of the programming, the ability of the captions to convey the aural content of the program in a manner equivalent to the aural track, and the extent to which the captioning errors prevented viewers from having access to the programming.

(ii) *Synchronicity.* The extent to which measures have been taken, to the extent technically feasible, to keep any delay in the presentation of captions to a minimum, consistent with an accurate presentation of what is being said, so that the time between when words are spoken or sounds occur and captions appear does not interfere with the ability of viewers to follow the program.

(iii) *Completeness.* The delays inherent in sending captioning transmissions on live programs, and whether steps have been taken, to the extent technically feasible, to minimize the lag between the time a program's audio is heard and the time that captions appear, so that captions are not cut off when the program transitions to a commercial or a subsequent program.

(iv) *Placement.* The type and nature of the programming and its susceptibility to unintentional blocking by captions.

(k) *Captioning Best Practices*—(1) *Video Programmer Best Practices.* Video programmers adopting Best Practices will adhere to the following practices.

(i) *Agreements with captioning services.* Video programmers adopting Best Practices will take the following actions to promote the provision of high quality television closed captions through new or renewed agreements with captioning vendors.

(A) *Performance requirements.* Include performance requirements designed to promote the creation of high quality closed captions for video programming, comparable to those described in paragraphs (k)(2), (k)(3) and (k)(4) of this section.

(B) *Verification.* Include a means of verifying compliance with such performance requirements, such as through periodic spot checks of captioned programming.

(C) *Training.* Include provisions designed to ensure that captioning vendors' employees and contractors who provide caption services have received appropriate training and that there is oversight of individual captioners' performance.

(ii) *Operational Best Practices.* Video programmers adopting Best Practices will take the following actions to promote delivery of high quality television captions through improved operations.

(A) *Preparation materials.* To the extent available, provide captioning vendors with advance access to preparation materials such as show scripts, lists of proper names (people and places), and song lyrics used in the program, as well as to any dress rehearsal or rundown that is available and relevant.

(B) *Quality audio.* Make commercially reasonable efforts to provide captioning vendors with access to a high quality program audio signal to promote accurate transcription and minimize latency.

(C) *Captioning for prerecorded programming.* (*1*) The presumption is that prerecorded programs, excluding programs

that initially aired with real-time captions, will be captioned offline before air except when, in the exercise of a programmer's commercially reasonable judgment, circumstances require real-time or live display captioning. Examples of commercially reasonable exceptions may include instances when:

(*i*) A programmer's production is completed too close to initial air time be captioned offline or may require editorial changes up to air time (e.g., news content, reality shows),

(*ii*) A program is delivered late,

(*iii*) There are technical problems with the caption file,

(*iv*) Last minute changes must be made to later network feeds (e.g., when shown in a later time zone) due to unforeseen circumstances,

(*v*) There are proprietary or confidentiality considerations, or

(*vi*) Video programming networks or channels with a high proportion of live or topical time-sensitive programming, but also some pre-recorded programs, use real-time captioning for all content (including pre-recorded programs) to allow for immediate captioning of events or breaking news stories that interrupt scheduled programming.

(*2*) The video programmer will make reasonable efforts to employ live display captioning instead of real-time captioning for prerecorded programs if the complete program can be delivered to the caption service provider in sufficient time prior to airing.

(iii) *Monitoring and Remedial Best Practices.* Video programmers adopting Best Practices will take the following actions aimed at improving prompt identification and remediation of captioning errors when they occur.

(A) *Pre-air monitoring of offline captions.* As part of the overall pre-air quality control process for television programs, conduct periodic checks of offline captions on prerecorded programs to determine the presence of captions.

(B) *Real-time monitoring of captions.* Monitor television program streams at point of origination (e.g., monitors located at the network master control point or electronic monitoring) to determine presence of captions.

(C) *Programmer and captioning vendor contacts.* Provide to captioning vendors appropriate staff contacts who can assist in resolving captioning issues. Make captioning vendor contact information readily available in master control or other centralized location, and contact captioning vendor promptly if there is a caption loss or obvious compromise of captions.

(D) *Recording of captioning issues.* Maintain a log of reported captioning issues, including date, time of day, program title, and description of the issue. Beginning one year after the effective date of the captioning quality standards, such log should reflect reported captioning issues from the prior year.

(E) *Troubleshooting protocol.* Develop procedures for troubleshooting consumer captioning complaints within the distribution chain, including identifying relevant points of contact, and work to promptly resolve captioning issues, if possible.

(F) *Accuracy spot checks.* Within 30 days following notification of a pattern or trend of complaints from the Commission, conduct spot checks of television program captions to assess caption quality and address any ongoing concerns.

(iv) *Certification procedures for video programmers.* Video programmers adopting Best Practices will certify to the Commission that they adhere to Best Practices for video programmers, in accordance with paragraph (m) of this section.

(2) *Real-Time (Live) Captioning Vendors Best Practices.* (i) Create and use metrics to assess accuracy, synchronicity, completeness, and placement of real-time captions.

(ii) Establish minimum acceptable standards based upon those metrics while striving to regularly exceed those minimum standards.

(iii) Perform frequent and regular evaluations and sample audits to ensure those standards are maintained.

(iv) Consider ''accuracy'' of captions to be a measurement of the percentage of correct words out of total words in the program, calculated by subtracting number of errors from total number of words in the program, dividing that number by total number of words in the program and converting that number to a percentage. For example, 7,000

total words in the program minus 70 errors equals 6,930 correct words captioned, divided by 7,000 total words in the program equals 0.99 or 99% accuracy.

(v) Consider, at a minimum, mistranslated words, incorrect words, misspelled words, missing words, and incorrect punctuation that impedes comprehension and misinformation as errors.

(A) Captions are written in a near-as-verbatim style as possible, minimizing paraphrasing.

(B) The intended message of the spoken dialogue is conveyed in the associated captions in a clear and comprehensive manner.

(C) Music lyrics should accompany artist performances.

(vi) Consider synchronicity of captions to be a measurement of lag between the spoken word supplied by the program origination point and when captions are received at the same program origination point.

(vii) Ensure placement of captions on screen to avoid obscuring on-screen information and graphics (e.g., sports coverage).

(viii) Ensure proper screening, training, supervision, and evaluation of captioners by experienced and qualified real-time captioning experts.

(ix) Ensure there is an infrastructure that provides technical and other support to video programmers and captioners at all times.

(x) Ensure that captioners are qualified for the type and difficulty level of the programs to which they are assigned.

(xi) Utilize a system that verifies captioners are prepared and in position prior to a scheduled assignment.

(xii) Ensure that technical systems are functional and allow for fastest possible delivery of caption data and that failover systems are in place to prevent service interruptions.

(xiii) Regularly review discrepancy reports in order to correct issues and avoid future issues.

(xiv) Respond in a timely manner to concerns raised by video programmers or viewers.

(xv) Alert video programmers immediately if a technical issue needs to be addressed on their end.

(xvi) Inform video programmers of appropriate use of real-time captioning (*i.e.,* for live and near-live programming, and not for prerecorded programming) and what is necessary to produce quality captions, including technical requirements and the need for preparatory materials.

(xvii) For better coordination for ensuring high quality captions and for addressing problems as they arise, understand the roles and responsibilities of other stakeholders in the closed-captioning process, including broadcasters, producers, equipment manufacturers, regulators, and viewers, and keep abreast of issues and developments in those sectors.

(xviii) Ensure that all contracted captioners adhere to the Real-Time Captioners Best Practices contained in paragraph (k)(4) of this section.

(3) *Real-Time Captioners Best Practices.*

(i) Caption as accurately, synchronously, completely, and appropriately placed as possible, given the nature of the programming.

(ii) Ensure they are equipped with a failover plan to minimize caption interruption due to captioner or equipment malfunction.

(iii) Be equipped with reliable, high speed Internet.

(iv) Be equipped with multiple telephone lines.

(v) Prepare as thoroughly as possible for each program.

(vi) File thorough discrepancy reports with the captioning vendor in a timely manner.

(vii) To the extent possible given the circumstances of the program, ensure that real-time captions are complete when the program ends.

(viii) Engage the command that allows captions to pass at commercials and conclusion of broadcasts.

(ix) Monitor captions to allow for immediate correction of errors and prevention of similar errors appearing or repeating in captions.

(x) Perform frequent and regular self-evaluations.

(xi) Perform regular dictionary maintenance.

(xii) Keep captioning equipment in good working order and update software and equipment as needed.

(xiii) Possess the technical skills to troubleshoot technical issues.

(xiv) Keep abreast of current events and topics that they caption.

(4) *Offline (Prerecorded) Captioning Vendors Best Practices.* (i) Ensure offline captions are verbatim.

(ii) Ensure offline captions are error-free.

(iii) Ensure offline captions are punctuated correctly and in a manner that facilitates comprehension.

(iv) Ensure offline captions are synchronized with the audio of the program.

(v) Ensure offline captions are displayed with enough time to be read completely and that they do not obscure the visual content.

(vi) [Reserved]

(vii) Ensure offline captioning is a complete textual representation of the audio, including speaker identification and non-speech information.

(viii) Create or designate a manual of style to be applied in an effort to achieve uniformity in presentation.

(ix) Employ frequent and regular evaluations to ensure standards are maintained.

(x) Inform video programmers of appropriate uses of real-time and offline captioning and strive to provide offline captioning for prerecorded programming.

(A) Encourage use of offline captioning for live and near-live programming that originally aired on television and re-feeds at a later time.

(B) Encourage use of offline captioning for all original and library prerecorded programming completed well in advance of its distribution on television.

(xi) For better coordination for ensuring high quality captions and for addressing problems as they arise, understand the roles and responsibilities of other stakeholders in the closed-captioning process, including video program distributors, video programmers, producers, equipment manufacturers, regulators, and viewers, and keep abreast of issues and developments in those sectors.

(l) [Reserved]

(m) *Video programmer certification.* (1) On or before July 1, 2017, or prior to the first time a video programmer that has not previously provided video programming shown on television provides video programming for television for the first time, whichever is later, and on or before July 1 of each year thereafter, each video programmer shall submit a certification to the Commission through a web form located on the Commission's Web site stating that:

(i) The video programmer provides closed captioning for its programs in compliance with the Commission's rules; and

(ii) The video programmers' programs either satisfy the caption quality standards of paragraph (j)(2) of this section; or in the ordinary course of business, the video programmer has adopted and follows the Best Practices set forth in paragraph (k)(1) of this section.

(2) If all of video programmer's programs are exempt from the closed captioning rules under one or more of the exemptions set forth in this section, in lieu of the certification required by paragraph (m)(1) of this section, the video programmer shall submit a certification to the Commission through a web form located on the Commission's Web site stating that all of its programs are exempt from the closed captioning rules and specify each category of exemption claimed by the video programmer.

(3) If some of a video programmer's programs are exempt from the closed captioning rules under one or more of the exemptions set forth in this section, as part of the certification required by paragraph (m)(1) of this section, the video programmer shall include a certification stating that some of its programs are exempt from the closed captioning rules and specify each category of exemption claimed by the video programmer.

(4) A television broadcast station licensed pursuant to part 73 of this chapter or a low power television broadcast station licensed pursuant to part 74, subpart G, of this chapter, or the owner of either such station, is not required

to provide a certification for video programming that is broadcast by the television broadcast station.

[62 FR 48493, Sept. 16, 1997, as amended at 63 FR 55962, Oct. 20, 1998; 64 FR 33424, June 23, 1999; 65 FR 58477, Sept. 29, 2000; 69 FR 72047, Dec. 10, 2004; 74 FR 1604, Jan. 13, 2009; 74 FR 46703, Sept. 11, 2009; 75 FR 7369, Feb. 19, 2010; 77 FR 19515, Mar. 30, 2012; 77 FR 48104, Aug. 13, 2012; 79 FR 17926, Mar. 31, 2014; 79 FR 77916, Dec. 29, 2014; 81 FR 57485, Aug. 23, 2016]

EFFECTIVE DATE NOTES: 1. At 75 FR 7369, Feb. 19, 2010, paragraph (g)(3) was stayed.

2. At 81 FR 57485, Aug. 25, 2016, §79.1 was amended, effective Sept. 22, 2016. This section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 79.2 Accessibility of programming providing emergency information.

(a) *Definitions.* (1) For purposes of this section, the definitions in §§79.1 and 79.3 apply.

(2) *Emergency information.* Information, about a current emergency, that is intended to further the protection of life, health, safety, and property, *i.e.*, critical details regarding the emergency and how to respond to the emergency. Examples of the types of emergencies covered include tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, civil disorders, school closings and changes in school bus schedules resulting from such conditions, and warnings and watches of impending changes in weather.

NOTE TO PARAGRAPH (a)(2): Critical details include, but are not limited to, specific details regarding the areas that will be affected by the emergency, evacuation orders, detailed descriptions of areas to be evacuated, specific evacuation routes, approved shelters or the way to take shelter in one's home, instructions on how to secure personal property, road closures, and how to obtain relief assistance.

(b) Requirements for accessibility of programming providing emergency information.

(1) Video programming distributors must make emergency information, as defined in paragraph (a) of this section, that is provided in the audio portion of the programming accessible to persons with hearing disabilities by using a method of closed captioning or by using a method of visual presentation, as described in §79.1.

(2) Video programming distributors and video programming providers must make emergency information, as defined in paragraph (a) of this section, accessible as follows:

(i) Emergency information that is provided visually during a regularly scheduled newscast, or newscast that interrupts regular programming, must be made accessible to individuals who are blind or visually impaired; and

(ii) Emergency information that is provided visually during programming that is neither a regularly scheduled newscast, nor a newscast that interrupts regular programming, must be accompanied with an aural tone, and beginning May 26, 2015 except as provided in paragraph (b)(6) of this section, must be made accessible to individuals who are blind or visually impaired through the use of a secondary audio stream to provide the emergency information aurally. Emergency information provided aurally on the secondary audio stream must be preceded by an aural tone and must be conveyed in full at least twice. Emergency information provided through use of text-to-speech (''TTS'') technologies must be intelligible and must use the correct pronunciation of relevant information to allow consumers to learn about and respond to the emergency, including, but not limited to, the names of shelters, school districts, streets, districts, and proper names noted in the visual information. The video programming distributor or video programming provider that creates the visual emergency information content and adds it to the programming stream is responsible for providing an aural representation of the information on a secondary audio stream, accompanied by an aural tone. Video programming distributors are responsible for ensuring that the aural representation of the emergency information (including the accompanying aural tone) gets passed through to consumers.

(3) This rule applies to emergency information primarily intended for distribution to an audience in the geographic area in which the emergency is occurring.

(4) Video programming distributors must ensure that emergency information does not block any closed captioning and any closed captioning does not block any emergency information provided by means other than closed captioning.

(5) Video programming distributors and video programming providers must ensure that aural emergency information provided in accordance with paragraph (b)(2)(ii) of this section supersedes all other programming on the secondary audio stream, including video description, foreign language translation, or duplication of the main audio stream, with each entity responsible only for its own actions or omissions in this regard.

(6) Beginning July 10, 2017, multichannel video programming distributors must ensure that any application or plug-in that they provide to consumers to access linear programming on tablets, smartphones, laptops, and similar devices over the MVPD's network as part of their multichannel video programming distributor services is capable of passing through to consumers an aural representation of the emergency information (including the accompanying aural tone) on a secondary audio stream.

(c) *Complaint procedures.* A complaint alleging a violation of this section may be transmitted to the Consumer and Governmental Affairs Bureau by any reasonable means, such as the Commission's online informal complaint filing system, letter, facsimile transmission, telephone (voice/TRS/TTY), Internet email, audio-cassette recording, and Braille, or some other method that would best accommodate the complainant's disability. The complaint should include the name of the video programming distributor or the video programming provider against whom the complaint is alleged, the date and time of the omission of emergency information, and the type of emergency. The Commission will notify the video programming distributor or the video programming provider of the complaint, and the distributor or the provider will reply to the complaint within 30 days.

[65 FR 26762, May 9, 2000, as amended at 65 FR 54811, Sept. 11, 2000; 78 FR 31797, May 24, 2013; 80 FR 39714, July 10, 2015]

§ 79.3 Video description of video programming.

(a) *Definitions.* For purposes of this section the following definitions shall apply:

(1) *Designated Market Areas (DMAs).* Unique, county-based geographic areas designated by The Nielsen Company, a television audience measurement service, based on television viewership in the counties that make up each DMA.

(2) *Video programming provider.* Any video programming distributor and any other entity that provides video programming that is intended for distribution to residential households including, but not limited to, broadcast or nonbroadcast television networks and the owners of such programming.

(3) *Video description/Audio Description.* The insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue.

(4) *Video programming.* Programming provided by, or generally considered comparable to programming provided by, a television broadcast station, but not including consumer-generated media.

(5) *Video programming distributor.* Any television broadcast station licensed by the Commission and any multichannel video programming distributor (MVPD), and any other distributor of video programming for residential reception that delivers such programming directly to the home and is subject to the jurisdiction of the Commission.

(6) *Prime time.* The period from 8 to 11 p.m. Monday through Saturday, and 7 to 11 p.m. on Sunday local time, except that in the central time zone the relevant period shall be between the hours of 7 and 10 p.m. Monday through Saturday, and 6 and 10 p.m. on Sunday, and in the mountain time zone each station shall elect whether the period shall be 8 to 11 p.m. Monday through Saturday, and 7 to 11 p.m. on Sunday, or 7 to 10 p.m. Monday through Saturday, and 6 to 10 p.m. on Sunday.

(7) *Live or near-live programming*. Programming performed either simultaneously with, or recorded no more than 24 hours prior to, its first transmission by a video programming distributor.

(8) *Children's Programming*. Television programming directed at children 16 years of age and under.

(b) The following video programming distributors must provide programming with video description as follows:

(1) Beginning July 1, 2015, commercial television broadcast stations that are affiliated with one of the top four commercial television broadcast networks (ABC, CBS, Fox, and NBC), and that are licensed to a community located in the top 60 DMAs, as determined by The Nielsen Company as of January 1, 2015, must provide 50 hours of video description per calendar quarter, either during prime time or on children's programming, and, beginning July 1, 2018, 37.5 additional hours of video description per calendar quarter between 6 a.m. and 11:59 p.m. local time, on each programming stream on which they carry one of the top four commercial television broadcast networks. If a station in one of these markets becomes affiliated with one of these networks after July 1, 2015, it must begin compliance with these requirements no later than three months after the affiliation agreement is finalized;

(2) [Reserved]

(3) Television broadcast stations that are affiliated or otherwise associated with any television network must pass through video description when the network provides video description and the broadcast station has the technical capability necessary to pass through the video description, unless it is using the technology used to provide video description for another purpose related to the programming that would conflict with providing the video description;

(4) Multichannel video programming distributor (MVPD) systems that serve 50,000 or more subscribers must provide 50 hours of video description per calendar quarter during prime time or children's programming, and, beginning July 1, 2018, 37.5 additional hours of video description per calendar quarter between 6 a.m. and 11:59 p.m. local time, on each channel on which they carry one of the top five national nonbroadcast networks, as defined by an average of the national audience share during prime time of nonbroadcast networks that reach 50 percent or more of MVPD households and have at least 50 hours per quarter of prime time programming that is not live or near-live or otherwise exempt under these rules. Initially, the top five networks are those determined by The Nielsen Company, for the time period October 2009–September 2010, and will update at three year intervals. The first update will be July 1, 2015, based on the ratings for the time period October 2013–September 2014; the second will be July 1, 2018, based on the ratings for the time period October 2016–September 2017; and so on; and

(5) Multichannel video programming distributor (MVPD) systems of any size:

(i) Must pass through video description on each broadcast station they carry, when the broadcast station provides video description, and the channel on which the MVPD distributes the programming of the broadcast station has the technical capability necessary to pass through the video description, unless it is using the technology used to provide video description for another purpose related to the programming that would conflict with providing the video description; and

(ii) Must pass through video description on each nonbroadcast network they carry, when the network provides video description, and the channel on which the MVPD distributes the programming of the network has the technical capability necessary to pass through the video description, unless it is using the technology used to provide video description for another purpose related to the programming that would conflict with providing the video description.

