

(e) A Federal agency requesting reimbursement shall retain all financial records, supporting documents, statistical records, and other records pertinent to the provision of services or use of resources by that agency. These materials shall be accessible to duly authorized representatives of FEMA and the U.S. Comptroller General, for the purpose of making audits, excerpts, and transcripts, for a period of 3 years starting from the date of submission of the final billing.

Dated: April 9, 1980.

William H. Wilcox,

Associate Director, Disaster Response and Recovery.

[FR Doc. 80-11987 Filed 4-16-80; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19308; FCC 80-150]

47 CFR Part 64

Providing for a New Priority System for the Restoration of Common Carrier Provided Intercity Private Line Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission amends its Rules to modify the Priority System for the Restoration of Common Carrier Provided Intercity Private Line Services. The objective of the restoration priority system adopted is to improve the reliability of vital private line communications services during emergencies. The Commission will authorize common carriers to restore FCC certified private line services on a priority basis. FCC certification of restoration priorities for Federal and foreign government services will be based on recommendations from the Executive Office of the President (EOP).

EFFECTIVE DATE: The effective date of the restoration priority system established by this *Order* is June 27, 1980.

ADDRESSES: Secretary, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Herbert Neumann, Emergency Communications Division, Office of Executive Director, (202) 632-7232.

In the Matter of Amendment of Part 64 of the Commission's Rules to Provide for a New Priority System for the Restoration of Common Carrier Provided Intercity Private Line Service; [Docket No. 19308].

Adopted: March 27, 1980.

Released: April 14, 1980.

By the Commission: Commissioner Lee absent.

1. On February 8, 1978, we adopted a *Further Notice of Proposed Rule Making* in Docket No. 19308 because more than six years had passed since this proceeding began. This docket proposed a system of restoration priorities (RP's) which is designed to identify in which order intercity private line circuits should be restored by the communications common carriers in the event of major failure due to any type of emergency.¹ Comments and replies were filed and have been considered. Based upon Commission policy and the record in this proceeding, new rules are being adopted in the form of a revision to Appendix A of Part 64, Subpart D of our Rules.²

2. The Federal Communications Commission (FCC) and the Executive Office of the President (EOP) have agreed to establish a system of priorities for the restoration of intercity private line communications services provided by FCC licensed communications common carriers. Commission Rules are intended to be in consonance with future EOP directives to Executive departments and agencies so that the priority system and procedures contained in our Rules and the EOP documents effectuate a single priority system. Accordingly, this *Report and Order* establishes a system of priorities to improve the reliability of intercity private line communications services vital to the public interest.

3. The Commission views as a very serious matter the restoration of leased intercity private line services by preempting other private line services or by using facilities such as the Message Telecommunication System (MTS).³ This *Report and Order* is stringent in its requirements since we are establishing a system that is intended for the reconnection of only the most essential private line circuits during emergencies when telecommunications prove to be inadequate or when failures interrupt both private line services and alternate services. Government and non-government users of this restoration priority (RP) system should make

advance arrangements to overcome the adverse effects of more limited circuit failures through the use of such alternatives as MTS service, teletypewriter exchange service, diversity routing, and redundant private line service.

4. We recognize that in order for this RP system to be most effective during major disasters it must be part of the day-to-day operating procedures of the common carriers. Therefore, the RP system established in these Rules shall govern the order of restoration of intercity private line services if they are interrupted for any reason. We will make RP assignments, based on this *Report and Order*, to nongovernment circuits. We will also make RP assignments to Government circuits, but we expect to rely heavily on the EOP to recommend to the Commission restoration priorities for these Federal and foreign government circuits as well as for non-government services that require RP's based on prearranged voluntary participation with the Federal government during emergencies caused by a state or threat of war. The Commission may rescind any priorities it assigns, but we do not intend to rescind assignments we make on the basis of recommendations by the EOP without notifying that office prior to final action.

