

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

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Released: June 22, 1995

By the Managing Director:
In the matter of Amendment of Part 0 of the Commission's Rules to Reflect a Reorganization of the Office of General Counsel.

1. On September 27, 1994, the Commission adopted a proposed reorganization to create a Competition Division within the Office of General Counsel. The implementation of the proposed reorganization requires amendment to Part 0 of the Commission's Rules and Regulations. In accordance with the Commission's action, this Order makes the necessary revisions and other minor editorial changes in Part 0 of the Commission's Rules.

2. The amendments adopted herein pertain to agency organization. The notice and comment and effective date provisions of Section 4 of the Administrative Procedure Act, 5 U.S.C. § 553, are therefore inapplicable. Authority for the amendments adopted herein is contained in Sections (4)(i) and 5(b) of the Communications Act of 1934, as amended.

4. Accordingly, It Is Ordered, pursuant to the authority delegated under 47 C.F.R. 0.231(d) and effective upon publication in the **Federal Register**, that Part 0 of the Rules and Regulations be amended as set forth hereto.

List of Subjects in 47 CFR Part 0

Authority delegations (Government agencies), Organization and functions (Government agencies).
Federal Communications Commission.
Andrew S. Fishel,
Managing Director.

Final Rules

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:
Authority: Section 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.
2. Section 0.41 is amended by removing in paragraph (f) the title "Chief Engineer" and adding in its place "Office of Engineering and Technology"; revising paragraph (g); removing paragraph (j) and redesignating paragraphs (k) through (o) as (j) through (n) respectively; and revising newly redesignated paragraphs (m) and (n) to read as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Town Hall, 233 Dents Run Boulevard, Granville, West Virginia.	
Marion County (unincorporated areas) (FEMA docket No. 7124)	
<i>Monongahela River:</i>	
At downstream county boundary	*862
Approximately 140 feet upstream of CSX Transportation Railroad bridge	*870
Maps available for inspection at the Marion County Commissioner's Office, 200 Jackson Street, Fairmont, West Virginia.	
Monongalia County (unincorporated areas) (FEMA docket No. 7116)	
<i>Dents Run:</i>	
Approximately 200 feet downstream of County Route 49 (Dents Run Boulevard)	*818
Approximately 0.46 mile upstream of County Route 49 (Dents Run Boulevard)	*836
<i>Monongahela River:</i>	
At the downstream county boundary (West Virginia State boundary)	*809
At the upstream county boundary	*862
<i>Cobun Creek:</i>	
Approximately 1,360 feet upstream of confluence with Monongahela River	*824
Approximately 1,740 feet upstream of confluence with Monongahela River	*830
Maps available for inspection at the Office of Emergency Management, University of West Virginia, Health Science Center, Room G252A, Morgantown, West Virginia.	
Morgantown (city), Monongalia County (FEMA docket No. 7124)	
<i>Monongahela River:</i>	
At downstream corporate limits	*812
Approximately 1,600 feet upstream of confluence with Cobun Creek	*819
<i>Cobun Creek:</i>	
At confluence with Monongahela River	*818
Approximately 130 feet downstream of U.S. Route 119	*818
Maps available for inspection at the City Engineering Department, 389 Spruce Street, Morgantown, West Virginia.	
Rivesville (town), Marion County (FEMA docket No. 7110)	
<i>Monongahela River:</i>	
A point approximately 0.49 mile downstream of Pharoah Run (downstream corporate limit)	*867
Approximately 600 feet upstream of confluence of Pharoah Run	*868
Maps available for inspection at the Town Hall, 142 Main Street, Rivesville, West Virginia.	
Star City (town), Monongalia County (FEMA docket No. 7124)	
<i>Monongahela River:</i>	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 0.81 mile downstream of Monongahela Boulevard (U.S. Route 19)	*812
Approximately 1,900 feet upstream of the confluence of Pompano Run	*813
<i>Pompano Run:</i>	
At confluence with Monongahela River	*812
Approximately 200 feet upstream of confluence with the Monongahela River	*812
Maps available for inspection at the Town Office, 370 Broadway Avenue, Star City, West Virginia.	
Wisconsin	
Washburn (city), Bayfield County (FEMA docket No. 7124)	
<i>Lake Superior:</i>	
Entire shoreline within community	*605
Maps available for inspection at the City Hall, 119 Washington Avenue, Washburn, Wisconsin.	
(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")	
Dated: June 22, 1995.	
Richard T. Moore,	
<i>Associate Director for Mitigation.</i>	
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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[DA 95-1397]

Reorganization To Create a Competition Division Within the Office of General Counsel

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the Commission's Rules to incorporate a reorganization within the Office of General Counsel to create a Competition Division. This amendment also incorporates minor changes within the Office of General Counsel as a result of other reorganizations within the Commission.

EFFECTIVE DATE: July 5, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy M. Camp, 202-418-0442.

SUPPLEMENTARY INFORMATION:

Order

Adopted: June 21, 1995.

§ 0.41 Functions of the Office.

* * * * *

(g) To serve as the Commission's advocate for competition throughout the telecommunications industry and, specifically, to help to ensure that Commission policy development employs uniform or consistent analysis and that FCC policy encourages and promotes competitive market structures in affected industry segments by providing bureaus/offices with the necessary support to identify, evaluate, and effectively resolve competitiveness issues.