(c) *Responsibility for and determination of compliance*. (1) The Commission will calculate compliance on a per channel, and, for broadcasters, a per stream, calendar quarter basis, beginning with the calendar quarter July 1 through September 30, 2012.

(2) In order to meet its quarterly requirement, a broadcaster or MVPD

may count each program it airs with video description no more than a total of two times on each channel on which it airs the program. A broadcaster or MVPD may count the second airing in the same or any one subsequent quarter. A broadcaster may only count programs aired on its primary broadcasting stream towards its quarterly requirement. A broadcaster carrying one of the top four commercial television broadcast networks on a secondary stream may count programs aired on that stream toward its quarterly requirement for that network only.

(3) Once a commercial television broadcast station as defined under paragraph (b)(1) of this section has aired a particular program with video description, it is required to include video description with all subsequent airings of that program on that same broadcast station, unless it is using the technology used to provide video description for another purpose related to the programming that would conflict with providing the video description.

(4) Once an MVPD as defined under paragraph (b)(4) of this section:

(i) Has aired a particular program with video description on a broadcast station it carries, it is required to include video description with all subsequent airings of that program on that same broadcast station, unless it is using the technology used to provide video description for another purpose related to the programming that would conflict with providing the video description; or

(ii) Has aired a particular program with video description on a nonbroadcast network it carries, it is required to include video description with all subsequent airings of that program on that same nonbroadcast network, unless it is using the technology used to provide video description for another purpose related to the programming that would conflict with providing the video description.

(5) In evaluating whether a video programming distributor has complied with the requirement to provide video programming with video description, the Commission will consider showings that any lack of video description was de minimis and reasonable under the circumstances.

(d) *Procedures for exemptions based on economic burden.* (1) A video programming provider may petition the Commission for a full or partial exemption from the video description requirements of this section, which the Commission may grant upon a finding that the requirements would be economically burdensome.

(2) The petitioner must support a petition for exemption with sufficient evidence to demonstrate that compliance with the requirements to provide programming with video description would be economically burdensome. The term ''economically burdensome'' means imposing significant difficulty or expense. The Commission will consider the following factors when determining whether the requirements for video description would be economically burdensome:

(i) The nature and cost of providing video description of the programming;

(ii) The impact on the operation of the video programming provider;

(iii) The financial resources of the video programming provider; and

(iv) The type of operations of the video programming provider.

(3) In addition to these factors, the petitioner must describe any other factors it deems relevant to the Commission's final determination and any available alternative that might constitute a reasonable substitute for the video description requirements. The Commission will evaluate economic burden with regard to the individual outlet.

(4) The petitioner must file an original and two (2) copies of a petition requesting an exemption based on the economically burdensome standard in this paragraph, and all subsequent pleadings, in accordance with §0.401(a) of this chapter.

(5) The Commission will place the petition on public notice.

(6) Any interested person may file comments or oppositions to the petition within 30 days of the public notice of the petition. Within 20 days of the close of the comment period, the petitioner may reply to any comments or oppositions filed.

(7) Persons that file comments or oppositions to the petition must serve the petitioner with copies of those comments or oppositions and must include a certification that the petitioner was served with a copy. Parties filing replies to comments or oppositions must serve the commenting or opposing party with copies of such replies and shall include a certification that the party was served with a copy.

(8) Upon a finding of good cause, the Commission may lengthen or shorten any comment period and waive or establish other procedural requirements.

(9) Persons filing petitions and responsive pleadings must include a detailed, full showing, supported by affidavit, of any facts or considerations relied on.

(10) The Commission may deny or approve, in whole or in part, a petition for an economic burden exemption from the video description requirements.

(11) During the pendency of an economic burden determination, the Commission will consider the video programming subject to the request for exemption as exempt from the video description requirements.

(e) *Complaint procedures.* (1) A complainant may file a complaint concerning an alleged violation of the video description requirements of this section by transmitting it to the Consumer and Governmental Affairs Bureau at the Commission by any reasonable means, such as letter, facsimile transmission, telephone (voice/TRS/TTY), e-mail, audio-cassette recording, and Braille, or some other method that would best accommodate the complainant's disability. Complaints should be addressed to: Consumer and Governmental Affairs Bureau, 445 12th Street, SW., Washington, DC 20554. A complaint must include:

(i) The name and address of the complainant;

(ii) The name and address of the broadcast station against whom the complaint is alleged and its call letters and network affiliation, or the name and address of the MVPD against whom the complaint is alleged and the name of the network that provides the programming that is the subject of the complaint;

(iii) A statement of facts sufficient to show that the video programming distributor has violated or is violating the Commission's rules, and, if applicable, the date and time of the alleged violation;

(iv) The specific relief or satisfaction sought by the complainant;

(v) The complainant's preferred format or method of response to the complaint (such as letter, facsimile transmission, telephone (voice/TRS/TTY), Internet email, or some other method that would best accommodate the complainant's disability); and

(vi) A certification that the complainant attempted in good faith to resolve the dispute with the broadcast station or MVPD against whom the complaint is alleged.

(2) The Commission will promptly forward complaints satisfying the above requirements to the video programming distributor involved. The video programming distributor must respond to the complaint within a specified time, generally within 30 days. The Commission may authorize Commission staff either to shorten or lengthen the time required for responding to complaints in particular cases. The answer to a complaint must include a certification that the video programming distributor attempted in good faith to resolve the dispute with the complainant.

(3) The Commission will review all relevant information provided by the complainant and the video programming distributor and will request additional information from either or both parties when needed for a full resolution of the complaint.

(i) The Commission may rely on certifications from programming suppliers, including programming producers, programming owners, networks, syndicators and other distributors, to demonstrate compliance. The Commission will not hold the video programming distributor responsible for situations where a program source falsely certifies that programming that it delivered to the video programming distributor meets our video description requirements if the video programming distributor is unaware that the certification is false. Appropriate action may

be taken with respect to deliberate falsifications.

(ii) If the Commission finds that a video programming distributor has violated the video description requirements of this section, it may impose penalties, including a requirement that the video programming distributor deliver video programming containing video description in excess of its requirements.

(f) *Private rights of action are prohibited.* Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

[76 FR 55604, Sept. 8, 2011, as amended at 76 FR 68118, Nov. 3, 2011; 82 FR 37354, Aug. 10, 2017]

§ 79.4 Closed captioning of video programming delivered using Internet protocol.

(a) *Definitions.* For purposes of this section the following definitions shall apply:

(1) *Video programming.* Programming provided by, or generally considered comparable to programming provided by, a television broadcast station, but not including consumer-generated media.

(2) *Full-length video programming.* Video programming that appears on television and is distributed to end users, substantially in its entirety, via Internet protocol, excluding video clips or outtakes.

(3) *Video programming distributor or video programming provider.* Any person or entity that makes available directly to the end user video programming through a distribution method that uses Internet protocol.

(4) *Video programming owner.* Any person or entity that either:

(i) Licenses the video programming to a video programming distributor or provider that makes the video programming available directly to the end user through a distribution method that uses Internet protocol; or

(ii) Acts as the video programming distributor or provider, and also possesses the right to license the video programming to a video programming distributor or provider that makes the video programming available directly to the end user through a distribution method that uses Internet protocol.

(5) *Internet protocol.* Includes Transmission Control Protocol and a successor protocol or technology to Internet protocol.

(6) *Closed captioning.* The visual display of the audio portion of video programming pursuant to the technical specifications set forth in this part.

(7) *Live programming.* Video programming that is shown on television substantially simultaneously with its performance.

(8) *Near-live programming.* Video programming that is performed and recorded less than 24 hours prior to the time it was first aired on television.

(9) *Prerecorded programming.* Video programming that is not ''live'' or ''near-live.''

(10) *Edited for Internet distribution.* Video programming for which the television version is substantially edited prior to its Internet distribution.

(11) *Consumer-generated media.* Content created and made available by consumers to online Web sites and services on the Internet, including video, audio, and multimedia content.

(12) *Video clips.* Excerpts of full-length video programming.

(13) *Outtakes.* Content that is not used in an edited version of video programming shown on television.

(14) *Nonexempt programming.* Video programming that is not exempted under paragraph (d) of this section and, accordingly, is subject to closed captioning requirements set forth in this section.

(b) *Requirements for closed captioning of Internet protocol-delivered video programming.* (1) All nonexempt full-length video programming delivered using Internet protocol must be provided with closed captions if the programming is published or exhibited on television in the United States with captions on or after the following dates:

(i) September 30, 2012, for all prerecorded programming that is not edited for Internet distribution, unless it is subject to paragraph (b)(1)(iv) of this section.

(ii) March 30, 2013, for all live and near-live programming, unless it is

subject to paragraph (b)(1)(iv) of this section.

(iii) September 30, 2013, for all prerecorded programming that is edited for Internet distribution, unless it is subject to paragraph (b)(1)(iv) of this section.

(iv) All programming that is already in the video programming distributor's or provider's library before it is shown on television with captions must be captioned within 45 days after the date it is shown on television with captions on or after March 30, 2014 and before March 30, 2015. Such programming must be captioned within 30 days after the date it is shown on television with captions on or after March 30, 2015 and before March 30, 2016. Such programming must be captioned within 15 days after the date it is shown on television with captions on or after March 30, 2016.

(2) All nonexempt video clips delivered using Internet protocol must be provided with closed captions if the video programming distributor or provider posts on its Web site or application a video clip of video programming that it published or exhibited on television in the United States with captions on or after the applicable compliance deadline. The requirements contained in this paragraph shall not apply to video clips added to the video programming distributor's or provider's library before the video programming distributor or provider published or exhibited the associated video programming on television in the United States with captions on or after the applicable compliance deadline.

(i) The requirements contained in paragraph (b)(2) of this section shall apply with the following compliance deadlines:

(A) January 1, 2016, where the video clip contains a single excerpt of a captioned television program with the same video and audio that was presented on television.

(B) January 1, 2017, where a single file contains multiple video clips that each contain a single excerpt of a captioned television program with the same video and audio that was presented on television.

(C) July 1, 2017, for video clips of live and near-live programming.

(ii) Closed captions must be provided for video clips of live programming within 12 hours after the conclusion of the associated video programming's publication or exhibition on television in the United States with captions. Closed captions must be provided for video clips of near-live programming within eight hours after the conclusion of the associated video programming's publication or exhibition on television in the United States with captions.

(c) *Obligations of video programming owners, distributors and providers*—(1) *Obligations of video programming owners.* Each video programming owner must:

(i) Send program files to video programming distributors and providers with captions as required by this section, with at least the same quality as the television captions provided for the same programming. If a video programming owner provides captions to a video programming distributor or provider using the Society of Motion Picture and Television Engineers Timed Text format (SMPTE ST 2052–1:2010, incorporated by reference, *see* § 79.100), then the VPO has fulfilled its obligation to deliver captions to the video programming distributor or provider in an acceptable format. A video programming owner and a video programming distributor or provider may agree upon an alternative technical format for the delivery of captions to the video programming distributor or provider.

(ii) With each video programming distributor and provider that such owner licenses to distribute video programming directly to the end user through a distribution method that uses Internet protocol, agree upon a mechanism to inform such distributors and providers on an ongoing basis whether video programming is subject to the requirements of this section.

(2) *Obligations of video programming distributors and providers.* Each video programming distributor and provider must:

(i) Enable the rendering or pass through of all required captions to the end user, maintaining the quality of the captions provided by the video programming owner and transmitting captions in a format reasonably designed to reach the end user in that quality. A

video programming distributor or provider that provides applications, plug-ins, or devices in order to deliver video programming must comply with the requirements of § 79.103(c) and (d).

(ii) With each video programming owner from which such distributor or provider licenses video programming for distribution directly to the end user through a distribution method that uses Internet protocol, agree upon a mechanism to inform such distributor or provider on an ongoing basis whether video programming is subject to the requirements of this section, and make a good faith effort to identify video programming subject to the requirements of this section using the agreed upon mechanism. A video programming distributor or provider may rely in good faith on a certification by a video programming owner that the video programming need not be captioned if:

(A) The certification includes a clear and concise explanation of why captioning is not required; and

(B) The video programming distributor or provider is able to produce the certification to the Commission in the event of a complaint.

(iii) Make contact information available to end users for the receipt and handling of written closed captioning complaints alleging violations of this section. The contact information required for written complaints shall include the name of a person with primary responsibility for Internet protocol captioning issues and who can ensure compliance with these rules. In addition, this contact information shall include the person's title or office, telephone number, fax number, postal mailing address, and email address. Video programming distributors and providers shall keep this information current and update it within 10 business days of any change.

(3) A video programming provider's or owner's *de minimis* failure to comply with this section shall not be treated as a violation of the requirements.

(d) *Procedures for exemptions based on economic burden.* (1) A video programming provider or owner may petition the Commission for a full or partial exemption from the closed captioning requirements of this section, which the Commission may grant upon a finding that the requirements would be economically burdensome.

(2) The petitioner must support a petition for exemption with sufficient evidence to demonstrate that compliance with the requirements for closed captioning of video programming delivered via Internet protocol would be economically burdensome. The term ''economically burdensome'' means imposing significant difficulty or expense. The Commission will consider the following factors when determining whether the requirements for closed captioning of Internet protocol-delivered video programming would be economically burdensome:

(i) The nature and cost of the closed captions for the programming;

(ii) The impact on the operation of the video programming provider or owner;

(iii) The financial resources of the video programming provider or owner; and

(iv) The type of operations of the video programming provider or owner.

(3) In addition to these factors, the petitioner must describe any other factors it deems relevant to the Commission's final determination and any available alternatives that might constitute a reasonable substitute for the closed captioning requirements of this section including, but not limited to, text or graphic display of the content of the audio portion of the programming. The Commission will evaluate economic burden with regard to the individual outlet.

(4) The petitioner must electronically file its petition for exemption, and all subsequent pleadings related to the petition, in accordance with § 0.401(a)(1)(iii) of this chapter.

(5) The Commission will place the petition on public notice.

(6) Any interested person may electronically file comments or oppositions to the petition within 30 days after release of the public notice of the petition. Within 20 days after the close of the period for filing comments or oppositions, the petitioner may reply to any comments or oppositions filed.

(7) Persons who file comments or oppositions to the petition must serve the petitioner with copies of those

comments or oppositions and must include a certification that the petitioner was served with a copy. Any petitioner filing a reply to comments or oppositions must serve the commenting or opposing party with a copy of the reply and shall include a certification that the party was served with a copy. Comments or oppositions and replies shall be served upon a party, its attorney, or its other duly constituted agent by delivering or mailing a copy to the party's last known address in accordance with §1.47 of this chapter or by sending a copy to the email address last provided by the party, its attorney, or other duly constituted agent.

(8) Upon a finding of good cause, the Commission may lengthen or shorten any comment period and waive or establish other procedural requirements.

(9) Persons filing petitions and responsive pleadings must include a detailed, full showing, supported by affidavit, of any facts or considerations relied on.

(10) The Commission may deny or approve, in whole or in part, a petition for an economic burden exemption from the closed captioning requirements of this section.

(11) During the pendency of an economic burden determination, the Commission will consider the video programming subject to the request for exemption as exempt from the requirements of this section.

(e) *Complaint procedures.* (1) Complaints concerning an alleged violation of the closed captioning requirements of this section shall be filed in writing with the Commission or with the video programming distributor or provider responsible for enabling the rendering or pass through of the closed captions for the video programming within sixty (60) days after the date the complainant experienced a problem with captioning. A complaint filed with the Commission must be directed to the Consumer and Governmental Affairs Bureau and submitted through the Commission's online informal complaint filing system, U.S. Mail, overnight delivery, or facsimile.

(2) A complaint should include the following information:

(i) The name, postal address, and other contact information of the complainant, such as telephone number or email address;

(ii) The name and postal address, Web site, or email address of the video programming distributor, provider, and/or owner against which the complaint is alleged, and information sufficient to identify the video programming involved;

(iii) Information sufficient to identify the software or device used to view the program;

(iv) A statement of facts sufficient to show that the video programming distributor, provider, and/or owner has violated or is violating the Commission's rules, and the date and time of the alleged violation;

(v) The specific relief or satisfaction sought by the complainant; and

(vi) The complainant's preferred format or method of response to the complaint (such as letter, facsimile transmission, telephone (voice/TRS/TTY), email, or some other method that would best accommodate the complainant).

(3) If a complaint is filed first with the Commission, the Commission will forward complaints satisfying the above requirements to the named video programming distributor, provider, and/or owner, as well as to any other video programming distributor, provider, and/or owner that Commission staff determines may be involved. The video programming distributor, provider, and/or owner must respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission.

(4) If a complaint is filed first with the video programming distributor or provider, the video programming distributor or provider must respond in writing to the complainant within thirty (30) days after receipt of a closed captioning complaint. If a video programming distributor or provider fails to respond to the complainant within thirty (30) days, or the response does not satisfy the consumer, the complainant may file the complaint with the Commission within thirty (30) days after the time allotted for the video programming distributor or provider to

respond. If a consumer re-files the complaint with the Commission (after filing with the distributor or provider) and the complaint satisfies the above requirements, the Commission will forward the complaint to the named video programming distributor or provider, as well as to any other video programming distributor, provider, and/or owner that Commission staff determines may be involved. The video programming distributor, provider, and/or owner must then respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission.

(5) In response to a complaint, video programming distributors, providers, and/or owners shall file with the Commission sufficient records and documentation to prove that the responding entity was (and remains) in compliance with the Commission's rules. Conclusory or insufficiently supported assertions of compliance will not carry a video programming distributor's, provider's, or owner's burden of proof. If the responding entity admits that it was not or is not in compliance with the Commission's rules, it shall file with the Commission sufficient records and documentation to explain the reasons for its noncompliance, show what remedial steps it has taken or will take, and show why such steps have been or will be sufficient to remediate the problem.

(6) The Commission will review all relevant information provided by the complainant and the subject video programming distributors, providers, and/or owners, as well as any additional information the Commission deems relevant from its files or public sources. The Commission may request additional information from any relevant entities when, in the estimation of Commission staff, such information is needed to investigate the complaint or adjudicate potential violation(s) of Commission rules. When the Commission requests additional information, parties to which such requests are addressed must provide the requested information in the manner and within the time period the Commission specifies.

(7) If the Commission finds that a video programming distributor, provider, or owner has violated the closed captioning requirements of this section, it may employ the full range of sanctions and remedies available under the Communications Act of 1934, as amended, against any or all of the violators.

(f) *Private rights of action prohibited.* Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

[77 FR 19515, Mar. 30, 2012, as amended at 79 FR 45371, Aug. 5, 2014]

Subpart B—Apparatus

SOURCE: 78 FR 77251, Dec. 20, 2013, unless otherwise noted.