5. Comments and reply comments were received from the following parties:

Comments

Aeronautical Radio, Inc., (ARINC) and The Air Transport Association of America (ATA)
American Telephone and Telegraph Company (AT&T)
Central Committee on Telecommunications of The American Petroleum Institute (API)
National Broadcasting Company, Inc. (NBC)
The Secretary of Defense, in his capacity as the Executive Agent for The National Communications System (NCS)
Public Broadcasting System (PBS)
Pennsylvania State Police (PSP)
RCA Global Communications, Inc. (RCAG)
Utilities Telecommunications Council (UTC)

Reply Comments

American Telephone and Telegraph Company (AT&T)

These parties have all essentially recognized the importance of a single restoration priority system applicable to emergencies, whether in peacetime or war. They have suggested revisions in priority classifications or rules, some of which are both feasible and desirable and all of which have proven most helpful. The process of considering comments has led to a partial rewrite of the proposed *Order* version that was commented upon, in order to increase its

¹ FCC 78-79, 43 FR 7672 (February 24, 1978).

² 47 C.F.R. § 64.401 (1978).

³ This *Report and Order* does not address the general case of relative priority for restoration of private line, MTS, and other services. The Commission may, in a future proceeding, establish a basis for determining if Rules are needed concerning relative priorities and other priority related matters such as costs, tariffs, restoration time requirements and alternate route requirements for carriers.

effectiveness and to clearly reflect the FCC's peacetime responsibilities in this area. Following is a summary of the major comments and reply comments and our determinations based upon them.

a. AT&T recommends that the FCC certify a restoration priority (RP) only to the user of the circuit involved. The user would then be responsible for including the certification with its order for service when it is submitted to the communications common carrier. The rationale for this procedure is that it would result in a less complex certification procedure for the FCC and would avoid unduly burdening the telephone ratepayer with the expense of supplementary changes to service orders required to add RP information to orders already issued.

User industries commented that the FCC certification should go to both the user and the common carrier. We agree with these user comments. The Commission authorizes the carriers to restore service to one user at the expense of another according to our restoration priorities. This type of prioritization, we feel, should be implemented only after our direct notice to the carrier.

Since the name and address of the user's and the common carrier's office directly involved will both appear on the FCC Form 915, "Priority Request and Certification," there is little additional administrative burden in mailing certifications to both. We anticipate that most of the requests for the certification RP's that we will receive shortly after the effective date of the *Report and Order* will involve RP's in support of circuits already in service. Supplementary changes to the common carrier service orders for these existing circuits would be unnecessary unless we revoke a RP certification. In the case of new circuits, the user and carrier can agree to wait for RP certification, when practical. When service requirements make it impractical for issuance of the common carrier service order to be delayed pending RP certification the service order would, in any event, have to be issued and followed by a supplemental order to add the RP.

b. NCS recommends that "intelligence" be shown as an essential function under Priority 2. The Commission recognizes the importance of intelligence activities and, accordingly, we have made the necessary changes.

c. UTC recommends that the language in Subpriority 3-A—"first circuit required to maintain essential public utility services"—be clarified to indicate that restoration priority assignments

may be certified for more than one circuit when circuits run between many diverse locations. This comment deals primarily with multipoint circuits. We agree that clarification is needed and have provided it as part of our definition of multipoint circuits.

d. PSP requests general upgrading of state police private lines from priority 3 to priority 1. We appreciate the concern of the PSP and note that all of the RP levels provided for in this *Report and Order* are for vital services. We are reserving Priority 1 for only the most vital national defense emergency services and must therefore DENY the PSP request. However, we will review each application for assignment of RP's in accordance with the procedures established in this *Report and Order*.