* * * * *

(m) To advise the Commission in the preparation and revision of rules and the implementation and administration of ethics regulations and the Freedom of Information, Privacy, Government in the Sunshine and Alternative Dispute Resolution Acts.

(n) To assist and make recommendations to the Commission, and to individual Commissioners assigned to review initial decisions, as to the disposition of cases of adjudication and such other cases as, by Commission policy, are handled in the same manner and which have been designated for hearing.

1. Section 0.251 is amended by revising paragraph (b); and removing and reserving paragraphs (c), (d) and (e), to read as follows:

§ 0.251 Authority delegated.

* * * * *

(b) Insofar as authority is not delegated to any other Bureau or Office, and with respect only to matters which are not in hearing status, the General Counsel is delegated authority:

(1) To act upon requests for extension of time within which briefs, comments or pleadings may be filed.

(2) To dismiss, as repetitious, any petition for reconsideration of a Commission order which disposed of a petition for reconsideration and which did not reverse, change, or modify the original order.

(3) To dismiss or deny petitions for rulemaking which are repetitive or moot or which, for other reasons, plainly do not warrant consideration by the Commission.

(4) To dismiss as repetitious any petition for reconsideration of a Commission order denying an application for review which fails to rely on new facts or changed circumstances.

- (c) [Reserved]
- (d) [Reserved]

(e) [Reserved]

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[FR Doc. 95-16071 Filed 7-3-95; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 1

[MD Docket No. 94-19; FCC 95-257]

FY 1994 Regulatory Fees

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In June 1994, the Commission adopted rules to implement Section 9 of the Communications Act to provide for the assessment and collection of regulatory fees to recover the cost of the Commission's enforcement, policy and rulemaking, user information and international activities. This MO&O is responding to petitions for reconsideration and clarification of the *FY 1994 Report and Order*. This MO&O clarifies the standards under which waivers, reductions or exemptions will be granted and the rule adopted broadens the scope of the exemptions for nonprofit entities. The intended effect of this MO&O is to provide guidance to the public and avoid any potential uncertainty.

EFFECTIVE DATE: September 5, 1995.

FOR FURTHER INFORMATION CONTACT: Jerome D. Remson, Office of General Counsel, (202) 418-1780.

SUPPLEMENTARY INFORMATION: A summary of the Commission's *Memorandum Opinion and Order* (MO&O), adopted June 15, 1995 and released June 22, 1995, is set forth below. The full text of this document is available for inspection and copying during normal business hours in the Administrative Law Division, Office of General Counsel (Rm. 616), 1919 M Street, N.W., Washington, D.C. The full text may also be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS), 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Summary of Memorandum Opinion and Order

1. Introduction. In the *Implementation of Section 9 of the Communications Act*, 59 FR 30984 (June 16, 1994), 9 FCC Rcd 5333 (1994) (*FY 1994 Report and Order*), the Commission adopted rules to implement Section 9 of the Communications Act, as amended, 47 U.S.C. 159. Those rules provide for the assessment and collection of regulatory fees to recover the cost of the

Commission's enforcement, policy and rulemaking, user information and international activities. 47 U.S.C. 159(a). Now before the Commission are petitions for reconsideration and clarification of the *FY 1994 Report and Order*. A list of the parties filing petitions for reconsideration are set forth in Appendix A. We also considered several issues arising from petitions for waiver, reduction or exemption of the regulatory fees assessed for the 1994 fiscal year (FY 94).

2. Discussion. *Small Entities*. We properly rejected Fireweed's contention that our efforts to distribute the *NPRM* to small businesses were inadequate. As noted in the *FY 1994 Report and Order*, 9 FCC Rcd at 5337 n.6, 5 U.S.C. 609 requires that we "assume that small entities have been given an opportunity to participate in the rulemaking." Although the statute lists appropriate measures which the Commission may use to ensure that the small entities have such an opportunity to participate, the Act does not require the Commission to follow any specific procedure.

3. We also rejected Fireweed's contention that our rules are biased against small entities. To the contrary, in implementing the fee schedule, we have expressly adopted procedures for payment of fees that are designed to minimize the burden on small entities, in accordance with congressional intent. Congress provided that the Commission may grant individual waivers of the fees, and it is our policy to grant individual waivers where imposition of the regulatory fee would be inequitable or would impinge on a regulatee's ability to serve the public. To the extent that Fireweed objects to specific fees, the fees for FY 1994 were adopted by Congress, and we did not depart from the fee schedule for FY 1994.

4. *Nonprofit Entities*. Section 9(h) exempts nonprofit entities from the regulatory fee requirement. 47 U.S.C. 159(h). In the *FY 1994 Report and Order*, we held that the nonprofit exemption will be available only to those regulatees who establish their nonprofit status under section 501 of the Internal Revenue Code. 26 U.S.C. 501. 9 FCC Rcd at 5340 ¶ 17. We have received requests for exemptions from the regulatory fees from regulatees that have been certified as nonprofit entities by state agencies (*i.e.*, they hold nonprofit status at the state level) but which do not possess Section 501 IRS Certification. Thus, there are instances where *bona fide* nonprofit entities should be accorded exemptions under Section 9(h) even though they have not established their tax exempt status