§ 79.100 Incorporation by reference.

(a) The materials listed in this section are incorporated by reference in this part. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the FEDERAL REGISTER. The materials are available for purchase at the corresponding addresses as noted, and all are available for inspection at the Federal Communications Commission, 445 12th St. SW., Reference Information Center, Room CY–A257, Washington, DC 20554, (202) 418–0270, and at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal__register/code__of__federal__regulations/ibr__locations.html.*

(b) Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112, (800) 854–7179, or at *http://global.ihs.com:*

(1) EIA–708–B: ''Digital Television (DTV) Closed Captioning,'' 1999, IBR approved for § 79.102.

(2) [Reserved]

(c) Society of Motion Picture & Television Engineers (SMPTE), 3 Barker Ave., 5th Floor, White Plains, NY 10601, or at the SMPTE Web site: *http://www.smpte.org/standards/:*

(1) SMPTE ST 2052–1:2010: ''Timed Text Format (SMPTE–TT)'' 2010, IBR approved for §§ 79.4 and 79.103.

(2) [Reserved]

[77 FR 19518, Mar. 30, 2012]

§ 79.101 Closed caption decoder requirements for analog television receivers.

(a)(1) Effective July 1, 1993, all television broadcast receivers with picture screens 33 cm (13 in) or larger in diameter shipped in interstate commerce, manufactured, assembled, or imported from any foreign country into the United States shall comply with the provisions of this section.

NOTE TO PARAGRAPH (a)(1): This paragraph places no restriction on the shipping or sale of television receivers that were manufactured before July 1, 1993.

(2) Effective January 1, 2014, all television broadcast receivers shipped in interstate commerce, manufactured, assembled, or imported from any foreign country into the United States shall comply with the provisions of this section, if technically feasible, except that television broadcast receivers that use a picture screen less than 13 inches in size must comply with the provisions of this section only if doing so is achievable pursuant to § 79.103(b)(3).

NOTE TO PARAGRAPH (a)(2): This paragraph places no restrictions on the importing, shipping, or sale of television receivers that were manufactured before January 1, 2014.

(b) *Transmission format.* Closed-caption information is transmitted on line 21 of field 1 of the vertical blanking interval of television signals, in accordance with § 73.682(a)(22) of this chapter.

(c) *Operating modes.* The television receiver will employ customer-selectable modes of operation for TV and Caption. A third mode of operation, Text, may be included on an optional basis. The Caption and Text Modes may contain data in either of two operating channels, referred to in this document as C1 and C2. The television receiver must decode both C1 and C2 captioning, and must display the captioning for whichever channel the user selects. The TV Mode of operation allows the video to be viewed in its original form. The Caption and Text Modes define one or more areas (called ''boxes'') on the screen within which caption or text characters are displayed.

NOTE: For more information regarding Text mode, see ''Television Captioning for the Deaf: Signal and Display Specifications'', Engineering Report No. E–7709–C, Public Broadcasting Service, dated May 1980, and ''TeleCaption II Decoder Module Performance Specification'', National Captioning Institute, Inc., dated November 1985. These documents are available, respectively, from the Public Broadcasting Service, 1320 Braddock Place, Alexandria, VA 22314 and from the National Captioning Institute, Inc., 5203 Leesburg Pike, Falls Church, VA 22041.

(d) *Screen format.* The display area for captioning and text shall fall approximately within the safe caption area as defined in paragraph (n)(12) of this section. This display area will be further divided into 15 character rows of equal height and 32 columns of equal width, to provide accurate placement of text on the screen. Vertically, the display area begins on line 43 and is 195 lines high, ending on line 237 on an interlaced display. All captioning and text shall fall within these established columns and rows. The characters must be displayed clearly separated from the video over which they are placed. In addition, the user must have the capability to select a black background over which the captioned letters are displaced.

(1) *Caption mode.* In the Caption Mode, text can appear on up to 4 rows simultaneously anywhere on the screen within the defined display area. In addition, a solid space equal to one column width may be placed before the first character and after the last character of each row to enhance legibility. The caption area will be transparent anywhere that either:

(i) No standard space character or other character has been addressed and no accompanying solid space is needed; or,

(ii) An accompanying solid space is used and a ''transparent space'' special character has been addressed which does not immediately precede or follow a displayed character.

(2) [Reserved]

(e) *Presentation format.* In analyzing the presentation of characters, it is convenient to think in terms of a non-visible cursor which marks the screen position at which the next event in a given mode and data channel will occur. The receiver remembers the cursor position for each mode even when data are received for a different address in an alternate mode or data channel.

(1) *Screen addressing.* Two kinds of control codes are used to move the cursor to specific screen locations. In Caption Mode, these addressing codes will affect both row and column positioning. In Text Mode, the codes affect only column positioning. In both modes, the addressing codes are optional. Default positions are defined for each mode and style when no addressing code is provided.

(i) The first type of addressing code is the Preamble Address Code (PAC). It assigns a row number and one of eight ''indent'' figures. Each successive indent moves the cursor four columns to the right (starting from the left margin). Thus, an indent of 0 places the cursor at Column 1, an indent of 4 sets it at Column 5, etc. The PAC indent is non-destructive to displayable characters. It will not affect the display to the left of the new cursor position on the indicated row. Note that Preamble Address Codes also set initial attributes for the displayable characters which follow. See paragraph (h) of this section and the Preamble Address Code table.

(ii) The second type of addressing code is the Tab Offset, which is one of three Miscellaneous Control Codes. Tab Offset will move the cursor one, two, or three columns to the right. The character cells skipped over will be unaffected; displayable characters in these cells, if any, will remain intact while empty cells will remain empty, in the same manner that a PAC indent is non-destructive.

(2) [Reserved]

(f) *Caption Mode.* There are three styles of presenting text in Caption Mode: roll-up, pop-on, and paint-on. Character display varies significantly with the style used, but certain rules of character erasure are common to all styles. A character can be erased by addressing another character to the same screen location or by backspacing over the character from a subsequent location on the same row. The entire displayed memory will be erased instantly by receipt of an Erase Displayed Memory command. Both displayed memory and non-displayed memory will be entirely erased simultaneously by either: The user switching receiver channels or data channels (C1/C2) or fields (F1/F2) in decoders so equipped; the loss of valid data (see paragraph (j) of this section); or selecting non-captioning receiver functions which use the display memory of the decoder. Receipt of an End of Caption command will cause a displayed caption to become non-displayed (and vice versa) without being erased from memory. Changing the receiver to a non-captioning mode which does not require use of the decoder's display memory will leave that memory intact, and the decoder will continue to process data as if the caption display were selected.

(1) *Roll-up.* Roll-up style captioning is initiated by receipt of one of three Miscellaneous Control Codes that determine the maximum number of rows displayed simultaneously, either 2, 3 or 4 contiguous rows. These are the three Roll-Up Caption commands.

(i) The bottom row of the display is known as the ''base row''. The cursor always remains on the base row. Rows of text roll upwards into the contiguous rows immediately above the base row to create a ''window'' 2 to 4 rows high.

(ii) The Roll-Up command, in normal practice, will be followed (not necessarily immediately) by a Preamble Address Code indicating the base row and the horizontal indent position. If no Preamble Address Code is received, the base row will default to Row 15 or, if a roll-up caption is currently displayed, to the same base row last received, and the cursor will be placed at Column 1. If the Preamble Address Code received contains a different base row than that of a currently displayed caption, the entire window will move intact (and without erasing) to the new base row immediately.

(iii) Each time a Carriage Return is received, the text in the top row of the

window is erased from memory and from the display or scrolled off the top of the window. The remaining rows of text are each rolled up into the next highest row in the window, leaving the base row blank and ready to accept new text. This roll-up must appear smooth to the user, and must take no more than 0.433 second to complete. The cursor is automatically placed at Column 1 (pending receipt of a Preamble Address Code).

(iv) Increasing or decreasing the number of roll-up rows instantly changes the size of the active display window, appropriately turning on or off the display of the top one or two rows. A row which is turned off should also be erased from memory.

(v) Characters are always displayed immediately when received by the receiver. Once the cursor reaches the 32nd column position on any row, all subsequent characters received prior to a Carriage Return, Preamble Address Code, or Backspace will be displayed in that column replacing any previous character occupying that address.

(vi) The cursor moves automatically one column to the right after each character or Mid-Row Code received. A Backspace will move the cursor one column to the left, erasing the character or Mid-Row Code occupying that location. (A Backspace received when the cursor is in Column 1 will be ignored.)

(vii) The Delete to End of Row command will erase from memory any characters or control codes starting at the current cursor location and in all columns to its right on the same row. If no displayable characters remain on the row after the Delete to End of Row is acted upon, the solid space (if any) for that row should also be erased to conform with the following provisions.

(viii) If a solid space is used for legibility, it should appear when the first displayable character (not a transparent space) or Mid-Row Code is received on a row, not when the Preamble Address Code, if any, is given. A row on which there are no displayable characters or Mid-Row Codes will not display a solid space, even when rolled up between two rows which do display a solid space.

(ix) If the reception of data for a row is interrupted by data for the alternate data channel or for Text Mode, the display of caption text will resume from the same cursor position if a Roll-Up Caption command is received and no Preamble Address Code is given which would move the cursor.

(x) A roll-up caption remains displayed until one of the standard caption erasure techniques is applied. Receipt of a Resume Caption Loading command (for pop-on style) or a Resume Direct Captioning command (for paint-on style) will not affect a roll-up display. Receipt of a Roll-Up Caption command will cause any pop-on or paint-on caption to be erased from displayed memory and non-displayed memory.

(2) *Pop-on.* Pop-on style captioning is initiated by receipt of a Resume Caption Loading command. Subsequent data are loaded into a non-displayed memory and held there until an End of Caption command is received, at which point the non-displayed memory becomes the displayed memory and vice versa. (This process is often referred to as ''flipping memories'' and does not automatically erase memory.) An End of Caption command forces the receiver into pop-on style if no Resume Caption Loading command has been received which would do so. The display will be capable of 4 full rows, not necessarily contiguous, simultaneous anywhere on the screen.

(i) Preamble Address Codes can be used to move the cursor around the screen in random order to place captions on Rows 1 to 15. Carriage Returns have no effect on cursor location during caption loading.

(ii) The cursor moves automatically one column to the right after each character or Mid-Row Code received. Receipt of a Backspace will move the cursor one column to the left, erasing the character or Mid-Row Code occupying that location. (A Backspace received when the cursor is in Column 1 will be ignored.) Once the cursor reaches the 32nd column position on any row, all subsequent characters received prior to a Backspace, an End of Caption, or a Preamble Address Code, will replace any previous character at that location.

(iii) The Delete to End of Row command will erase from memory any characters or control codes starting at the current cursor location and in all columns to its right on the same row. If no displayable characters remain on a row after the Delete to End of Row is acted upon, the solid space (if any) for that element should also be erased.

(iv) If data reception is interrupted during caption loading by data for the alternate caption channel or for Text Mode, caption loading will resume at the same cursor position if a Resume Caption Loading command is received and no Preamble Address Code is given that would move the cursor.

(v) Characters remain in non-displayed memory until an End of Caption command flips memories. The caption will be erased without being displayed upon receipt of an Erase Non-Displayed Memory command, a Roll-Up Caption command, or if the user switches receiver channels, data channels or fields, or upon the loss of valid data (see paragraph (j) of this section).

(vi) A pop-on caption, once displayed, remains displayed until one of the standard caption erasure techniques is applied or until a Roll-Up Caption command is received. Characters within a displayed pop-on caption will be replaced by receipt of the Resume Direct Captioning command and paint-on style techniques (see below).

(3) *Paint-on.* Paint-on style captioning is initiated by receipt of a Resume Direct Captioning command. Subsequent data are addressed immediately to displayed memory without need for an End of Caption command.

(i) Preamble Address Codes can be used to move the cursor around the screen in random order to display captions on Rows 1 to 15. Carriage Returns have no affect on cursor location during direct captioning. The cursor moves automatically one column to the right after each character or Mid-Row Code is received. Receipt of a Backspace will move the cursor one column to the left, erasing the character or Mid-Row Code occupying that location. (A Backspace received when the cursor is in Column 1 will be ignored.) Once the cursor reaches the 32nd column position on any row, all subsequent characters received prior to a Preamble Address Code or Backspace will be displayed in that column replacing any previous character occupying that location.

(ii) The Delete to End of Row command will erase from memory any characters or control codes starting at the current cursor location and in all columns to its right on the same row. If no displayable characters remain on the row after the Delete to End of Row is acted upon, the solid space (if any) for that element should also be erased.

(iii) If the reception of data is interrupted during the direct captioning by data for the alternate caption channel or for Text Mode, the display of caption text will resume at the same cursor position if a Resume Direct Captioning command is received and no Preamble Address Code is given which would move the cursor.

(iv) Characters remain displayed until one of the standard caption erasure techniques is applied or until a Roll-Up Caption command is received. An End of Caption command leaves a paint-on caption fully intact in non-displayed memory. In other words, a paint-on style caption behaves precisely like a pop-on style caption which has been displayed.

(g) *Character format.* Characters are to be displayed on the screen within a character ''cell'' which is the height and width of a single row and column. The following codes define the displayable character set. Television receivers manufactured prior to January 1, 1996 and having a character resolution of 5×7 dots, or less, may display the allowable alternate characters in the character table. A statement must be in a prominent location on the box or other package in which the receiver is to be marketed, and information must be in the owner's manual, indicating the receiver displays closed captioning in upper case only.

CHARACTER SET TABLE

Special Characters

These require two bytes for each symbol. Each hex code as shown will be preceded by a 11h for data channel 1 or by a 19h for data channel 2. For example: 19h 37h will place a musical note in data channel 2.

HEX	Example	Alternate	Description
30	®	See note [1]	Registered mark symbol
31	°		Degree sign
32	½		½
33	¿		Inverse query
34	™	See note [1]	Trademark symbol
35	¢		Cents sign
36	£		Pounds Sterling sign
37	♪		Music note
38	à	A	Lower-case a with grave accent
39			Transparent space
3A	è	E	Lower-case e with grave accent
3B	â	A	Lower-case a with circumflex
3C	ê	E	Lower-case e with circumflex
3D	î	I	Lower-case i with circumflex
3E	ô	O	Lower-case o with circumflex
3F	û	U	Lower-case u with circumflex

[1] NOTE: The registered and trademark symbols are used to satisfy certain legal requirements. There are various legal ways in which these symbols may be drawn or displayed. For example, the trademark symbol may be drawn with the "T" next to the "M" or over the "M". It is preferred that the trademark symbol be superscripted, *i.e.*, XYZ™. It is left to each individual manufacturer to interpret these symbols in any way that meets the legal needs of the user.

Standard characters

HEX	Example	Alternate	Description
20			Standard space
21	!		Exclamation mark
22	"		Quotation mark
23	#		Pounds (number) sign
24	$		Dollar sign
25	%		Percentage sign
26	&		Ampersand
27	'		Apostrophe
28	(		Open parentheses
29	)		Close parentheses
2A	á	A	Lower-case a with acute accent
2B	+		Plus sign
2C	,		Comma
2D	–		Minus (hyphen) sign
2E	.		Period
2F	/		Slash
30	0		Zero
31	1		One
32	2		Two
33	3		Three
34	4		Four
35	5		Five
36	6		Six
37	7		Seven
38	8		Eight
39	9		Nine
3A	:		Colon
3B	;		Semi-colon
3C	<		Less than sign
3D	=		Equal sign
3E	>		Greater than sign
3F	?		Question mark
40	@		At sign
41	A		Upper-case A
42	B		Upper-case B
43	C		Upper-case C
44	D		Upper-case D
45	E		Upper-case E
46	F		Upper-case F
47	G		Upper-case G
48	H		Upper-case H
49	I		Upper-case I
4A	J		Upper-case J
4B	K		Upper-case K
4C	L		Upper-case L
4D	M		Upper-case M
4E	N		Upper-case N
4F	O		Upper-case O
50	P		Upper-case P
51	Q		Upper-case Q
52	R		Upper-case R
53	S		Upper-case S
54	T		Upper-case T
55	U		Upper-case U
56	V		Upper-case V
57	W		Upper-case W
58	X		Upper-case X
59	Y		Upper-case Y
5A	Z		Upper-case Z
5B	[		Open bracket
5C	é	E	Lower-case e with acute accent
5D	]		Close bracket
5E	í	I	Lower-case i with acute accent
5F	ó	O	Lower-case o with acute accent
60	ú	U	Lower-case u with acute accent
61	a	A	Lower-case a
62	b	B	Lower-case b
63	c	C	Lower-case c
64	d	D	Lower-case d
65	e	E	Lower-case e
66	f	F	Lower-case f
67	g	G	Lower-case g
68	h	H	Lower-case h
69	i	I	Lower-case i
6A	j	J	Lower-case j
6B	k	K	Lower-case k
6C	l	L	Lower-case l
6D	m	M	Lower-case m
6E	n	N	Lower-case n
6F	o	O	Lower-case o
70	p	P	Lower-case p
71	q	Q	Lower-case q
72	r	R	Lower-case r
73	s	S	Lower-case s
74	t	T	Lower-case t
75	u	U	Lower-case u
76	v	V	Lower-case v
77	w	W	Lower-case w
78	x	X	Lower-case x
79	y	Y	Lower-case y
7A	z	Z	Lower-case z
7B	ç	C	Lower-case c with cedilla
7C	÷		Division sign
7D	Ñ		Upper-case N with tilde
7E	ñ	Ñ	Lower-case n with tilde
7F	■		Solid block

(h) *Character Attributes*—(1) *Transmission of Attributes.* A character may be transmitted with any or all of four attributes: Color, italics, underline, and flash. All of these attributes are set by control codes included in the received data. An attribute will remain in effect until changed by another control code or until the end of the row is reached. Each row begins with a control code which sets the color and underline attributes. (White non-underlined is the default display attribute if

no Preamble Address Code is received before the first character on an empty row.) Attributes are not affected by transparent spaces within a row.

(i) All Mid-Row Codes and the Flash On command are spacing attributes which appear in the display just as if a standard space (20h) had been received. Preamble Address Codes are non-spacing and will not alter any attributes when used to position the cursor in the midst of a row of characters.

(ii) The color attribute has the highest priority and can only be changed by the Mid-Row Code of another color. Italics has the next highest priority. If characters with both color and italics are desired, the italics Mid-Row Code must follow the color assignment. Any color Mid-Row Code will turn off italics. If the least significant bit of a Preamble Address Code or of a color or italics Mid-Row Code is a 1 (high), underlining is turned on. If that bit is a 0 (low), underlining is off.

(iii) The flash attribute is transmitted as a Miscellaneous Control Code. The Flash On command will not alter the status of the color, italics, or underline attributes. However, any color or italics Mid-Row Code will turn off flash.

(iv) Thus, for example, if a red, italicized, underlined, flashing character is desired, the attributes must be received in the following order: a red Mid-Row or Preamble Address Code, an italics Mid-Row Code with underline bit, and the Flash On command. The character will then be preceded by three spaces (two if red was assigned via a Preamble Address Code).

(2) *Display of attributes.* The underline attribute will be displayed by drawing a line beneath the character in the same color as the character. The flash attribute will be displayed by causing the character to blink from the display at least once per second. The italic attribute must be capable of being displayed by either a special italic font, or by the modification of the standard font by slanting. The user may be given the option to select other methods of italic display as well. The support of the color attributes is optional. If the color attributes are supported, they will be displayed in the color they have been assigned. If color attributes are not supported, the display may be in color, but all color changes will be ignored.