e. NBC and PBS suggest that Subpriority 1-G is appropriate for broadcast industry circuits because of the necessity for news during emergencies and because the broadcast stations participate in the Emergency Broadcast System (EBS). We note that the Government's EBS private line authentication and notification circuits are currently assigned high restoration priorities. While we appreciate the concerns of NBC and PBS that private line network circuits are used to distribute information about emergency situations to broadcast stations for transmission to the public (including EBS transmissions), we are limiting non-government Priority 1 assignments to those services which are designated for prearranged voluntary participation with the Federal government during an emergency caused by a state or threat of war. Since NBC and PBS have not yet arranged such participation with the Federal government, these requests are DENIED. However, we will review each application for assignment of RP's to network services in accordance with the procedures established in this *Report and Order*.

f. ARINC and ATA recommend that, if an approved plan is on file with the FCC, no validation from the sponsoring government agency be required when industrial users apply for restoration priorities for circuits used for prearranged voluntary participation with the Federal government during emergencies. In its Reply Comments AT&T states that a validation statement is an essential Federal government control. For the purpose of assigning restoration priorities to private user circuits that support a Federal government service, we will require a recommendation from the EOP for each such circuit. We therefore DENY the request and will rely on EOP to

determine what information it needs as a basis for recommending a priority assignment to the FCC.

g. API has commented that the proposed rules will result in private line priorities always subordinate to the priorities established by the precedence system under FCC Order 69-1113 (47 C.F.R. 64.402—Procedures for using a precedence system for public correspondence services provided by the communications common carriers). In its reply comments, AT&T points out that the precedence system is limited to a minimum number of circuits and that the multiple routing paths of the interstate switched telephone network make it far more reliable than private line circuits during a nuclear disaster. AT&T also notes that switched telephone circuits would be used to restore priority private line circuits. We find that no fundamental change is required but we have clarified the wording of our *Report and Order* to indicate that use of switched message telephone service circuits to restore critical private line service is a proper procedure.

h. API considers as too stringent the requirement that commercial/industrial private line circuits must, in order to qualify for restoration priority, be either manned continuously or, if automated, be under continuous surveillance from a remote location. On the other hand, AT&T states that such a requirement is fundamental. The Government users have not, in practice, been required to provide continuous manning or remote surveillance. There has been no apparent detrimental effect on the current restoration priority system. We think this experience justifies adopting API's point of view. We are therefore deleting the manning and surveillance requirements in our *Report and Order*.

6. By letter to the General Counsel of the Commission dated 25 July 1979, counsel for the Secretary of Defense (in his capacity as the Executive Agent for the NCS) stated that the *Further Notice of Proposed Rulemaking* in this proceeding (FCC 78-79, February 21, 1978) did not adequately address the relationship between the President's war powers under § 606(a) of the Communications Act, the President's peacetime emergency preparedness activities as set out in Executive Order No. 11490 (October 30, 1969; 34 Fed. Reg. 17567), as amended, the President's Memorandum of August 21, 1963 entitled "Establishment of the National Communications System" (28 Fed. Reg. 9413) as amended, and Office of Telecommunications Policy (OTP) Circular No. 6, which has been adopted

by the National Security Council (43 Fed. Reg. 210). During staff discussions on this issue, NCS indicated that it was their belief that the legal authority on which the above Executive documents rely (i.e., Reorganization Plan No. 1 of 1958, 72 Stat. 1799, the National Security Act of 1947, as amended, the Defense Production Act of 1950, as amended, and the Federal Civil Defense Act, as amended) gave the President jurisdiction, independent of 47 U.S.C. § 606(a), to set restoration priorities for Federal and foreign government circuits.

7. A public meeting was held on September 24, 1979 and supplemental comments were filed by NCS. In this additional filing, and at the public meeting, NCS expressed its belief that any peacetime restoration priority system established by the FCC must be consistent with the currently effective wartime RP procedures. This result is required, NCS believes, because Executive Order No. 11490 "instructs" the FCC to establish a peacetime restoration priority system in consonance with the existing NCS RP system.⁴ (See NCS Supplemental Comments at 5.) NCS requested that another Notice be issued by the Commission which incorporates our resolution of this question, prior to final action in this proceeding, to permit thorough evaluation by all parties. Further comments in reply were filed after the September 24, 1979 meeting by AT&T and, as a single filing, by ARINC and ATA.