(i) *Control codes.* There are three different types of control codes used to identify the format, location, attributes, and display of characters: Preamble Address Codes, Mid-Row Codes, and Miscellaneous Control Codes.

(1) Each control code consists of a pair of bytes which are always transmitted together in a single field of line 21 and which are normally transmitted twice in succession to help insure correct reception of the control instructions. The first of the control code bytes is a non-printing character in the range 10h to 1Fh. The second byte is always a printing character in the range 20h to 7Fh. Any such control code pair received which has not been assigned a function is ignored. If the non-printing character in the pair is in the range 00h to 0Fh, that character alone will be ignored and the second character will be treated normally.

(2) If the second byte of a control code pair does not contain odd parity (see paragraph (j) of this section), then the pair is ignored. The redundant transmission of the pair will be the instruction upon which the receiver acts.

(3) If the first byte of the first transmission of a control code pair fails the parity check, then that byte is inserted into the currently active memory as a solid block character (7Fh) followed by whatever the second byte is. Again, the redundant transmission of the pair will be the controlling instruction.

(4) If the first transmission of a control code pair passes parity, it is acted upon within one video frame. If the next frame contains a perfect repeat of the same pair, the redundant code is ignored. If, however, the next frame contains a different but also valid control code pair, this pair, too, will be acted upon (and the receiver will expect a repeat of this second pair in the next frame). If the first byte of the expected redundant control code pair fails the parity check and the second byte is identical to the second byte in the immediately preceding pair, then the expected redundant code is ignored. If there are printing characters in place

of the redundant code, they will be processed normally.

(5) There is provision for decoding a second data channel. The second data channel is encoded with the same control codes and procedures already described. The first byte of every control code pair indicates the data channel (C1/C2) to which the command applies. Control codes which do not match the data channel selected by the user, and all subsequent data related to that control code, are ignored by the receiver.

MID-ROW CODES

Data channel 1	Data channel 2	Attribute description
11 20	19 20	White.
11 21	19 21	White Underline.
11 22	19 22	Green.
11 23	19 23	Green Underline.
11 24	19 24	Blue.
11 25	19 25	Blue Underline.
11 26	19 26	Cyan.
11 27	19 27	Cyan Underline.
11 28	19 28	Red.
11 29	19 29	Red Underline.
11 2A	19 2A	Yellow.
11 2B	19 2B	Yellow Underline.
11 2C	19 2C	Magenta.
11 2D	19 2D	Magenta Underline.

MID-ROW CODES—Continued

Data channel 1	Data channel 2	Attribute description
11 2E	19 2E	Italics.
11 2F	19 2F	Italics Underline.

MISCELLANEOUS CONTROL CODES

Data channel 1	Data channel 2	Mnemonic	Command description
14 20	1C 20	RCL	Resume caption loading.
14 21	1C 21	BS ...	Backspace.
14 22	1C 22	AOF	Reserved (formerly Alarm Off).
14 23	1C 23	AON	Reserved (formerly Alarm On).
14 24	1C 24	DER	Delete to End of Row.
14 25	1C 25	RU2	Roll-Up Captions–2 Rows.
14 26	1C 26	RU3	Roll-Up Captions–3 Rows.
14 27	1C 27	RU4	Roll-Up Captions–4 Rows.
14 28	1C 28	FON	Flash On.
14 29	1C 29	RDC	Resume Direct Captioning.
14 2A	1C 2A	TR ...	Text Restart.
14 2B	1C 2B	RTD	Resume Text Display.
14 2C	1C 2C	EDM	Erase Displayed Memory.
14 2D	1C 2D	CR ...	Carriage Return.
14 2E	1C 2E	ENM	Erase Non-Displayed Memory.
14 2F	1C 2F	EOC	End of Caption (Flip Memories).
17 21	1F 21	TO1	Tab Offset 1 Column.
17 22	1F 22	TO2	Tab Offset 2 Columns.
17 23	1F 23	TO3	Tab Offset 3 Columns.

PREAMBLE ADDRESS CODES

	Row 1	Row 2	Row 3	Row 4	Row 5	Row 6	Row 7	Row 8	Row 9	Row 10	Row 11	Row 12	Row 13	Row 14	Row 15
First byte of code pair:															
Data Channel 1	11	11	12	12	15	15	16	16	17	17	10	13	13	14	14
Data Channel 2	19	19	1A	1A	1D	1D	1E	1E	1F	1F	18	1B	1B	1C	1C
Second byte of code pair:															
White	40	60	40	60	40	60	40	60	40	60	40	40	60	40	60
White Underline	41	61	41	61	41	61	41	61	41	61	41	41	61	41	61
Green	42	62	42	62	42	62	42	62	42	62	42	42	62	42	62
Green Underline	43	63	43	63	43	63	43	63	43	63	43	43	63	43	63
Blue	44	64	44	64	44	64	44	64	44	64	44	44	64	44	64
Blue Underline	45	65	45	65	45	65	45	65	45	65	45	45	65	45	65
Cyan	46	66	46	66	46	66	46	66	46	66	46	46	66	46	66
Cyan Underline	47	67	47	67	47	67	47	67	47	67	47	47	67	47	67
Red	48	68	48	68	48	68	48	68	48	68	48	48	68	48	68
Red Underline	49	69	49	69	49	69	49	69	49	69	49	49	69	49	69
Yellow	4A	6A	4A	6A	4A	6A	4A	6A	4A	6A	4A	4A	6A	4A	6A
Yellow Underline	4B	6B	4B	6B	4B	6B	4B	6B	4B	6B	4B	4B	68	4B	6B
Magenta	4C	6C	4C	6C	4C	6C	4C	6C	4C	6C	4C	4C	6C	4C	6C
Magenta Underline	4D	6D	4D	6D	4D	6D	4D	6D	4D	6D	4D	4D	6D	4D	6D
White Italics	4E	6E	4E	6E	4E	6E	4E	6E	4E	6E	4E	4E	6E	4E	6E
White Italics Underline	4F	6F	4F	6F	4F	6F	4F	6F	4F	6F	4F	4F	6F	4F	6F
Indent 0	50	70	50	70	50	70	50	70	50	70	50	50	70	50	70
Indent 0 Underline	51	71	51	71	51	71	51	71	51	71	51	51	71	51	71
Indent 4	52	72	52	72	52	72	52	72	52	72	52	52	72	52	72
Indent 4 Underline	53	73	53	73	53	73	53	73	53	73	53	53	73	53	73
Indent 8	54	74	54	74	54	74	54	74	54	74	54	54	74	54	74
Indent 8 Underline	55	75	55	75	55	75	55	75	55	75	55	55	75	55	75
Indent 12	56	76	56	76	56	76	56	76	56	76	56	56	76	56	76
Indent 12 Underline	57	77	57	77	57	77	57	77	57	77	57	57	77	57	77
Indent 16	58	78	58	78	58	78	58	78	58	78	58	58	78	58	78
Indent 16 Underline	59	79	59	79	59	79	59	79	59	79	59	59	79	59	79
Indent 20	5A	7A	5A	7A	5A	7A	5A	7A	5A	7A	5A	5A	7A	5A	7A

PREAMBLE ADDRESS CODES—Continued

	Row 1	Row 2	Row 3	Row 4	Row 5	Row 6	Row 7	Row 8	Row 9	Row 10	Row 11	Row 12	Row 13	Row 14	Row 15
Indent 20 Underline	5B	7B	5B	7B	5B	7B	5B	7B	5B	7B	5B	5B	7B	5B	7B
Indent 24	5C	7C	5C	7C	5C	7C	5C	7C	5C	7C	5C	5C	7C	5C	7C
Indent 24 Underline	5D	7D	5D	7D	5D	7D	5D	7D	5D	7D	5D	5D	7D	5D	7D
Indent 28	5E	7E	5E	7E	5E	7E	5E	7E	5E	7E	5E	5E	7E	5E	7E
Indent 28 Underline	5F	7F	5F	7F	5F	7F	5F	7F	5F	7F	5F	5F	7F	5F	7F

NOTE: All indent codes (second byte equals 50h–5fh, 70th–7fh) assign white as the color attribute.

(j) *Data rejection*. The receiver should provide an effective procedure to verify data. A receiver will reject data if the data is invalid, or if the data is directed to the data channel or field not selected by the user. Invalid data is any data that fails to pass a check for odd parity, or which, having passed the parity check, is assigned no function.

(1) If a print character fails to pass a check for parity, a solid block (7Fh) should be displayed in place of the failed character. In addition, valid data can be corrupted in many ways and may not be suitable for display. For example, repeated fields, skipped fields and altered field sequences are all possible from consumer video equipment and might present meaningless captions.

(2) The receiver will ignore data rejected due to being directed to a deselected field or channel. However, this will not cause the display to be disabled.

(k) *Automatic display enable/disable*. The receiver shall provide an automatic enable/disable capability to prevent the display of invalid or incomplete data, when the user selects the Caption Mode. The display should automatically become enable after the receiver verifies the data as described in paragraph (j) of this section. The display will be automatically disabled when there is a sustained detection of invalid data. The display will be re-enabled when the data verification process has been satisfied once again.

(l) *Compatibility with Cable Security Systems*. Certain cable television security techniques, such as signal encryption and copy protection, can alter the television signal so that some methods of finding line 21 will not work. In particular, counting of lines or timing from the start of the vertical blanking interval may cause problems. Caption decoding circuitry must function properly when receiving signals from cable security systems that were designed and marketed prior to April 5, 1991. Further information concerning such systems is available from the National Cable Television Association, Inc., Washington, DC, and from the Electronic Industries Association, Washington, DC.

(m) [Reserved]

(n) *Glossary of terms*. The following terms are used to describe caption decoder specifications:

(1) *Base row:* The bottom row of a roll-up display. The cursor always remains on the base row. Rows of text roll upwards into the contiguous rows immediately above the base row.

(2) *Box:* The area surrounding the active character display. In Text Mode, the box is the entire screen area defined for display, whether or not displayable characters appear. In Caption Mode, the box is dynamically redefined by each caption and each element of displayable characters within a caption. The box (or boxes, in the case of a multiple-element caption) includes all the cells of the displayed characters, the non-transparent spaces between them, and one cell at the beginning and end of each row within a caption element in those decoders that use a solid space to improve legibility.

(3) *Caption window:* The invisible rectangle which defines the top and bottom limits of a roll-up caption. The window can be 2 to 4 rows high. The lowest row of the window is called the base row.

(4) *Cell:* The discrete screen area in which each displayable character or space may appear. A cell is one row high and one column wide.

(5) *Column:* One of 32 vertical divisions of the screen, each of equal width, extending approximately across

the full width of the safe caption area as defined in paragraph (n)(12) of this section. Two additional columns, one at the left of the screen and one at the right, may be defined for the appearance of a box in those decoders which use a solid space to improve legibility, but no displayable characters may appear in those additional columns. For reference, columns may be numbered 0 to 33, with columns 1 to 32 reserved for displayable characters.

(6) *Displayable character:* Any letter, number or symbol which is defined for on-screen display, plus the 20h space.

(7) *Display disable:* To turn off the display of captions or text (and accompanying background) at the receiver, rather than through codes transmitted on line 21 which unconditionally erase the display. The receiver may disable the display because the user selects an alternate mode, e.g., TV Mode, or because no valid line 21 data is present.

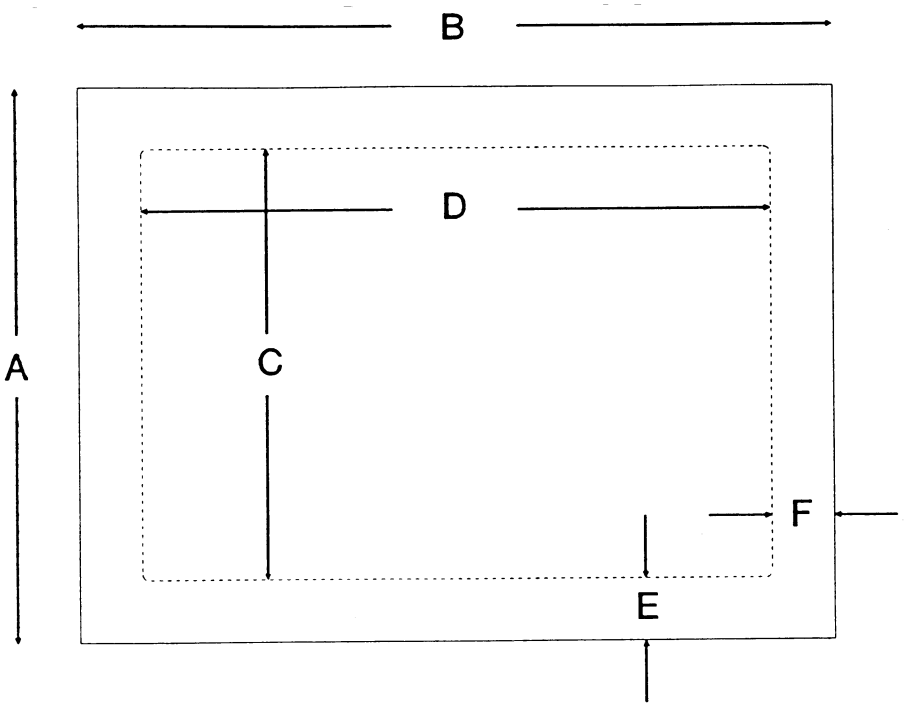
(8) *Display enable:* To allow the display of captions or text when they are transmitted on line 21 and received as valid data. For display to be enabled, the user must have selected Caption Mode or Text Mode, and valid data for the selected mode must be present on line 21.

(9) *Element:* In a pop-on or paint-on style caption, each contiguous area of cells containing displayable characters and non-transparent spaces between those characters. A single caption may have multiple elements. An element is not necessarily a perfect rectangle, but may include rows of differing widths.

(10) *Erase Display:* In Caption Mode, to clear the screen of all characters (and accompanying background) in response to codes transmitted on line 21. (The caption service provider can accomplish the erasure either by sending an Erase Displayed Memory command or by sending an Erase Non-Displayed Memory command followed by an End of Caption command, effectively making a blank caption ''appear''.) Display can also be erased by the receiver when the caption memory erasure conditions are met, such as the user changing TV channels.

(11) *Row:* One of 15 horizontal divisions of the screen, extending across the full height of the safe caption area as defined in paragraph (n)(12) of this section.

(12) *Safe caption area:* The area of the television picture within which captioning and text shall be displayed to ensure visibility of the information on the majority of home television receivers. The safe caption area is specified as shown in the following figure:



The dimensions of the above figure shall be as follows:

Label	Dimensions	Percent of television picture height
A	Television picture height	100.0
B	Television picture width	133.33
C	Height of safe caption area	80.0
D	Width of safe caption area	106.67
E	Vertical position of safe caption area.	10.0
F	Horizontal position of safe caption area.	13.33

(13) *Special characters:* Displayable characters (except for ''transparent space'') which require a two-byte sequence of one non-printing and one printing character. The non-printing byte varies depending on the data channel. Regular characters require unique one-byte codes which are the same in either data channel.

(14) *Text:* When written with an upper-case ''T'', refers to the Text Mode. When written with a lower-case ''t'', refers to any combination of displayable characters.

(15) *Transparent space:* Transmitted as a special character, it is a one-column-wide space behind which program video is always visible (except when a transparent space immediately precedes or follows a displayable character and solid box is needed to make that character legible).

[56 FR 27201, June 13, 1991, as amended at 57 FR 19094, May 4, 1992; 58 FR 44893, Aug. 25, 1993. Redesignated and amended at 77 FR 19515, 19518, Mar. 30, 2012; 78 FR 39627, July 2, 2013; 78 FR 77251, Dec. 20, 2013]

§ 79.102 Closed caption decoder requirements for digital television receivers and converter boxes.

(a)(1) Effective July 1, 2002, all digital television receivers with picture screens in the 4:3 aspect ratio with picture screens measuring 13 inches or larger diagonally, all digital television receivers with picture screens in the 16:9 aspect ratio measuring 7.8 inches or larger vertically and all separately sold DTV tuners shipped in interstate

commerce or manufactured in the United States shall comply with the provisions of this section.

NOTE TO PARAGRAPH (a)(1): This paragraph places no restrictions on the shipping or sale of digital television receivers that were manufactured before July 1, 2002.

(2) Effective July 1, 2002, DTV converter boxes that allow digitally transmitted television signals to be displayed on analog receivers shall pass available analog caption information to the attached receiver in a form recognizable by that receiver's built-in caption decoder circuitry.

NOTE TO PARAGRAPH (a)(2): This paragraph places no restrictions on the shipping or sale of DTV converter boxes that were manufactured before July 1, 2002.

(3) Effective January 1, 2014, all digital television receivers and all separately sold DTV tuners shipped in interstate commerce or manufactured in the United States shall comply with the provisions of this section, if technically feasible, except that digital television receivers that use a picture screens less than 13 inches in size must comply with the provisions of this section only if doing so is achievable pursuant to §79.103(b)(3).

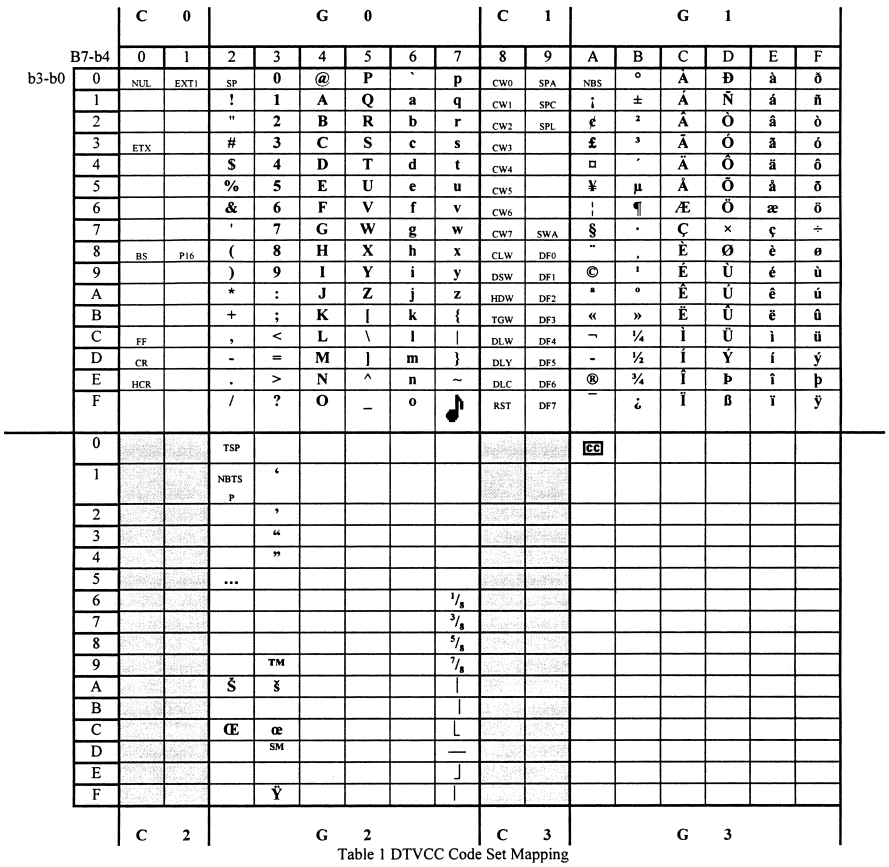
NOTE TO PARAGRAPH (a)(3): This paragraph places no restrictions on the importing, shipping, or sale of digital television receivers and separately sold DTV tuners that were manufactured before January 1, 2014.

(b) Digital television receivers and tuners must be capable of decoding closed captioning information that is delivered pursuant to EIA–708–B: ''Digital Television (DTV) Closed Captioning'' (incorporated by reference, *see* §79.100).

(c) *Services.* (1) Decoders must be capable of decoding and processing data for the six standard services, Caption Service #1 through Caption Service #6.

(2) Decoders that rely on Program and System Information Protocol data to implement closed captioning functions must be capable of decoding and processing the Caption Service Directory data. Such decoders must be capable of decoding all Caption Channel Block Headers consisting of Standard Service Headers, Extended Service Block Headers, and Null Block headers. However, decoding of the data is required only for Standard Service Blocks (Service IDs <-6), and then only if the characters for the corresponding language are supported. The decoders must be able to display the directory for services 1 through 6.

(d) *Code space organization.* (1) Decoders must support Code Space C0, G0, C1, and G1 in their entirety.



	C 0		G 0						C 1		G 1					
B7-b4	0	1	2	3	4	5	6	7	8	9	A	B	C	D	E	F
b3-b0 0	NUL	EXT1	SP	0	@	P	`	p	CW0	SPA	NBS	°	À	Ð	à	ð
1			!	1	A	Q	a	q	CW1	SPC	¡	±	Á	Ñ	á	ñ
2			"	2	B	R	b	r	CW2	SPL	¢	²	Â	Ò	â	ò
3	ETX		#	3	C	S	c	s	CW3		£	³	Ã	Ó	ã	ó
4			$	4	D	T	d	t	CW4		¤	´	Ä	Ô	ä	ô
5			%	5	E	U	e	u	CW5		¥	µ	Å	Õ	å	õ
6			&	6	F	V	f	v	CW6		¦	¶	Æ	Ö	æ	ö
7			'	7	G	W	g	w	CW7	SWA	§	·	Ç	×	ç	÷
8	BS	P16	(	8	H	X	h	x	CLW	DF0	¨	¸	È	Ø	è	ø
9			)	9	I	Y	i	y	DSW	DF1	©	¹	É	Ù	é	ù
A			*	:	J	Z	j	z	HDW	DF2	ª	º	Ê	Ú	ê	ú
B			+	;	K	[	k	{	TGW	DF3	«	»	Ë	Û	ë	û
C	FF		,	<	L	\	l	|	DLW	DF4	¬	¼	Ì	Ü	ì	ü
D	CR		-	=	M	]	m	}	DLY	DF5	-	½	Í	Ý	í	ý
E	HCR		.	>	N	^	n	~	DLC	DF6	®	¾	Î	Þ	î	þ
F			/	?	O	_	o	♪	RST	DF7	¯	¿	Ï	ß	ï	ÿ
0			TSP								CC					
1			NBTSP	‘												
2				’												
3				“												
4				”												
5			…													
6								1/8								
7								3/8								
8								5/8								
9				™				7/8								
A			Š	š				▕								
B								▏								
C			Œ	œ				⎣								
D				SM				—								
E								⎦								
F				Ÿ				▕								
	C 2		G 2						C 3		G 3					

Table 1 DTVCC Code Set Mapping

(2) The following characters within code space G2 must be supported:

(i) Transparent space (TSP).

(ii) Non-breaking transparent space (NBTSP).

(iii) Solid block ( ).

(iv) Trademark symbol (™).

(v) Latin-1 characters Š, Œ, š, œ, Ÿ.

(3) The substitutions in Table 2 are to be made if a decoder does not support the remaining G2 characters.

TABLE 2—G2 CHARACTER SUBSTITUTION TABLE

G2 Character	Substitute with
Open single quote (‘), G2 char code 0 × 31.	G0 single quote (’), char code 0 × 27
Close single quote (’), G2 char code 0 × 32.	G0 single quote (’), char code 0 × 27
Open double quote (“), G2 char code 0 × 33.	G0 double quote (“), char code 0 × 22
Close double quote (”), G2 char code 0 × 34.	G0 double quote (”), char code 0 × 22
Bold bullet (•), G2 char code 0 × 35.	G1 bullet (•), char code 0 × B7
Elipsis (. . .), G2 char code 0 × 25.	G0 underscore (_), char code 0 × 5F
One-eighth (⅛), G2 char code 0 × 76.	G0 percent sign (%), char code 0 × 25
Three-eighths (⅜), G2 char code 0 × 77.	G0 percent sign (%), char code 0 × 25

TABLE 2—G2 CHARACTER SUBSTITUTION TABLE—Continued

G2 Character	Substitute with
Five-eighths (⅝), G2 char code 0 × 78.	G0 percent sign (%), char code 0 × 25
Seven-eighths (⅞), G2 char code 0 × 79.	G0 percent sign (%), char code 0 × 25
Vertical border (|), G2 char code 0 × 7A.	G0 stroke (|), char code 0 × 7C
Upper-right border (⎕), G2 char code 0 × 7B.	G0 dash (-), char code 0 × 2D
Lower-left border (⎕), G2 char code 0 × 7C.	G0 dash (-), char code 0 × 2D
Horizontal border (—), G2 char code 0 × 7D.	G0 dash (-), char code 0 × 2D
Lower-right border (⎕), G2 char code 0 × 7E.	G0 dash (-), char code 0 × 2D
Upper-left border (⎕), G2 char code 0 × 7F.	G0 dash (-), char code 0 × 2D

(4) Support for code spaces C2, C3, and G3 is optional. All unsupported graphic symbols in the G3 code space are to be substituted with the G0 underscore character (_), char code 0 × 5F.

(e) *Screen coordinates.* Table 3 specifies the screen coordinate resolutions and limits for anchor point positioning in 4:3 and 16:9 display formats, and the number of characters per row.

TABLE 3—SCREEN COORDINATE RESOLUTIONS AND LIMITS

Screen aspect ratio	Maximum anchor position resolution	Minimum anchor position resolution	Maximum displayed rows	Maximum characters per row
4:3	75v × 160h	15v × 32h	4	32
16:9	75v × 210h	15v × 42h	4	42
Other	75v × (5 × H)	15v × H*	4	[1]

[1] H = 32 × (the width of the screen in relation to a 4:3 display). For example, the 16:9 format is ⅓ wider than a 4:3 display; thus, H = 32 * 4/3 = 42.667, or 42.

(1) This means that the minimum grid resolution for a 4:3 aspect ratio instrument is 15 vertical positions × 32 horizontal positions. This minimum grid resolution for 16:9 ratio instrument is 15 vertical positions × 42 horizontal positions. These minimum grid sizes are to cover the entire safe-title area of the corresponding screen.

(2) The minimum coordinates equate to a ⅕ reduction in the maximum horizontal and vertical grid resolution coordinates. Caption providers are to use the maximum coordinate system values when specifying anchor point positions. Decoders using the minimum resolution are to divide the provided horizontal and vertical screen coordinates by 5 to derive the equivalent minimum coordinates.

(3) Any caption targeted for both 4:3 and 16:9 instruments is limited to 32 contiguous characters per row. If a caption is received by a 4:3 instrument that is targeted for a 16:9 display only, or requires a window width greater than 32 characters, then the caption may be completely disregarded by the decoder. 16:9 instruments should be able to process and display captions intended for 4:3 displays, providing all other minimum recommendations are met.

(4) If the resulting size of any window is larger than the safe title area for the corresponding display's aspect ratio, then this window will be completely disregarded.

(f) *Caption windows.* (1) Decoders need to display no more than 4 rows of captions on the screen at any given time, regardless of the number of windows displayed. This implies that no more than 4 windows can be displayed at any given time (with each having only one caption row). However, decoders should maintain storage to support a minimum total of 8 rows of captions. This storage is needed for the worst-case support of a displayed window with 4 rows of captioning and a non-displayed window which is buffering the incoming rows for the next 4-row caption. As implied above, the maximum number of windows that may be displayed at any one time by a minimum decoder implementation is 4. If more than 4 windows are defined in the caption

stream, the decoder may disregard the youngest and lowest priority window definition(s). Caption providers must be aware of this limitation, and either restrict the total number of windows used or accept that some windows will not be displayed.

(2) Decoders do not need to support overlapped windows. If a window overlaps another window, the overlapped window need not be displayed by the decoder.

(3) At a minimum, decoders will assume that all windows have rows and columns ''locked''. This implies that if a decoder implements the SMALL pen size, then word-''un''wrapping, when shrinking captions, need not be implemented. Also, if a decoder implements the LARGE pen size, then word wrapping (when enlarging captions) need not be implemented.

(4) Whenever possible, the receiver should render embedded carriage returns as line breaks, since these carriage returns indicate an important aspect of the caption's formatting as determined by the service provider. However, it may sometimes be necessary for the receiver to ignore embedded line breaks. For example, if a caption is to appear in a larger font, and if its window's rows and/or columns are unlocked, the rows of text may need to become longer or shorter to fit within the allocated space. Such automatic reformatting of a caption is known as ''word wrap.'' If decoders support word-wrapping, it must be implemented as follows:

(i) The receiver should follow standard typographic practice when implementing word wrap. Potential breaking points (word-wrapping points) are indicated by the space character (20h) and by the hyphen character (2Dh).

(ii) If a row is to be broken at a space, the receiver should remove the space from the caption display. If a row is to be broken after a hyphen, the hyphen should be retained.

(iii) If an embedded return is to be removed, it should usually be replaced with a space. However, if the character to the left of the embedded return is a hyphen, the embedded return should be removed but NOT replaced with a space.

(iv) This specification does not include optional hyphens, nor does it provide for any form of automatic hyphenation. No non-breaking hyphen is defined. The non-breaking space (A0h in the G1 code set) and the non-breaking transparent space (21h in the G2 code set) should not be considered as potential line breaks.

(v) If a single word exceeds the length of a row, the word should be placed at the start of a new row, broken at the character following the last character that fits on the row, and continued with further breaks if needed.

(g) *Window text painting.* (1) All decoders should implement ''left'', ''right'', and ''center'' caption-text justification. Implementation of ''full'' justification is optional. If ''full'' justification is not implemented, fully justified captions should be treated as though they are ''left'' justified.

(i) For ''left'' justification, decoders should display any portion of a received row of text when it is received. For ''center'', ''right'', and ''full'' justification, decoders may display any portion of a received row of text when it is received, or may delay display of a received row of text until reception of a row completion indicator. A row completion indicator is defined as receipt of a CR, ETX or any other command, except SetPenColor, SetPenAttributes, or SetPenLocation where the pen relocation is within the same row.

(ii) Receipt of a character for a displayed row which already contains text with ''center'', ''right'' or ''full'' justification will cause the row to be cleared prior to the display of the newly received character and any subsequent characters. Receipt of a justification command which changes the last received justification for a given window will cause the window to be cleared.

(2) At a minimum, decoders must support LEFT__TO__RIGHT printing.

(3) At a minimum, decoders must support BOTTOM__TO__TOP scrolling. For windows sharing the same horizontal scan lines on the display, scrolling may be disabled.

(4) At a minimum, decoders must support the same recommended practices for scroll rate as is provided for NTSC closed-captioning.

(5) At a minimum, decoders must support the same recommended practices for smooth scrolling as is provided for NTSC closed-captioning.

(6) At a minimum, decoders must implement the ''snap'' window display effect. If the window ''fade'' and ''wipe'' effects are not implemented, then the decoder will ''snap'' all windows when they are to be displayed, and the ''effect speed'' parameter is ignored.

(h) *Window colors and borders.* At a minimum, decoders must implement borderless windows with solid, black backgrounds (*i.e.*, border type = NONE, fill color = (0,0,0), fill opacity = SOLID), and borderless transparent windows (*i.e.*, border type = NONE, fill opacity = TRANSPARENT).

(i) *Predefined window and pen styles.* Predefined Window Style and Pen Style ID's may be provided in the DefineWindow command. At a minimum, decoders should implement Predefined Window Attribute Style 1 and Predefined Pen Attribute Style 1, as shown in Table 4 and Table 5, respectively.

TABLE 4—PREDEFINED WINDOW STYLE ID'S

Style ID #	Justify	Print direction	Scroll direction	Word wrap	Display effect	Effect direction	Effect speed	Fill color	Fill opacity	Border type	Border color	Usage
1	Left	Left-to-right	Bottom-to-top.	No	Snap	n/a	n/a	(0,0,0) Black.	Solid	None	n/a	NTSC Style PopUp Captions
2	Left	Left-to-right	Bottom-to-top.	No	Snap	n/a	n/a	n/a	Transparent.	None	n/a	PopUp Captions w/o Black Background
3	Cntr	Left-to-right	Bottom-to-top.	No	Snap	n/a	n/a	(0,0,0) Black.	Solid	None	n/a	NTSC Style Centered PopUp Captions
4	Left	Left-to-right	Bottom-to-top.	Yes	Snap	n/a	n/a	(0,0,0) Black.	Solid	None	n/a	NTSC Style RollUp Captions
5	Left	Left-to-right	Bottom-to-top.	Yes	Snap	n/a	n/a	n/a	Transparent.	None	n/a	RollUp Captions w/o Black Background
6	Cntr	Left-to-right	Bottom-to-top.	Yes	Snap	n/a	n/a	(0,0,0) Black.	Solid	None	n/a	NTSC Style Centered RollUp Captions
7	Left	Top-to-bottom.	Right-to-left	No	Snap	n/a	n/a	(0,0,0) Black.	Solid	None	n/a	Ticker Tape

TABLE 5—PREDEFINED PEN STYLE ID'S

Predefined style ID	Pen size	Font style	Offset	Italics	Underline	Edge type	Foregrnd color	Foregrnd opacity	Backgrnd color	Backgrnd opacity	Edge color	Usage
1	Stndr	0	Normal	No	No	None	(2,2,2) White.	Solid	(0,0,0) Black.	Solid	n/a	Default NTSC Style*

2	Stndr	1	Normal	No	No	None	(2,2,2)	Solid	(0,0,0) White.	Solid	n/a	NTSC Style* Mono w/ Serif
3	Stndr	2	Normal	No	No	None	(2,2,2) White.	Solid	(0,0,0) Black.	Solid	n/a	NTSC Style* Prop w/ Serif
4	Stndr	3	Normal	No	No	None	(2,2,2) White.	Solid	(0,0,0) Black.	Solid	n/a	NTSC Style* Mono w/ o Serif
5	Stndr	4	Normal	No	No	None	(2,2,2) White.	Solid	(0,0,0) Black.	Solid	n/a	NTSC Style* Prop w/o Serif
6	Stndr	3	Normal	No	No	Unifrm	(2,2,2) White.	Solid	n/a	Trans-parent.	(0,0,0) Black.	Mono w/o Serif, Bor-dered Text, No BG
7	Stndr	4	Normal	No	No	Unifrm	(2,2,2) White.	Solid	n/a	Trans-parent.	(0,0,0) Black.	Prop. w/o Serif, Bor-dered Text, No BG

*"NTSC Style"—White Text on Black Background

(j) *Pen size.* (1) Decoders must support the standard, large, and small pen sizes and must allow the caption provider to choose a pen size and allow the viewer to choose an alternative size. The STANDARD pen size should be implemented such that the height of the tallest character in any implemented font is no taller than 1/15 of the height of the safe-title area, and the width of the widest character is no wider than 1/32 of the width of the safe-title area for 4:3 displays and 1/42 of the safe-title area width for 16:9 displays.

(2) The LARGE pen size should be implemented such that the width of the widest character in any implemented font is no wider than 1/32 of the safe-title area for 16:9 displays. This recommendation allows for captions to grow to a LARGE pen size without having to reformat the caption since no caption will have more than 32 characters per row.

(k) *Font styles.* (1) Decoders must support the eight fonts listed below. Caption providers may specify 1 of these 8 font styles to be used to write caption text. The styles specified in the ''font style'' parameter of the SetPenAttributes command are numbered from 0 through 7. The following is a list of the 8 required font styles. For information purposes only, each font style references one or more popular fonts which embody the characteristics of the style:

(i) 0—Default (undefined)

(ii) 1—Monospaced with serifs (similar to Courier)

(iii) 2—Proportionally spaced with serifs (similar to Times New Roman)

(iv) 3—Monospaced without serifs (similar to Helvetica Monospaced)

(v) 4—Proportionally spaced without serifs (similar to Arial and Swiss)

(vi) 5—Casual font type (similar to Dom and Impress)

(vii) 6—Cursive font type (similar to Coronet and Marigold)

(viii) 7—Small capitals (similar to Engravers Gothic)

(2) Font styles may be implemented in any typeface which the decoder manufacturer deems to be a readable rendition of the font style, and need not be in the exact typefaces given in the example above. Decoders must include the ability for consumers to choose among the eight fonts. The decoder must display the font chosen by the caption provider unless the viewer chooses a different font.

(l) *Character offsetting.* Decoders need not implement the character offsetting (*i.e.,* subscript and superscript) pen attributes.

(m) *Pen styles.* At a minimum, decoders must implement normal, italic, and underline pen styles.

(n) *Foreground color and opacity.* (1) At a minimum, decoders must implement transparent, translucent, solid and flashing character foreground type attributes.

(2) At a minimum, decoders must implement the following character foreground colors: white, black, red, green, blue, yellow, magenta and cyan.

(3) Caption providers may specify the color/opacity. Decoders must include the ability for consumers to choose among the color/opacity options. The decoder must display the color/opacity chosen by the caption provider unless the viewer chooses otherwise.

(o) *Background color and opacity.* (1) Decoders must implement the following background colors: white, black, red, green, blue, yellow, magenta and cyan. It is recommended that this background is extended beyond the character foreground to a degree that the foreground is separated from the underlying video by a sufficient number of background pixels to insure the foreground is separated from the background.

(2) Decoders must implement transparent, translucent, solid and flashing background type attributes. Caption providers may specify the color/opacity. Decoders must include the ability for consumers to choose among the color/opacity options. The decoder must display the color/opacity chosen by the caption provider unless the viewer chooses otherwise.

(p) *Character edges.* Decoders must implement separate edge color and type attribute control.

(q) *Color representation.* (1) At a minimum, decoders must support the 8 colors listed in Table 6.

TABLE 6—MINIMUM COLOR LIST TABLE

Color	Red	Green	Blue
Black	0	0	0
White	2	2	2
Red	2	0	0
Green	0	2	0
Blue	0	0	2
Yellow	2	2	0
Magenta	2	0	2
Cyan	0	2	2

(2)(i) When a decoder supporting this Minimum Color List receives an RGB value not in the list, it will map the received value to one of the values in the list via the following algorithm:

(A) All one (1) values are to be changed to 0.

(B) All two (2) values are to remain unchanged.

(C) All three (3) values are to be changed to 2.

(ii) For example, the RGB value (1,2,3) will be mapped to (0,2,2), (3,3,3) will be mapped to (2,2,2) and (1,1,1) will be mapped to (0,0,0).

(3) Table 7 is an alternative minimum color list table supporting 22 colors.