8. AT&T expressed its agreement with NCS that a peacetime RP system under the FCC should be capable of being integrated into the wartime RP procedures so that a single jointly managed RP system is established. AT&T also requested a further NPRM if the Commission should vary any of the provisions to Part 64 proposed in the February 24, 1978 Notice affecting the accommodation of FCC and Executive Agency interests at issue in the NCS supplemental pleading.

9. ARINC and ATA essentially argued that the authority granted the President by the Communications Act was clearly and specifically limited to the continuance of a war in which the United States is engaged. Accordingly,

they recommended that the Commission "move promptly to adopt the [RP system] it proposed in its *Further Notice* [of February 8, 1978] with the deletion of the unnecessary requirement for executive certification of requests for priority for circuits used in conjunction with established emergency plans." (ARINC and ATA Further Comments at 4.) The subject of executive certification was similarly addressed in the ARINC and ATA Comments. In paragraph 5f of this *Report and Order* we deny the request based on our determination that individual circuit validation from EOP is a proper requirement when a priority is requested on the basis of an industrial user's support of Government services during an emergency. The similar request in the ARINC and ATA Further Comments is DENIED for the same reason.

10. After thorough consideration of these pleadings, we conclude that an additional round of comments on these matters will serve no useful purpose.⁵ We are aware of AT&T's concerns and agree that any peacetime system for priority restoration of critical intercity private line circuits must be compatible with the EOP system for accomplishing the same objective during wartime emergencies.

11. We have also carefully considered and recognize NCS's position on the question of peacetime jurisdiction over the assignment of RP's to Federal and foreign government circuits. At the same time, we continue to adhere to our previous statements concerning the Commission's jurisdiction in peacetime.⁶ However, we do not believe that it is necessary at this time to resolve definitively these divergent views on the division of jurisdiction between the two agencies because we believe the administrative procedures adopted in this order should, as a practical matter, minimize any concerns over the exact demarcation of jurisdiction. We have devised a peacetime RP system which strikes a balance between the need to have compatibility between the peacetime and wartime RP systems, yet is also consistent with the FCC's regulatory responsibilities over telecommunications common carriers under the Communications Act. As detailed below, this system provides for extensive coordination between the EOP and this Commission. We will rely on

the expertise of EOP in the area of the relative priority of Federal and foreign government private line intercity circuits in time of peace. Federal and foreign government users will be expected to apply to the EOP for RP's. The RP's recommended by the EOP for these circuits will be forwarded to the FCC. These EOP recommendations will be the basis of the FCC's approval of RP's for this class of users. We foresee at this time no situations in which the FCC would not approve an EOP recommended RP. If and when such a situation should arise, we will resolve that particular problem in the context of the particular situation. We believe this system of EOP recommendation followed by FCC approval assures the FCC adequate control over the administration of the peacetime RP system, and yet provides EOP with sufficient peacetime involvement in the RP assignment process to address its concerns.

12. The Commission will assign priorities for restoration of the qualified circuits of users of common carrier provided private line services. We ORDER the communications common carriers to honor the priorities we approve and to restore circuit outages on a day-to-day operating basis according to the level of priority assigned to each private line circuit. This *Report and Order* constitutes the only legal authority for communications common carrier to restore private line services to users on a preferential basis.

13. The communications availability in areas affected by certain major natural or man-made emergencies may be disrupted or may prove inadequate for the conditions. We recognize that during such circumstances there may be a need to establish and/or restore common carrier provided private line communications to an emergency operations center and/or for other critical requirements before restoring private line circuits which have FCC certified restoration priorities. Therefore, upon request by an appropriate state or local government official directly to the Commission or through the Federal government official authorized by the President to coordinate Federal assistance,⁷ we may

⁴ E.O. No. 11490 (October 30, 1969) 34 Fed. Reg. 17567, 1969 Cong. Code and Admin. News 2915. This Executive Order "orders" the FCC to perform restoration priority assignment functions. This Executive Order is an explicit recognition of our existing authority because, being an independent regulatory agency and not part of the Executive Branch, this assignment of a function to the Commission by an executive order can only be valid if Congress has already determined, by legislative action, that the FCC should exercise jurisdiction in this area.