TABLE 7—ALTERNATIVE MINIMUM COLOR LIST TABLE

Color	Red	Green	Blue
Black	0	0	0
Gray	1	1	1
White	2	2	2
Bright White	3	3	3
Dark Red	1	0	0
Red	2	0	0
Bright Red	3	0	0
Dark Green	0	1	0
Green	0	2	0
Bright Green	0	3	0
Dark Blue	0	0	1
Blue	0	0	2
Bright Blue	0	0	3
Dark Yellow	1	1	0
Yellow	2	2	0
Bright Yellow	3	3	0
Dark Magenta	1	0	1
Magenta	2	0	2
Bright Magenta	3	0	3
Dark Cyan	0	1	1
Cyan	0	2	2
Bright Cyan	0	3	3

(i) When a decoder supporting the Alternative Minimum Color List in Table 7 receives an RGB value not in the list (*i.e.*, an RGB value whose non-zero elements are not the same value), it will map the received value to one of the values in the list via the following algorithm:

(A) For RGB values with all elements non-zero and different—e.g., (1,2,3), (3,2,1), and (2,1,3), the 1 value will be changed to 0, the 2 value will remain unchanged, and the 3 value will be changed to 2.

(B) For RGB values with all elements non-zero and with two common elements—e.g., (3,1,3), (2,1,2), and (2,2,3), if the common elements are 3 and the uncommon one is 1, then the 1 elements is changed to 0; e.g. (3,1,3) → (3,0,3). If the common elements are 1 and the uncommon element is 3, then the 1 elements are changed to 0, and the 3 element is changed to 2; e.g. (1,3,1) → (0,2,0). In all other cases, the uncommon element is changed to the common value; e.g., (2,2,3) → (2,2,2), (1,2,1) → (1,1,1), and (3,2,3) → (3,3,3).

(ii) All decoders not supporting either one of the two color lists described above, must support the full 64 possible RGB color value combinations.

(r) *Character rendition considerations.* In NTSC Closed Captioning, decoders were required to insert leading and trailing spaces on each caption row. There were two reasons for this requirement:

(1) To provide a buffer so that the first and last characters of a caption row do not fall outside the safe title area, and

(2) To provide a black border on each side of a character so that the ''white'' leading pixels of the first character on a row and the trailing ''white'' pixels of the last character on a row do not bleed into the underlying video.

(i) Since caption windows are required to reside in the safe title area of the DTV screen, reason 1 (above) is not applicable to DTVCC captions.

(ii) The attributes available in the SetPenAttributes command for character rendition (e.g., character background and edge attributes) provide unlimited flexibility to the caption provider when describing caption text in an ideal decoder implementation. However, manufacturers need not implement all pen attributes. Thus it is recommended that no matter what the level of implementation, decoder manufacturers should take into account the readability of all caption text against a variety of all video backgrounds, and should implement some

automatic character delineation when the individual control of character foreground, background and edge is not supported.

(s) *Service synchronization.* Service Input Buffers must be at least 128 bytes in size. Caption providers must keep this lower limit in mind when following Delay commands with other commands and window text. In other words, no more than 128 bytes of DTVCC commands and text should be transmitted (encoded) before a pending Delay command's delay interval expires.

(t) *Settings.* Decoders must include an option that permits a viewer to choose a setting that will display captions as intended by the caption provider (a default). Decoders must also include an option that allows a viewer's chosen settings to remain until the viewer chooses to alter these settings, including periods when the television is turned off.

[65 FR 58471, Sept. 29, 2000, as amended at 69 FR 2849, Jan. 21, 2004. Redesignated and amended at 77 FR 19515, 19518, Mar. 30, 2012; 78 FR 39627, July 2, 2013]

§ 79.103 Closed caption decoder requirements for apparatus.

(a) Effective January 1, 2014, all digital apparatus designed to receive or play back video programming transmitted simultaneously with sound, if such apparatus is manufactured in the United States or imported for use in the United States and uses a picture screen of any size must be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captioned video programming pursuant to the provisions of this section, if technically feasible, except that apparatus that use a picture screen less than 13 inches in size must comply with the provisions of this section only if doing so is achievable as defined in this section.

NOTE 1 TO PARAGRAPH (a): Apparatus includes the physical device and the video player(s) capable of displaying video programming transmitted simultaneously with sound that manufacturers install into the devices they manufacture before sale, whether in the form of hardware, software, or a combination of both, as well as any video players capable of displaying video programming transmitted simultaneously with sound that manufacturers direct consumers to install after sale.

NOTE 2 TO PARAGRAPH (a): This paragraph places no restrictions on the importing, shipping, or sale of apparatus that were manufactured before January 1, 2014.

(b) *Exempt apparatus*—(1) *Display-only monitors.* Apparatus or class of apparatus that are display-only video monitors with no playback capability are not required to comply with the provisions of this section.

(2) *Professional or commercial equipment.* Apparatus or class of apparatus that are professional or commercial equipment not typically used by the public are not required to comply with the provisions of this section.

(3)(i) *Achievable.* Manufacturers of apparatus that use a picture screen of less than 13 inches in size may petition the Commission for a full or partial exemption from the closed captioning requirements of this section pursuant to §1.41 of this chapter, which the Commission may grant upon a finding that the requirements of this section are not achievable, or may assert that such apparatus is fully or partially exempt as a response to a complaint, which the Commission may dismiss upon a finding that the requirements of this section are not achievable.

(ii) The petitioner or respondent must support a petition for exemption or a response to a complaint with sufficient evidence to demonstrate that compliance with the requirements of this section is not ''achievable'' where ''achievable'' means with reasonable effort or expense. The Commission will consider the following factors when determining whether the requirements of this section are not ''achievable:''

(A) The nature and cost of the steps needed to meet the requirements of this section with respect to the specific equipment or service in question;

(B) The technical and economic impact on the operation of the manufacturer or provider and on the operation of the specific equipment or service in question, including on the development and deployment of new communications technologies;

(C) The type of operations of the manufacturer or provider; and

(D) The extent to which the service provider or manufacturer in question

offers accessible services or equipment containing varying degrees of functionality and features, and offered at differing price points.

(4) *Waiver*. Manufacturers of apparatus may petition the Commission for a full or partial waiver of the closed captioning requirements of this section, which the Commission may grant, upon a finding that the apparatus meets one of the following provisions:

(i) The apparatus is primarily designed for activities other than receiving or playing back video programming transmitted simultaneously with sound; or

(ii) The apparatus is designed for multiple purposes, capable of receiving or playing back video programming transmitted simultaneously with sound but whose essential utility is derived from other purposes.

(c) *Specific technical capabilities*. All apparatus subject to this section shall implement the following captioning functionality:

(1) *Presentation*. All apparatus shall implement captioning such that the caption text may be displayed within one or separate caption windows and supporting the following modes: text that appears all at once (pop-on), text that scrolls up as new text appears (roll-up), and text where each new letter or word is displayed as it arrives (paint-on).

(2) *Character color*. All apparatus shall implement captioning such that characters may be displayed in the 64 colors defined in CEA–708 and such that users are provided with the ability to override the authored color for characters and select from a palette of at least 8 colors including: white, black, red, green, blue, yellow, magenta, and cyan.

(3) *Character opacity*. All apparatus shall implement captioning such that users are provided with the ability to vary the opacity of captioned text and select between opaque and semi-transparent opacities.

(4) *Character size*. All apparatus shall implement captioning such that users are provided with the ability to vary the size of captioned text and shall provide a range of such sizes from 50% of the default character size to 200% of the default character size.

(5) *Fonts*. All apparatus shall implement captioning such that fonts are available to implement the eight fonts required by CEA–708 and §79.102(k). Users must be provided with the ability to assign the fonts included on their apparatus as the default font for each of the eight styles contained in §79.102(k).

(6) *Caption background color and opacity*. All apparatus shall implement captioning such that the caption background may be displayed in the 64 colors defined in CEA–708 and such that users are provided with the ability to override the authored color for the caption background and select from a palette of at least 8 colors including: white, black, red, green, blue, yellow, magenta, and cyan. All apparatus shall implement captioning such that users are provided with the ability to vary the opacity of the caption background and select between opaque, semi-transparent, and transparent background opacities.

(7) *Character edge attributes*. All apparatus shall implement captioning such that character edge attributes may be displayed and users are provided the ability to select character edge attributes including: no edge attribute, raised edges, depressed edges, uniform edges, and drop shadowed edges.

(8) *Caption window color*. All apparatus shall implement captioning such that the caption window color may be displayed in the 64 colors defined in CEA–708 and such that users are provided with the ability to override the authored color for the caption window and select from a palette of at least 8 colors including: white, black, red, green, blue, yellow, magenta, and cyan. All apparatus shall implement captioning such that users are provided with the ability to vary the opacity of the caption window and select between opaque, semi-transparent, and transparent background opacities.

(9) *Language*. All apparatus must implement the ability to select between caption tracks in additional languages when such tracks are present and provide the ability for the user to select simplified or reduced captions when such captions are available and identify such a caption track as ''easy reader.''

(10) *Preview and setting retention.* All apparatus must provide the ability for the user to preview default and user selection of the caption features required by this section, and must retain such settings as the default caption configuration until changed by the user.

(11) *Safe Harbor.* Apparatus which implement Society of Motion Picture and Television Engineers Timed Text format (SMPTE ST 2052–1:2010 incorporated by reference, *see* §79.100) with respect to the functionality in paragraphs (c)(1) through (10) of this section shall be deemed in compliance with paragraph (c) of this section.

NOTE TO PARAGRAPH (c): Where video programming providers or distributors subject to §79.4 of this part display or render captions, they shall implement the functional requirements contained in paragraphs (c)(1) through (10) of this section unless doing so is economically burdensome as defined in §79.4(d).

(d) *Interconnection.* All video outputs of covered apparatus shall be capable of conveying from the source device to the consumer equipment the information necessary to permit or render the display of closed captions.

[77 FR 19518, Mar. 30, 2012, as amended at 78 FR 39628, July 2, 2013]

§79.104 Closed caption decoder requirements for recording devices.

(a) Effective January 1, 2014, all apparatus designed to record video programming transmitted simultaneously with sound, if such apparatus is manufactured in the United States or imported for use in the United States, must comply with the provisions of this section except that apparatus must only do so if it is achievable as defined in §79.103(b)(3).

NOTE TO PARAGRAPH (a): This paragraph places no restrictions on the importing, shipping, or sale of apparatus that were manufactured before January 1, 2014.

(b) All apparatus subject to this section must enable the rendering or the pass through of closed captions such that viewers are able to activate and de-activate the closed captions as the video programming is played back as described in §79.103(c).

(c) All apparatus subject to this section must comply with the interconnection mechanism requirements in §79.103(d).

[77 FR 19520, Mar. 30, 2012, as amended at 78 FR 39628, July 2, 2013]

§79.105 Video description and emergency information accessibility requirements for all apparatus.

(a) Effective May 26, 2015, all apparatus that is designed to receive or play back video programming transmitted simultaneously with sound that is provided by entities subject to §§79.2 and 79.3, is manufactured in the United States or imported for use in the United States, and uses a picture screen of any size, must have the capability to decode and make available the secondary audio stream if technically feasible, unless otherwise provided in this section, which will facilitate the following services:

(1) The transmission and delivery of video description services as required by §79.3; and

(2) Emergency information (as that term is defined in §79.2) in a manner that is accessible to individuals who are blind or visually impaired.

NOTE 1 TO PARAGRAPH (a): Apparatus includes the physical device and the video player(s) capable of displaying video programming transmitted simultaneously with sound that manufacturers install into the devices they manufacture before sale, whether in the form of hardware, software, or a combination of both, as well as any video players capable of displaying video programming transmitted simultaneously with sound that manufacturers direct consumers to install after sale.

NOTE 2 TO PARAGRAPH (a): This paragraph places no restrictions on the importing, shipping, or sale of apparatus that were manufactured before May 26, 2015.

(b) *Exempt apparatus*—(1) *Display-only monitors.* Apparatus or class of apparatus that are display-only video monitors with no playback capability are not required to comply with the provisions of this section.

(2) *Professional or commercial equipment.* Apparatus or class of apparatus that are professional or commercial equipment not typically used by the public are not required to comply with the provisions of this section.

(3)(i) *Achievable.* Apparatus that use a picture screen of less than 13 inches in size must comply with the provisions

of this section only if doing so is achievable as defined in this section. Manufacturers of apparatus that use a picture screen of less than 13 inches in size may petition the Commission for a full or partial exemption from the video description and emergency information requirements of this section pursuant to § 1.41 of this chapter, which the Commission may grant upon a finding that the requirements of this section are not achievable, or may assert that such apparatus is fully or partially exempt as a response to a complaint, which the Commission may dismiss upon a finding that the requirements of this section are not achievable.

(ii) The petitioner or respondent must support a petition for exemption or a response to a complaint with sufficient evidence to demonstrate that compliance with the requirements of this section is not ''achievable'' where ''achievable'' means with reasonable effort or expense. The Commission will consider the following factors when determining whether the requirements of this section are not ''achievable:''

(A) The nature and cost of the steps needed to meet the requirements of this section with respect to the specific equipment or service in question;

(B) The technical and economic impact on the operation of the manufacturer or provider and on the operation of the specific equipment or service in question, including on the development and deployment of new communications technologies;

(C) The type of operations of the manufacturer or provider; and

(D) The extent to which the service provider or manufacturer in question offers accessible services or equipment containing varying degrees of functionality and features, and offered at differing price points.

(4) *Waiver.* Manufacturers of apparatus may petition the Commission for a full or partial waiver of the requirements of this section, which the Commission may grant upon a finding that the apparatus meets one of the following provisions:

(i) The apparatus is primarily designed for activities other than receiving or playing back video programming transmitted simultaneously with sound; or

(ii) The apparatus is designed for multiple purposes, capable of receiving or playing back video programming transmitted simultaneously with sound but whose essential utility is derived from other purposes.

(c) *Interconnection.* Covered apparatus shall use interconnection mechanisms that make available the audio provided via a secondary audio stream.

(d) Beginning December 20, 2016, all apparatus subject to this section must provide a simple and easy to use mechanism for activating the secondary audio stream for audible emergency information.

NOTE TO PARAGRAPH (d): This paragraph places no restrictions on the importing, shipping, or sale of navigation devices that were manufactured before December 20, 2016.

[78 FR 31798, May 24, 2013, as amended at 80 FR 39715, July 10, 2015]

§ 79.106 Video description and emergency information accessibility requirements for recording devices.

(a) Effective May 26, 2015, all apparatus that is designed to record video programming transmitted simultaneously with sound that is provided by entities subject to §§ 79.2 and 79.3 and is manufactured in the United States or imported for use in the United States, must comply with the provisions of this section except that apparatus must only do so if it is achievable as defined in § 79.105(b)(3).

NOTE 1 TO PARAGRAPH (a): Apparatus includes the physical device and the video player(s) capable of displaying video programming transmitted simultaneously with sound that manufacturers install into the devices they manufacture before sale, whether in the form of hardware, software, or a combination of both, as well as any video players capable of displaying video programming transmitted simultaneously with sound that manufacturers direct consumers to install after sale.

NOTE 2 TO PARAGRAPH (a): This paragraph places no restrictions on the importing, shipping, or sale of apparatus that were manufactured before May 26, 2015.

(b) All apparatus subject to this section must enable the presentation or the pass through of the secondary audio stream, which will facilitate the provision of video description signals

and emergency information (as that term is defined in § 79.2) such that viewers are able to activate and de-activate the video description as the video programming is played back on a picture screen of any size.

(c) All apparatus subject to this section must comply with the interconnection mechanism requirements in § 79.105(c).

[78 FR 31798, May 24, 2013]

§ 79.107 User interfaces provided by digital apparatus.

(a)(1) A manufacturer of digital apparatus manufactured in or imported for use in the United States and designed to receive or play back video programming transmitted in digital format simultaneously with sound, including apparatus designed to receive or display video programming transmitted in digital format using Internet protocol, must ensure that digital apparatus be designed, developed, and fabricated so that control of appropriate built-in functions included in the digital apparatus are accessible to and usable by individuals who are blind or visually impaired. Digital apparatus do not include navigation devices as defined in § 76.1200 of this chapter. Manufacturers must comply with the provisions of this section only if achievable as defined in § 79.107(c)(2).

NOTE 1 TO PARAGRAPH (a)(1): The term digital apparatus as used in this section includes the physical device and the video player(s) capable of displaying video programming transmitted in digital format simultaneously with sound that manufacturers install into the devices they manufacture before sale, whether in the form of hardware, software, or a combination of both, as well as any video players capable of displaying video programming in digital format transmitted simultaneously with sound that manufacturers direct consumers to install after sale. The term software includes third-party applications that are pre-installed on a device by the manufacturer or that the manufacturer directs consumers to install after sale.

NOTE 2 TO PARAGRAPH (a)(1): This paragraph places no restrictions on the importing, shipping, or sale of digital apparatus manufactured before the applicable compliance deadline for this section.

(2) If on-screen text menus or other visual indicators built in to the digital apparatus are used to access the appropriate built-in apparatus functions, manufacturers of the digital apparatus must ensure that those functions are accompanied by audio output that is either integrated or peripheral to the digital apparatus, so that such menus or indicators are accessible to and usable by individuals who are blind or visually impaired in real time.

(3) For appropriate built-in digital apparatus functions that are not accessed through on screen text menus or other visual indicators, *i.e.*, those that are not required to be accompanied by audio output in accordance with paragraph (a)(2) of this section, manufacturers of digital apparatus must make such functions accessible to individuals who are blind or visually impaired by ensuring that the input, control, and mechanical functions are locatable, identifiable, and operable in accordance with each of the following, assessed independently:

(i) *Operable without vision.* The digital apparatus must provide at least one mode that does not require user vision.

(ii) *Operable with low vision and limited or no hearing.* The digital apparatus must provide at least one mode that permits operation by users with visual acuity between 20/70 and 20/200, without relying on audio output.

(iii) *Operable with little or no color perception.* The digital apparatus must provide at least one mode that does not require user color perception.

(4) Appropriate built-in apparatus functions are those functions that are used for receiving, playing back, or displaying video programming, and include the following functions:

(i) *Power On/Off.* Function that allows the user to turn the device on or off.

(ii) *Volume Adjust and Mute.* Function that allows the user to adjust the volume and to mute or un-mute the volume.

(iii) *Channel/Program Selection.* Function that allows the user to select channels and programs (e.g., via physical numeric or channel up/channel down buttons or via on screen guides and menus).

(iv) *Display Channel/Program Information.* Function that allows the user to display channel or program information.

(v) *Configuration—Setup.* Function that allows the user to access and change configuration or setup options (e.g., configuration of video display and audio settings, selection of preferred language for onscreen guides or menus, etc.).

(vi) *Configuration—CC Control.* Function that allows the user to enable or disable the display of closed captioning.

(vii) *Configuration—CC Options.* Function that allows the user to modify the display of closed caption data (e.g., configuration of the font size, font color, background color, opacity, etc.).

(viii) *Configuration—Video Description Control.* Function that allows the user to enable or disable the output of video description (*i.e.*, allows the user to change from the main audio to the secondary audio stream that contains video description, and from the secondary audio stream back to the main audio).

(ix) *Display Configuration Info.* Function that allows the user to display how user preferences are currently configured.

(x) *Playback Functions.* Function that allows the user to control playback functions (e.g., pause, play, rewind, fast forward, stop, and record).

(xi) *Input Selection.* Function that allows the user to select their preferred input source.

(5) As used in this section, the term ''usable'' shall mean that individuals with disabilities have access to information and documentation on the full functionalities of digital apparatus, including instructions, product information (including accessible feature information), documentation, bills, and technical support which are provided to individuals without disabilities.