⁵ See *Forester v. Consumer Product Safety Commission*, 559 F. 2d 774 (D.C. Cir. 1977).

⁶ The Commission's role in this area derives from its responsibility under Section 201(b) and 202(a) of the Act, to assure available communications capabilities by a reasonable and nondiscriminatory allocation in the event of major facilities outages or service failures.

⁷ The authority of the President to provide disaster preparedness assistance (Disaster Relief Act of 1974, P. L. 93-288; 88 Stat. 143, Title II, Sec. 201(a)) was delegated to the Director of the Federal Emergency Management Agency by Executive Order 12148 of July 20, 1979. This authority includes authority "to establish temporary communications systems and to make such communications available to State and local government officials . . ." 42 U.S.C. § 5185 (1977). We also note that under the Civil Defense Act of January 12, 1951

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reassign the level of RP of existing circuits. With respect to new private line services required during emergencies we will assign appropriate restoration priorities. These temporary priority levels will not necessarily be restricted to the normal requirements for each priority and subpriority level.⁹

14. In order to establish a single system of restoration priorities that is equally effective in times of peace, war, or threat of war, we will rely on the EOP to recommend restoration priority assignments for Federal and foreign government private line users, including private user circuits that require priority restoration because they are used in support of Federal or foreign government requirements.

15. FCC Form 915, June 1980 edition, "Priority Request and Certification," is authorized subject to General Accounting Office approval. This form may be revised to meet future administrative requirements. Use of earlier editions of Form 915 is not authorized.

16. This *Report and Order* is issued pursuant to Sections 1, 4(i) and 201 through 205 of the Communications Act of 1934, as amended, and Executive Order No. 11490, as amended, and shall remain in effect until such time as the Commission amends, modifies, or revokes it, or until it is amended or superseded by the President pursuant to the powers conferred upon him by, and in accordance with, the procedures specified in Section 606 of the Communications Act.

17. It is ordered, that Federal Communications Commission Order 70-291 is hereby revoked, effective June 27, 1980. It is further ordered, that Appendix A of Part 64, Subpart D of the Rules is

revised by substitution of the new Appendix A attached hereto. The requests of NCS and AT&T set out in their Supplemental Comments and Further Reply Comments, to the extent indicated above, are granted, and in all other respects are denied. The requests of ARINC and ATA in their Further Reply Comments are also denied.

18. In order to allow the communications common carriers reasonable time to establish procedures related to restoration priorities, the effective date of this *Report and Order* is hereby established as of June 27, 1980.

(Secs. 1, 4, 201, 202, 203, 204, 205, 48 Stat. as amended, 1064, 1066, 1070, 1071, 1072; 47 U.S.C. 151, 154, 201, 202, 203, 204, 205)

Federal Communications Commission.

William J. Tricarico,

Secretary.

1. The title and text of Appendix A of 47 CFR Part 64 is revised to read as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

* * * * *

Appendix A.—Priority System for the Restoration of Common Carrier Provided Intercity Private Line Services

1. The Communications Act of 1934, as amended, assigns to the Federal Communications Commission the authority over the assignment of priorities for restoration of common carrier provided service, until such time as the applicable FCC Rules are superseded by the President's war emergency powers. This *Appendix* provides the Commission's *Order* to the communications common carriers. Our *Order* and restoration priority instructions and procedures that the Executive Office of the President may issue for executive departments and agencies are intended to constitute a single priority system under the authority of the Commission and the authority of the President under Section 606 of the Act. Together, this *Order* and instructions and procedures of the Executive Office of the President (EOP) establish one uniform system of priorities for the restoration of vital private line services during emergency situations such as major natural or man-made disasters and emergencies involving the national defense and security.

2. This restoration priority (RP) system is intended to restore only the most essential private line communications circuits in order to increase their reliability during emergencies. In order for the RP system to be most effective during emergencies it must be incorporated into the day-to-day operating procedures of the common carriers. Therefore, this RP system shall govern the restoration of intercity private line services if these services are interrupted for any reason. If preemption is required to restore service, interruption of lower priority private line services is authorized for the purpose of

restoring higher priority private line services in the order of priority set forth in this *Order*.

3. All communications common carriers are directed to honor and apply this restoration priority system. The carriers are expected to cooperate with each other in restoring service in accordance with the priorities set forth in this *Order* and are authorized to honor FCC certified priorities from each other where the intercity private line service certified involves the facilities of more than one carrier. A carrier is obligated to restore only that segment of a service that it normally carries. The following principles shall be applied in implementing this priority system:

a. Idle circuits shall be selected first to restore priority private line services. Then, private line services having lower or no priorities shall be interrupted in the inverse order of priority, starting with non-priority services. In the event that private line services are interrupted to restore higher priority services, the communications common carriers shall make a reasonable effort to notify the user of the preempted service and to state the reasons for the preemption. After insuring that a sufficient number of Message Telecommunications System (MTS) facilities are available for public use, MTS facilities may be used to satisfy a requirement for priority intercity private line service. Care must be taken, however, to insure that a minimum number of MTS channels remain available, and to insure that services which carry or may reasonably be expected to carry precedence traffic as provided for by FCC Order 69-1113 (47 CFR § 64.402) will not be preempted.

b. As a practical matter, in restoring a priority service within a multiple channel type of facility, lower priority or non-priority services on parallel channels within the band or system may also be restored.

4. The priority system and procedures in this *Order* are applicable to:

a. United States intercity domestic private line services, including private line switched network services, furnished by the communications common carriers.

b. International private line services provided over circuits which are under the control of United States common carriers.

c. Foreign extension of United States international private line services to the extent of agreements between United States communications common carriers and their foreign correspondents.

d. International private line services terminating in or transiting the United States.

5. We recognize that a minimum number of operational services are needed by communications common carriers for service reactivation and maintenance purposes. These services are exempt from interruption and shall not normally be used for private line restoration.

6. Definition of terms

a. "Government" when used alone means Federal, foreign, state, county, or municipal government agencies. Specific reference will be made whenever it is intended that intercity private line services of a particular level of government are meant; e.g., "Federal government", "foreign government", and similar elements. The term "foreign government" shall include coalitions of

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(c. 1223, 64 Stat. 1245, 50 U.S.C. App. § 2281(h) (1979 Supp.)) the President is authorized to "procure by condemnation or otherwise" telecommunications facilities.

⁹ Although this procedure was not specifically proposed in either of the *Notices* in this proceeding, we conclude that delaying implementation of this *Order* to allow additional comments on the specifics of this procedure is unnecessary and contrary to the public interest. We reach this conclusion because: the disaster relief apparatus mandated by the Disaster Relief Act is already in place (this provision is merely designed to conform our proposed RP system to changes in the Executive Branch emergency preparedness organization implemented since the last *Notice* was issued); the probability of a party to this proceeding being substantially affected by adoption of this procedure is extremely small (see *Reynolds, Metal Co. v. Runsfeld*, 564 F. 2d 663 (TECA 1977), cert. denied, (435 U.S. 995)); and the change affected by inclusion of this provision involves such a small aspect of the originally proposed scheme that the cost, delay and inconvenience another round of pleading would cause the parties is unwarranted. (See *Forester v. Consumer Product Safety Commission*, 559 F. 2d 774, 787 (D.C. Cir. 1977)) and cases cited therein.

governments such as NATO, SEATO, OAS, UN, and associations of governments or governmental agencies such as the Pan American Union and the International Monetary Fund.

b. "Multipoint Circuit" is a connection between one of a private line user's locations and two or more other locations. Normally, all of the paths of a multipoint circuit would be assigned the same level of restoration priority.