(b) *Compliance deadline.* Compliance with the requirements of this section is required no later than December 20, 2016; except that compliance with the requirements of this section is required no later than December 20, 2021 for the following digital apparatus:

(1) Display-only monitors and video projectors;

(2) Devices that are primarily designed to capture and display still and/or moving images consisting of consumer generated media, or of other images that are not video programming as defined under § 79.4(a)(1) of this part, and that have limited capability to display video programming transmitted simultaneously with sound; and

(3) Devices that are primarily designed to display still images and that have limited capability to display video programming transmitted simultaneously with sound.

(c)(1) *Achievable.* Manufacturers of digital apparatus:

(i) May file a petition seeking a determination from the Commission, pursuant to § 1.41 of this chapter, that compliance with the requirements of this section is not achievable, which the Commission may grant upon a finding that such compliance is not achievable, or

(ii) May raise as a defense to a complaint or Commission enforcement action that a particular digital apparatus does not comply with the requirements of this section because compliance was not achievable, and the Commission may dismiss a complaint or Commission enforcement action upon a finding that such compliance is not achievable.

(2) The petitioner or respondent must support a petition filed pursuant to paragraph (c)(1) of this section or a response to a complaint or Commission enforcement action with sufficient evidence to demonstrate that compliance with the requirements of this section is not ''achievable.'' ''Achievable'' means with reasonable effort or expense. The Commission will consider the following factors when determining whether compliance with the requirements of this section is not ''achievable'' under the factors set out in 47 U.S.C. 617(g):

(i) The nature and cost of the steps needed to meet the requirements of this section with respect to the specific equipment or service in question;

(ii) The technical and economic impact on the operation of the manufacturer or provider and on the operation of the specific equipment or service in question, including on the development and deployment of new communications technologies;

(iii) The type of operations of the manufacturer or provider; and

(iv) The extent to which the service provider or manufacturer in question offers accessible services or equipment

containing varying degrees of functionality and features, and offered at differing price points.

(d)(1) *Information, documentation, and training.* Manufacturers of digital apparatus shall ensure access to information and documentation it provides to its customers, if achievable. Such information and documentation includes user guides, bills, installation guides for end-user installable devices, and product support communications, regarding both the product in general and the accessibility features of the product. Manufacturers shall take such other achievable steps as necessary including:

(i) Providing a description of the accessibility and compatibility features of the product upon request, including, as needed, in alternate formats or alternate modes at no additional charge;

(ii) Providing end-user product documentation in alternate formats or alternate modes upon request at no additional charge; and

(iii) Ensuring usable customer support and technical support in the call centers and service centers which support their products at no additional charge.

(2) Manufacturers of digital apparatus shall include in general product information the contact method for obtaining the information required by paragraph (d)(1) of this section.

(3) In developing, or incorporating existing training programs, manufacturers of digital apparatus shall consider the following topics:

(i) Accessibility requirements of individuals with disabilities;

(ii) Means of communicating with individuals with disabilities;

(iii) Commonly used adaptive technology used with the manufacturer's products;

(iv) Designing for accessibility; and

(v) Solutions for accessibility and compatibility.

(e) *Notices.* Digital apparatus manufacturers must notify consumers that digital apparatus with the required accessibility features are available to consumers as follows: A digital apparatus manufacturer must provide notice on its official Web site about the availability of accessible digital apparatus. A digital apparatus manufacturer must prominently display information about accessible digital apparatus on its Web site in a way that makes such information available to all consumers. The notice must publicize the availability of accessible devices and the specific person, office or entity who can answer consumer questions about which products contain the required accessibility features. The contact office or person listed on the Web site must be able to answer both general and specific questions about the availability of accessible equipment, including, if necessary, providing information to consumers or directing consumers to a place where they can locate information about how to activate and use accessibility features. All information required by this section must be provided in a Web site format that is accessible to people with disabilities.

[78 FR 77251, Dec. 20, 2013, as amended at 81 FR 5936, Feb. 4, 2016]

§ 79.108 Video programming guides and menus provided by navigation devices.

(a)(1) Manufacturers that place navigation devices, as defined by § 76.1200 of this chapter, into the chain of commerce for purchase by consumers, and multichannel video programming distributors (''MVPDs'') as defined by § 76.1200 of this chapter that lease or sell such devices must ensure that the on-screen text menus and guides provided by navigation devices for the display or selection of multichannel video programming are audibly accessible in real time upon request by individuals who are blind or visually impaired. Manufacturers and MVPDs must comply with the provisions of this section only if doing so is achievable as defined in § 79.108(c)(2).

NOTE 1 TO PARAGRAPH (a)(1): This paragraph places no restrictions on the importing, shipping, or sale of navigation devices manufactured before the applicable compliance deadline for this section.

NOTE 2 TO PARAGRAPH (a)(1): In determining whether a particular device is considered a ''navigation device'' subject to the requirements of this section, the Commission will look to the device's built-in functionality at the time of manufacture.

(2) The following functions are used for the display or selection of multichannel video programming and must be made audibly accessible by manufacturers of navigation devices and MVPDs covered by this section when included in a navigation device and accessed through on-screen text menus or guides:

(i) *Channel/Program Selection.* Function that allows the user to select channels and programs (e.g., via physical numeric or channel up/channel down buttons or via on screen guides and menus).

(ii) *Display Channel/Program Information.* Function that allows the user to display channel or program information.

(iii) *Configuration—Setup.* Function that allows the user to access and change configuration or setup options (e.g., configuration of video display and audio settings, selection of preferred language for onscreen guides or menus, etc.).

(iv) *Configuration—CC Control.* Function that allows the user to enable or disable the display of closed captioning.

(v) *Configuration—CC Options.* Function that allows the user to modify the display of closed caption data (e.g., configuration of the font size, font color, background color, opacity, etc.).

(vi) *Configuration—Video Description Control.* Function that allows the user to enable or disable the output of video description (*i.e.,* allows the user to change from the main audio to the secondary audio stream that contains video description, and from the secondary audio stream back to the main audio).

(vii) *Display Configuration Info.* Function that allows the user to display how user preferences are currently configured.

(viii) *Playback Functions.* Function that allows the user to control playback functions (e.g., pause, play, rewind, fast forward, stop, and record).

(ix) *Input Selection.* Function that allows the user to select their preferred input source.

(3) Manufacturers of navigation devices and MVPDs covered by this section must ensure that the following functions are made accessible, as defined by §79.107(a)(3), to individuals who are blind or visually impaired:

(i) *Power On/Off.* Function that allows the user to turn the device on or off.

(ii) *Volume Adjust and Mute.* Function that allows the user to adjust the volume and to mute or un-mute the volume.

(4) With respect to navigation device features and functions:

(i) Delivered in software, the requirements set forth in this section shall apply to the manufacturer of such software; and

(ii) Delivered in hardware, the requirements set forth in this section shall apply to the manufacturer of such hardware.

(5) Manufacturers of navigation devices and MVPDs covered by this section must permit a requesting blind or visually impaired individual to request an accessible navigation device through any means that such covered entities generally use to make available navigation devices to other consumers. Any such means must not be more burdensome to a requesting blind or visually impaired individual than the means required for other consumers to obtain navigation devices. A manufacturer that provides navigation devices at retail to requesting blind or visually impaired consumers must make a good faith effort to have retailers make available compliant navigation devices to the same extent they make available navigation devices to other consumers generally.

(6) Manufacturers of navigation devices and MVPDs covered by this section must provide an accessible navigation device to a requesting blind or visually impaired individual within a reasonable time, defined as a time period comparable to the time that such covered entities generally provide navigation devices to other consumers.

(7) *Compliance through the use of separate equipment or software.* Manufacturers of navigation devices and MVPDs covered by this section may comply with the requirements of paragraphs (a)(1) through (a)(3) of this section through the use of software, a peripheral device, specialized consumer premises equipment, a network-based service or other solution, and shall have

maximum flexibility to select the manner of compliance. An entity that chooses to comply with paragraphs (a)(1) through (a)(3) of this section through the use of separate equipment or software must:

(i) Ensure that any software, peripheral device, equipment, service or solution relied upon achieves the accessibility required by this section. If a navigation device has any functions that are required to be made accessible pursuant to this section, any separate solution must make all of those functions accessible or enable the accessibility of those functions.

(ii) Provide any software, peripheral device, equipment, service or solution in a manner that is not more burdensome to a requesting blind or visually impaired individual than the manner in which such entity generally provides navigation devices to other consumers.

(iii) Provide any software, peripheral device, equipment, service or solution at no additional charge.

(iv) Provide any software, peripheral device, equipment, service or solution within a reasonable time, defined as a time period comparable to the time that such entity generally provides navigation devices to other consumers.

(8) Manufacturers of navigation devices and MVPDs covered by this section shall only be responsible for compliance with the requirements of this section with respect to navigation devices that such covered entities provide to a requesting blind or visually impaired individual.

(b) *Compliance deadline.* Compliance with the requirements of this section is required no later than December 20, 2016; except that compliance with the requirements of this section is required no later than December 20, 2018 for the following covered entities:

(1) MVPD operators with 400,000 or fewer subscribers as of year-end 2012; and

(2) MVPD systems with 20,000 or fewer subscribers that are not affiliated with an operator serving more than 10 percent of all MVPD subscribers as of year-end 2012.

(c)(1) *Achievable.* MVPDs and manufacturers of navigation device hardware or software:

(i) May file a petition seeking a determination from the Commission, pursuant to §1.41 of this chapter, that compliance with the requirements of this section is not achievable, which the Commission may grant upon a finding that such compliance is not achievable, or

(ii) May raise as a defense to a complaint or Commission enforcement action that a particular navigation device does not comply with the requirements of this section because compliance was not achievable, and the Commission may dismiss a complaint or Commission enforcement action upon a finding that such compliance is not achievable.

(2) The petitioner or respondent must support a petition filed pursuant to paragraph (c)(1) of this section or a response to a complaint or Commission enforcement action with sufficient evidence to demonstrate that compliance with the requirements of this section is not ''achievable.'' ''Achievable'' means with reasonable effort or expense. The Commission will consider the following factors when determining whether compliance with the requirements of this section is not ''achievable'' under the factors set out in 47 U.S.C. 617(g):

(i) The nature and cost of the steps needed to meet the requirements of this section with respect to the specific equipment or service in question;

(ii) The technical and economic impact on the operation of the manufacturer or provider and on the operation of the specific equipment or service in question, including on the development and deployment of new communications technologies;

(iii) The type of operations of the manufacturer or provider; and

(iv) The extent to which the service provider or manufacturer in question offers accessible services or equipment containing varying degrees of functionality and features, and offered at differing price points.

(d)(1) *MVPD notices.* Covered MVPDs must notify consumers that navigation devices with the required accessibility features are available to consumers who are blind or visually impaired upon request as follows:

(i) When providing information about equipment options in response to a

consumer inquiry about service, accessibility, or other issues, MVPDs must clearly and conspicuously inform consumers about the availability of accessible navigation devices.

(ii) MVPDs must provide notice on their official Web sites about the availability of accessible navigation devices. MVPDs must prominently display information about accessible navigation devices and separate solutions on their Web sites in a way that makes such information available to all current and potential subscribers. The notice must publicize the availability of accessible devices and separate solutions and explain the means for making requests for accessible equipment and the specific person, office or entity to whom such requests are to be made. The contact office or person listed on the Web site must be able to answer both general and specific questions about the availability of accessible equipment, including, if necessary, providing information to consumers or directing consumers to a place where they can locate information about how to activate and use accessibility features. All information required by this section must be provided in a Web site format that is accessible to people with disabilities.

(2) *Manufacturer notices.* Navigation device manufacturers must notify consumers that navigation devices with the required accessibility features are available to consumers who are blind or visually impaired upon request as follows: A navigation device manufacturer must provide notice on its official Web site about the availability of accessible navigation devices. A navigation device manufacturer must prominently display information about accessible navigation devices and separate solutions on its Web site in a way that makes such information available to all consumers. The notice must publicize the availability of accessible devices and separate solutions and explain the means for making requests for accessible equipment and the specific person, office or entity to whom such requests are to be made. The contact office or person listed on the Web site must be able to answer both general and specific questions about the availability of accessible equipment, including, if necessary, providing information to consumers or directing consumers to a place where they can locate information about how to activate and use accessibility features. All information required by this section must be provided in a Web site format that is accessible to people with disabilities.

(e) *Verification of eligibility.* Entities covered by this section may only require consumer verification of eligibility as an individual who is blind or visually impaired to the extent the entity chooses to rely on an accessibility solution that involves providing the consumer with sophisticated equipment and/or services at a price that is lower than that offered to the general public. In this situation, entities covered by this section must allow a consumer to provide a wide array of documentation to verify eligibility for the accessibility solution provided. Entities covered by this section that choose to require verification of eligibility must comply with the requirements of 47 U.S.C. 338(i)(4)(A) and 47 U.S.C. 631(c)(1) to protect personal information gathered from consumers through their verification procedures.

(f)(1) *Information, documentation, and training.* MVPDs and manufacturers of navigation devices shall ensure access to information and documentation it provides to its customers, if achievable. Such information and documentation includes user guides, bills, installation guides for end-user installable devices, and product support communications, regarding both the product in general and the accessibility features of the product. MVPDs and manufacturers of navigation devices shall take such other achievable steps as necessary including:

(i) Providing a description of the accessibility and compatibility features of the product upon request, including, as needed, in alternate formats or alternate modes at no additional charge;

(ii) Providing end-user product documentation in alternate formats or alternate modes upon request at no additional charge; and

(iii) Ensuring usable customer support and technical support in the call

centers and service centers which support their products at no additional charge.

(2) MVPDs and manufacturers of navigation devices shall include in general product information the contact method for obtaining the information required by paragraph (f)(1) of this section.

(3) In developing, or incorporating existing training programs, MVPDs and manufacturers of navigation devices shall consider the following topics:

(i) Accessibility requirements of individuals with disabilities;

(ii) Means of communicating with individuals with disabilities;

(iii) Commonly used adaptive technology used with the manufacturer's products;

(iv) Designing for accessibility; and

(v) Solutions for accessibility and compatibility.

(4) If a consumer with a disability requests an accessible navigation device pursuant to Section 205, this also constitutes a request for a description of the accessibility features of the device and end-user product documentation in accessible formats.

[78 FR 77251, Dec. 20, 2013, as amended at 81 FR 5936, Feb. 4, 2016]

§ 79.109 Activating accessibility features.

(a) *Requirements applicable to digital apparatus.* (1) Manufacturers of digital apparatus designed to receive or play back video programming transmitted in digital format simultaneously with sound, including apparatus designed to receive or display video programming transmitted in digital format using Internet protocol, with built-in closed-captioning capability must ensure that closed captioning can be activated through a mechanism that is reasonably comparable to a button, key, or icon. Digital apparatus do not include navigation devices as defined in § 76.1200 of this chapter.

(2) Manufacturers of digital apparatus designed to receive or play back video programming transmitted in digital format simultaneously with sound, including apparatus designed to receive or display video programming transmitted in digital format using Internet protocol, with built-in video description capability must ensure that video description can be activated through a mechanism that is reasonably comparable to a button, key, or icon. Digital apparatus do not include navigation devices as defined in § 76.1200 of this chapter.

NOTE 1 TO PARAGRAPH (a): The term digital apparatus includes the physical device and the video player(s) capable of displaying video programming transmitted in digital format simultaneously with sound that manufacturers install into the devices they manufacture before sale, whether in the form of hardware, software, or a combination of both, as well as any video players capable of displaying video programming in digital format transmitted simultaneously with sound that manufacturers direct consumers to install after sale. The term software includes third-party applications that are pre-installed on a device by the manufacturer or that the manufacturer directs consumers to install after sale.

NOTE 2 TO PARAGRAPH (a): This paragraph places no restrictions on the importing, shipping, or sale of digital apparatus manufactured before the applicable compliance deadline for this section.

(b) *Requirements applicable to navigation devices.* Manufacturers that place navigation devices, as defined in § 76.1200 of this chapter, into the chain of commerce for purchase by consumers, and MVPDs that lease or sell such navigation devices with built in closed-captioning capability must ensure that closed captioning can be activated through a mechanism that is reasonably comparable to a button, key, or icon.

NOTE 1 TO PARAGRAPH (b): In determining whether a particular device is considered a ''navigation device'' subject to the requirements of this section, the Commission will look to the device's built-in functionality at the time of manufacture.

NOTE 2 TO PARAGRAPH (b): This paragraph places no restrictions on the importing, shipping, or sale of navigation devices manufactured before the applicable compliance deadline for this section.

(c) *Compliance deadline.* Compliance with the requirements of this section is required no later than December 20, 2016; except that compliance with the requirements of this section is required no later than December 20, 2018 for the following covered entities: (1) MVPD operators with 400,000 or fewer subscribers as of year-end 2012; and (2) MVPD systems with 20,000 or fewer subscribers that are not affiliated with

an operator serving more than 10 percent of all MVPD subscribers as of year-end 2012.

§ 79.110 Complaint procedures for user interfaces, menus and guides, and activating accessibility features on digital apparatus and navigation devices.

(a) Complaints concerning an alleged violation of the requirements of § 79.107, § 79.108, or § 79.109 must be filed in accordance with this section. For purposes of this section, a covered entity is the entity or entities responsible for compliance with § 79.107, § 79.108, or § 79.109.

(1) Complaints must be filed with the Commission or with the covered entity within 60 days after the date the complainant experiences a problem relating to compliance with the requirements of § 79.107, § 79.108, or § 79.109. A complaint filed with the Commission may be transmitted to the Consumer and Governmental Affairs Bureau by any reasonable means, such as the Commission's online informal complaint filing system, letter, facsimile, telephone (voice/TRS/TTY), email, or some other method that would best accommodate the complainant's disability.

(2) A complaint should include the following information:

(i) The complainant's name, address, and other contact information, such as telephone number and email address;

(ii) The name and contact information of the covered entity;

(iii) Information sufficient to identify the software or digital apparatus/navigation device used;

(iv) The date or dates on which the complainant purchased, acquired, or used, or tried to purchase, acquire, or use the digital apparatus/navigation device;

(v) A statement of facts sufficient to show that the covered entity has violated, or is violating, the Commission's rules;

(vi) The specific relief or satisfaction sought by the complainant;

(vii) The complainant's preferred format or method of response to the complaint; and

(viii) If a complaint pursuant to § 79.108, the date that the complainant requested an accessible navigation device and the person or entity to whom that request was directed.

(3) If a complaint is filed first with the Commission, the Commission will forward a complaint satisfying the above requirements to the named covered entity for its response, as well as to any other entity that Commission staff determines may be involved. The covered entity or entities must respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission.

(4) If a complaint is filed first with the covered entity, the covered entity must respond in writing to the complainant within 30 days after receipt of a complaint. If the covered entity fails to respond to the complainant within 30 days, or the response does not satisfy the consumer, the complainant may file the complaint with the Commission within 30 days after the time allotted for the covered entity to respond. If the consumer subsequently files the complaint with the Commission (after filing with the covered entity) and the complaint satisfies the above requirements in paragraph 2 of this section, the Commission will forward the complaint to the named covered entity for its response, as well as to any other entity that Commission staff determines may be involved. The covered entity must then respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission.

(5) In response to a complaint, the covered entity must file with the Commission sufficient records and documentation to prove that it was (and remains) in compliance with the Commission's rules. Conclusory or insufficiently supported assertions of compliance will not carry the covered entity's burden of proof. If the covered entity admits that it was not, or is not, in compliance with the Commission's rules, it must file with the Commission sufficient records and documentation to explain the reasons for its noncompliance, show what remedial steps it has taken or will take, and show why such steps have been or will be sufficient to remediate the problem.

(6) The Commission will review all relevant information provided by the complainant and the covered entity, as well as any additional information the Commission deems relevant from its files or public sources. The Commission may request additional information from any relevant parties when, in the estimation of Commission staff, such information is needed to investigate the complaint or adjudicate potential violations of Commission rules. When the Commission requests additional information, parties to which such requests are addressed must provide the requested information in the manner and within the time period the Commission specifies.

(7) If the Commission finds that a covered entity has violated the requirements of §§79.107, 79.108, or 79.109, it may employ the full range of sanctions and remedies available under the Communications Act of 1934, as amended, against any or all of the violators.

(b) *Contact information.* A covered entity must make contact information available for the receipt and handling of complaints. The contact information required must include the name of a person with primary responsibility for accessibility compliance issues. This contact information must also include that person's title or office, telephone number, fax number, postal mailing address, and email address. A covered entity must keep this information current and update it within 10 business days of any change.

FINDING AIDS

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Table of OMB Control Numbers

The OMB control numbers for chapter I of title 47 are consolidated into §0.408. For the convenience of the user, §0.408 is reprinted below.

§0.408 OMB control numbers and expiration dates assigned pursuant to the Paperwork Reduction Act of 1995.

(a) *Purpose*. This section displays the OMB control numbers and expiration dates for the Commission information collection requirements assigned by the Office of Management and Budget (''OMB'') pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission intends that this section comply with the requirement that agencies ''display'' current OMB control numbers and expiration dates assigned by the Director, OMB, for each approved information collection requirement. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number. The expiration dates shown in this section are accurate as of January 31, 2017. New, revised, or extended information collections approved by OMB after that date can be found at *https://www.reginfo.gov/public/do/PRAMain*. Questions concerning the OMB control numbers and expiration dates should be directed to the Associate Managing Director—Performance Evaluation and Records Management, (PERM), Office of Managing Director, Federal Communications Commission, Washington, DC 20554 by sending an email to *PRA@fcc.gov*.

(b) *Display*.

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3060–0004	Secs. 1.1307 and 1.1311	07/31/17
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3060–0686	FCC 214, FCC 412FCN, FCC 214TC and FCC 214STA	02/28/18
3060–0687	Access to Telecommunications Equipment and Services by Persons with Disabilities	04/30/18
3060–0688	FCC 1235	02/28/19
3060–0690	Sec. 101.17	01/31/18
3060–0691	Sec. 90.665	04/30/19
3060–0692	Secs. 76.613, 76.802 and 76.804	02/28/19
3060–0695	Sec. 87.219	07/31/17
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3060–0700	FCC 1275	05/31/19
3060–0703	FCC 1205	12/31/17

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3060–0737	Disclosure Requirements for Information Services Provided Under a Presubscription or Comparable Arrangement.	10/31/17
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3060–0741	Technology Transitions	01/31/20
3060–0742	Secs. 52.21 through 52.36	09/30/19
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3060–0745	Local Exchange Carrier Tariff Streamlining Provisions of the Telecommunications Act of 1996.	07/31/18
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3060–0750	Secs. 73.671 and 73.673	07/31/17
3060–0751	Sec. 43.51	09/30/19
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3060–0761	Sec. 79.1	12/31/17
3060–0767	Secs. 1.2110, 1.2111 and 1.2112	04/30/17
3060–0768	28 GHz Band	02/28/18
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3060–0775	Sec. 64.1903	07/31/19
3060–0779	Secs. 90.20(a)(1)(iii), 90.769, 90.767, 90.763(b)(l)(i)(a), 90.763(b)(l)(i)(B), 90.771(b) and 90.743.	01/31/20
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3060–0850	FCC 605	05/31/17
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3060–0855	FCC 499–A and FCC 499–Q	12/31/17
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3060–0859	Suggested Guidelines for Petitions for Ruling under Sec. 253	03/31/18
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3060–0932	FCC 2100, Schedule E and Secs. 73.3700(b)(1)(i)–(v) and (vii), (b)(2)(i) and (ii), and 74.793(d).	03/31/19
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[82 FR 13260, Mar. 10, 2017]

List of CFR Sections Affected

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For changes to this volume of the CFR prior to this listing, consult the annual edition of the monthly List of CFR Sections Affected (LSA). The LSA is available at *www.fdsys.gov*. For changes to this volume of the CFR prior to 2001, see the ''List of CFR Sections Affected, 1949–1963, 1964–1972, 1973–1985, and 1986–2000'' published in 11 separate volumes. The ''List of CFR Sections Affected 1986–2000'' is available at *www.fdsys.gov*.

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73 Actions on petitions 72237, 73545
73.202 (b) table amended 32901, 42672, 50053, 50631, 64759, 66744, 76936
73.622 (i) table amended 6481, 46632
73.682 (e) and Note added; eff. 12–13–12 40298
73.807 Introductory text revised 20558
73.1212 (e) revised (OMB number pending) 27655
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73.1943 (d) added (OMB number pending) 27655
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73.3527 (b) revised (OMB number pending) 27656
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73.3573 (f)(6) and Note 5 added 2922
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73.3580 (d)(4)(i) and (ii) revised 27656
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73.3700 Added 30426
73.8000 (b) introductory text revised; (b)(5) added; eff. 12–13–12 40299
74.1232 (d) revised 21015
76.7 Regulation at 76 FR 60673 confirmed 6480
76.56 (g) added 30426
(d)(3), (4) and (5) removed 36192
76.66 (n) added 30426
76.602 Revised; eff. 12–13–12 40300
76.607 Added; eff. 12–13–12 40300
76.630 (a) and notes 1 and 2 revised; notes 3 and 4 removed 67301
76.1002 (c)(2) and (6) removed; (c)(3)(i), (ii) introductory text, (4) introductory text, and (5) introductory text revised 66048
76.1003 (e)(1) and (j) revised; (m) added 66048
76.1004 (b) revised 66048
76.1302 Regulation at 76 FR 60673 confirmed in part 6480
76.1507 (a)(2) removed; (a)(3) and (b) revised 66048
76.1603 (d) revised 67302
79 Authority citation revised 19515
79.1 (a)(4) and (c) revised 19515
(d)(2), (f) heading, (1) through (4), (10) and (11) revised 48104
79.4 Added (OMB number pending in part) 19515

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79.100 Added 19518
79.101 Redesignated from 15.119 19515
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79.102 Redesignated from 15.122 19515
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79.103 Added (OMB number pending in part) 19518
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79.104 Added 19520

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73.45 (c) introductory text amended 66298
73.202 (b) table amended 32, 267, 4078, 12623, 16816, 25591, 25861, 27306, 36684, 37475, 40402, 42700, 42701, 48626, 73109
73.316 (e) revised 66298
73.622 Regulation at 67 FR 70018 effective 2–21–13 11987
(i) table amended 21566, 21850, 58470
73.685 (h) revised 66298
73.807 Revised (OMB number pending) 2102
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73.809 (a) introductory text revised 2104
73.810 Revised (OMB number pending) 2104
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73.811 Revised 2105
73.816 (b) and (c) revised 2106
73.825 (a) table and (b) table revised 2106
73.827 Revised (OMB number pending) 2106
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(a) introductory text amended; (a)(1) and (b) revised 67317

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73.850 (c) added (OMB number pending) 2106
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73.853 (a)(3), (b)(4) and (c) added; (b) introductory text revised (OMB number pending) 2107
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73.855 Revised (OMB number pending) 2107
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73.860 Revised (OMB number pending) 2107
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73.870 (a) introductory text revised 2108
73.871 (c)(1), (5) and (6) revised; (c)(7) added 2108
73.872 (b), (c) introductory text, (4), (d) and (e) revised (OMB number pending) 2108
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73.873 Revised 2109
73.875 (c) introductory text amended 66298
73.1510 Removed 25174
73.1545 Regulation at 66 FR 21690 effective 2–26–13 (OMB number) 12967
73.1675 (c)(1) amended (OMB number pending) 66298
73.1690 (c) introductory text amended (OMB number pending) 66298
73.1692 Removed 66298
73.3526 Regulation at 70 FR 38 effective 2–26–13 (OMB number) 12967
73.3612 Regulation at 69 FR 34954 effective 2–21–13 11987
73.6025 (c) revised 66298
74 Technical correction 18527
74.1 Revised 25174
74.5 Introductory text revised 25174
74.15 (a) removed; (f) revised 25174
74.16 Revised 25175
74.28 Revised 25175
74.101—74.184 (Subpart A) removed 25175
74.605 Regulation at 76 FR 59571 effective 4–1–13 (OMB number) 6217

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74.780 Amended 25175
74.1237 (e) revised 66298
76.922 Regulation at 59 FR 62623 effective 2–21–13 (OMB number) 11987
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76.933 Regulation at 60 FR 52119 effective 2–21–13 (OMB number) 11988
76.970 Revised 20256
76.972 Removed 20257
76.975 Revised 20257
76.978 Removed 20258
76.1505 Regulation at 61 FR 43176 effective 2–21–13 (OMB number) 11988
76.1506 Regulation at 61 FR 43177 effective 2–21–13 (OMB number) 11988
76.1802 Regulation at 69 FR 34954 effective 2–21–13 (OMB number) 11987
79 Heading revised 77250
79.2 (b)(1), (2), (3) and (c) revised; (b)(4) and (5) added (OMB number pending in part) 31797
79.100—79.106 Designated as Subpart A 77251
79.101 (a)(2) note added 39627
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79.102 (a)(3) note added 39627
79.103 (a) note revised 39628
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79.104 (a) note added 39628
79.105 Added (OMB number pending in part) 31798
79.106 Added 31798
79.107—79.110 (Subpart B) Added 77251

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73.202 (b) table amended 3135, 3136, 27503, 28448, 33118, 47380, 48095, 50844, 59448, 60091, 60092, 61787, 62883, 64125, 69057, 69058, 69376, 72153, 73238, 75434
(b) table amended; eff. 10–6–14 ..... 52226, 53144
73.622 (i) table amended 8252, 8870, 19015, 27504, 67356, 68371, 69776, 76239
73.875 Regulation at 78 FR 66298 eff. date confirmed 9622
73.1675 Regulation at 78 FR 66298 eff. date confirmed 9622
73.1690 Regulation at 78 FR 66298 eff. date confirmed 9622
73.3555 Note 2 amended 29006
73.3613 (d)(2) revised (eff. date pending) 29006
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73.3700 Revised; eff. 10–14–14 (OMB number pending in part) 48539
(b)(1)(iv), (2)(i) introductory text and (ii) revised (OMB number pending in part) 76914
73.6012 Revised; eff. 10–14–14 48544
73.6019 Revised; eff. 10–14–14 48544
73.8000 (b)(5) amended; eff. 6–4–15 51113
74 Actions on petitions 12679
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Regulation at 79 FR 40688 confirmed 77915
74.15 (b) revised 40688
74.602 (h)(5) and (6) added; eff. 10–14–14 (OMB number pending in part) 48544
74.801 Amended 40689
Regulation at 79 FR 40689 confirmed 77915
74.802 (b) revised; (f) added; eff. 10–14–14 (OMB number pending in part) 48545
74.831 Revised 40689
Regulation at 79 FR 40689 confirmed 77915
74.832 (a)(7) and (8) added; (d), (e) and (f) revised (OMB number pending) 40689
Regulation at 79 FR 40689 confirmed 77915
74.870 (i) revised; eff. 10–14–14 48545
76.65 (b)(1)(vi) and (vii) amended; (b)(1)(viii) added 28630
76.110 Amended 63562

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76.111 Removed 63562
76.120 Heading revised; (e)(3) removed 63562
76.127 Removed 63562
76.128 Removed 63562
76.130 Amended 63562
76.602 (b)(2) amended; eff. 6–4–15 51113
76.1506 (m) removed; (n) and (o) redesignated as new (m) and (n) 63562
79 Heading correctly revised 7590
79.1—79.4 Correctly transferred to Subpart A 7590
79.1 Heading, (a), (c), (d)(12), (e)(3), (f)(4), (7) and (i)(3) revised; (e)(11), (j) and (k) added (OMB number pending in part) 17926
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79.2 Regulation at 78 FR 31797 eff. date confirmed in part 21399
79.4 (b) revised 45371
79.100—79.106 Correctly transferred to Subpart B 7590
79.105 Regulation at 78 FR 31798 eff. date confirmed in part 21399

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73 Policy statement 27572, 66429, 74694
73.202 (b) table amended 3180, 3181, 4516, 22926, 23454
73.622 (i) table amended 168, 7977, 9392, 28849, 30631
73.688 (c)(2) revised 53750
73.1216 Revised (OMB number pending) 64361
73.1030 (c)(2) revised 53750
73.1690 (c)(7)(ii) revised 53750
73.3700 Regulation at 79 FR 48539 eff. date confirmed in part 22924
(c) revised (OMB number pending in part) 46846
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(b)(1)(iv)(B) revised; (i) added (OMB number pending in part) 71743
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74.24 (i) revised 53751
74.25 (d) revised 53751
74.32 Revised 38908
74.602 Regulation at 79 FR 48544 confirmed in part 55795
74.731 (l) revised 27863
74.801 Amended 71728
74.802 Regulation at 79 FR 48545 confirmed in part 17343
(a) and (b)(2) revised 71728
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74.803 (c) and (d) added 71728
74.831 Revised 71729
74.832 (a)(6) and (d) revised 71729
74.851 Heading and (i) revised; (j), (k) and (l) added (OMB number pending) 71729
74.861 (d)(1), (2), (3), (e)(1)(i) and (ii) revised; (d)(4), (e)(7) and (i) added 71730
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76 Authority citation revised 11330
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76.5 (gg) revised 59663
76.7 (a)(3) revised 59663
76.59 (a), (b)(1), (2), (5), (6) and (d) revised; (b)(7), (e) and (f) added (OMB number pending in part) 59663
76.64 (b)(3)(ii) and (l) revised 11330
76.65 (b)(1)(viii) and (f) revised; (b)(1)(ix) added 11330
76.66 (d)(6) added; (e)(1) introductory text revised 59664
76.613 (c) and (d) revised 53751
76.906 Revised (eff. date pending) 38012
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76.907 (b) revised (eff. date pending) 38013
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76.910 (b)(4) revised (eff. date pending) 38013

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76.1506 (g) revised 5050
76.1601 Note 1 removed 11330
78.11 (e) revised 53751
78.19 (f) revised 38909
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79.2 (b)(2)(ii) revised; (b)(6) added 39714
79.105 (d) and (d) note added 39715
79.107 Regulation at 78 FR 77251 confirmed in part 3913
79.108 Regulation at 78 FR 77251 confirmed in part 3913
79.110 Regulation at 78 FR 77251 confirmed 3913

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73 Policy statement 8843, 69409
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73.14 Amended 2759
73.21 (a)(2) and (3) revised 2759
73.24 (i) revised 2759
73.182 (a)(1)(ii) introductory text and (m) amended; (a)(4), (m) table, Note (2) and (q) revised 2759
73.189 (b)(2) revised 2760
73.202 (b) table amended 41453, 43101, 62657
(b) table amended; eff. 10–17–16 65305
73.622 (i) table amended 35653, 43956, 44231
73.1010 (a)(9) revised; (a)(10) added (OMB number pending) 86613
73.1216 Regulation at 80 FR 64361 eff. date confirmed 7477
73.1560 (a)(1) revised (OMB number pending) 2760
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73.1943 (d) revised (OMB number pending) 10123
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73.3526 (b)(1), (2) and (3) revised (OMB number pending) 10123
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73.3527 (b)(1) and (2) revised (OMB number pending) 10123
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73.3555 (e)(1) and (2)(i) revised 73041
73.3580 (d)(4)(i) introductory text and (ii) introductory text revised (OMB number pending) 10124
73.3615 (a) through (f) revised (OMB number pending) 19459
73.3700 (g)(4)(i), (ii)(B), (iii) and (v) revised (OMB number pending) 4975
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74 Authority citation revised 86613
74.5 (a)(8) revised; (a)(9) added (OMB number pending) 86613
74.602 (h)(5)(ii) revised 4975
74.731 (l) revised; (m) added 5052
74.787 (a)(5) and (b)(2) revised 5052
74.788 (a), (c)(1), (3) and (d) revised 5053
74.797 Revised (OMB number pending) 19460
74.800 Added (OMB number pending) 5053
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74.802 (f) revised 4975
76.59 Regulation at 80 FR 59663 eff. date confirmed in part 9360
76.630 Undesignated text following (a)(2) introductory text revised (OMB number pending) 10125
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76.1204 Revised 13997
76.1700 Revised (OMB number pending) 10125
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76.1702 (a) revised (OMB number pending) 10126
Regulation at 81 FR 10126 eff. date confirmed 33140
76.1709 (a) and (b) revised (OMB number pending) 10126

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79.1 (a)(12) redesignated as (a)(13); new (a)(12) and (m) added; (b), (c)(1), (e)(5), (6), (9), (g), (i), (j)(3) introductory text and (k)(1)(iv) revised; (j)(1) and (4) removed (OMB number pending in part) 57485
79.107 (a)(5), (d) and (e) added (OMB number pending) 5936
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79.108 (d) revised; (f) added (OMB number pending in part) 5936
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73.202 (b) table amended 10867, 12922, 14996, 42041
73.503 (d) amended; (e) redesignated as (f); new (e) added; note revised (OMB number pending in part) 21135
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73.621 (e) introductory text amended; note revised; (f) through (i) redesignated as (g) through (j); new (f) added (OMB number pending in part) 21135
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73.1010 Regulation at 81 FR 86613 eff. date confirmed 18581
73.1202 Removed 11412
73.1207 (c)(1) and (3) revised 41103
73.3526 (b)(1) and (2)(i) revised; (e)(9) removed (OMB number pending) 11412
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73.3527 (e)(14) added (OMB number pending) 21136
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73.3555 (e)(1), (2)(i) revised 21127
73.3572 (a)(3) revised 18249
73.3800 Added (OMB number pending) 18249
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73.6028 Added (OMB number pending) 18250
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74 Actions on petitions 32260
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74.5 Regulation at 81 FR 86613 eff. date confirmed 18581
74.499 Regulation at 82 FR 18251 eff. date confirmed 37354
74.799 Redesignated from 74.800 (OMB number pending in part) 18251
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74.801 Amended; eff. 10–2–17 41559
74.802 (a)(1) and (2) revised; eff. 10–2–17 41560
74.803 (c) and (d) revised (OMB number pending) 41560
74.831 Revised; eff. 10–2–17 41560
74.832 (d) revised; eff. 10–2–17 41560
74.851 (i) through (k) and (l) introductory text revised; eff. 10–2–17 41561
74.861 (d)(3), (4)(i), (ii), (iii) and (e)(7) revised; eff. 10–2–17 41561
74.1201 (g) amended (OMB number pending) 13072
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76 Policy statement 35658
76.5 (pp)(2) revised (OMB number pending) 11412
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76.1700 (a) introductory text revised; (a)(6) removed; (a)(7) through (10) redesignated as new (a)(6) through (9) (OMB number pending) 11412
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76.1708 Removed (OMB number pending) 11412
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79.3 (b)(1), (4), (c)(2) and (4) revised; (b)(2) removed 37354