c. "Private Line Service", as applicable to the United States communications common carriers engaged in providing domestic or international telecommunications, means the circuits provided by the carriers between intermediate intercity switches or between user and switch or between user and user for the provision of intercity service. A continuous circuit ordered from one carrier is considered a single "private line service" even when the facilities or equipment of more than one communications common carrier are used. However, when a user orders circuit segments from more than one carrier, and the user connects these segments to form a continuous circuit, each segment is considered a separate "private line service."

d. "RP" is the abbreviation of "restoration priority" and signifies the level of priority assigned for restoration of a circuit.

e. "Restoration" means the reconnection of intercity private line circuits.

f. "Station" means the user location.

7. Certification

a. Federal and foreign government users will be required to submit their requests for restoration priority assignments for their circuits to the EOP. An initial determination of the appropriate restoration priority for each service will be made by the EOP and forwarded to the FCC as a recommendation for certification. Restoration priority requirements needed on an immediate basis may be requested by a telephone call to the FCC's RP processing staff by the EOP. The FCC will review each recommended priority assignment and approve or disapprove the priority recommended. We will send a copy of the FCC certification to the EOP and the common carrier as formal notification of our determination.

b. All other private line users are required to provide the justification for their request for a restoration priority directly to the FCC. This information is to be filed on FCC Form 915—Priority Request and Certification—and will be used by the Commission's RP processing staff in making a determination. Each request should be accompanied by a copy of an emergency communications plan or referenced to an FCC approved plan for the individual user organization or for an industry (e.g.: Aeronautical Emergency Communications System (AECS) Plan or Industrial Communications Emergency Plan (ICEP)). In addition, a recommendation from the EOP is required for each restoration priority request to the FCC that involves prearranged voluntary participation with the Federal government in emergencies. We will send a copy of the FCC certification to the user and common carrier as formal notification of our determination.

8. We authorize four levels of restoration priority and these are divided into

subpriorities. Normally, priorities may be assigned only to the "first circuit" between two user locations for a given function. Where more than one circuit is authorized a priority assignment, the second circuit will be assigned a lower priority. The following criteria shall govern qualification for priority certifications for intercity private line services.

a. *Priority 1*—Priority 1 shall be assigned to Federal and foreign government private line services and to those other government and non-government private line services which are designated for prearranged voluntary participation with the Federal government during an emergency caused by a state or threat of war. This priority applies to circuits which support national survival if attack occurs and shall include circuits used to: (1) Disseminate or acquire critical intelligence concerning an attack on the United States; (2) Disseminate or acquire information critical to the internal security of the United States; (3) Conduct diplomatic negotiations critical to arresting or limiting hostilities; (4) Execute command and control of military forces essential to defense and retaliation; (5) Warn the population of the United States; or (6) Maintain Federal government functions essential to national survival under attack conditions.

Subpriorities under Priority 1 shall include—

Subpriorities 1-A through 1-F: Reserved for Federal government services.

Subpriority 1-G: Services essential to national survival and which are designated for prearranged voluntary participation with the Federal government.

b. *Priority 2*—Priority 2 shall be applicable to Federal and foreign government private line services and to other government and non-government private line services designated for prearranged voluntary participation with the Federal government during a national defense emergency.

Services in this category shall be limited to those essential when attack threatens, in order to minimize serious danger of—(1) Significantly reducing the preparedness of our defense and retaliatory forces; (2) Limiting our ability to conduct critical preattack diplomatic negotiations to reduce or limit the threat of war; (3) Interfering with the effective direction of the nation's population in the interest of civil defense; (4) Weakening our capability to accomplish critical national internal security and intelligence functions; or, (5) Inhibiting our ability to conduct essential Federal government activities necessary to meet a pre-attack situation.

Subpriorities under Priority 2 shall include—

Subpriorities 2-A through 2-C: Reserved for Federal government services.

Subpriority 2-D: Services essential for air traffic control and air operational control of military and civil air support operations.

Subpriority 2-E: Weather communications between major reporting and/or collecting agencies regarding national defense.

Subpriority 2-F: Services for the direction of the U.S. population in the interest of civil defense, survival, and essential Federal government and state government functions.

Subpriority 2-G: Civil/military relocation headquarters communications.

c. *Priority 3*—Priority 3 shall be applicable to all levels of Government and non-government services which require restoration in order to maintain our defense posture, our diplomatic posture, and the health and safety of our population during a major disaster, during a period of heightened possibility of hostilities, or during other situations when an interruption would cause loss or serious damage to vital on-going operations.

Subpriorities under Priority 3 shall include—

Subpriority 3-A:

The first circuit used to gather and disseminate essential intelligence information for activities not supported by circuits assigned a higher RP;

The first circuit for critical logistical and administrative military support functions;

The first circuit for air, sea or ground operations required for safety of life, rescue operations, and movement operations;

The first circuit required to maintain essential public utility services;

The first essential weather circuit between major reporting and/or collecting agencies and using locations not supported by circuits assigned a higher RP;

Additional circuits essential to other requirements for the control of civil and/or military air traffic;

The first circuit used for tracking and telemetering of information from space vehicles and primary circuits required for manned space flight operation.

Subpriority 3-B:

The first circuit to provide for critical damage assessment functions;

Essential circuits to diplomatic posts;

The first circuit between major law enforcement organizations which is essential for maintenance of law and order and which is not supported by a circuit with a higher RP;

The first circuit to ensure continuity of other critical government operations not supported by a circuit with a higher RP.

Subpriority 3-C:

The first circuit required to arrange for distribution of essential foods and other supplies critical to health;

The first circuit required to provide for hospitalization;

The second circuit, where essential, for guaranteeing civil alert and direction in the interest of civil defense and survival.

d. *Priority 4*—Priority 4 shall be applicable to those private line services, used by any level of government and by non-government entities, that are required to maintain the public welfare and our national economic posture during emergencies. Services in this priority shall be limited to those needed for continuing or reestablishing our more important financial, economic, health, and safety activities. This category will not be sub-categorized but all certifications will be identified as 4-A for the purpose of record keeping.

e. Other services supported by an emergency communications plan approved by the FCC may be assigned restoration priorities at appropriate levels.

9. The communications availability in areas affected by major natural or man-made emergencies may be disrupted or may prove inadequate for the conditions. Therefore, upon request by an appropriate state or local government official directly to the Commission or through the Federal government official authorized by the President to coordinate Federal assistance,⁹ we may reassign the level of RP of existing circuits; with respect to new private line services required during the emergency, we will assign appropriate restoration priorities. The FCC Engineer in Charge (EIC) of the area concerned should be contacted for reassignment of RP levels and for assignment of new restoration priorities during the emergency. These temporary priority levels are not necessarily restricted to the normal requirements for each priority and subpriority level. All RP authorizations by the EIC shall expire as soon as the need for restoration of the specific circuits involved is reduced below the critical status.¹⁰

10. United States communications common carriers should endeavor to make agreements with their foreign correspondents to effect the restoration of private line services in accordance with this Order. If such agreements do not exist, the U.S. common carriers should handle service restoration in accordance with any system acceptable to their foreign correspondents which comes closest to meeting the procedures established in this Order.

11. Applications for restoration priority certifications for private line service of all users, except Federal and foreign government, should be submitted in triplicate to: Federal Communications Commission, Office of Executive Director, Emergency Communications Division, Room A-201, Washington, D.C. 20554.

FCC Form 915, June 1980 edition, shall be used and must be certified by an authorized official of the user organization. Use of earlier editions of Form 915 is not authorized. The Commission will certify or deny Form 915 applications (and may rescind certifications) and notify both the applicant and the common carrier by mail. Arrangements may also be made through the Office of Executive Director for verbal requests and certification of restoration priorities.

12. The Federal Communications Commission will certify a restoration priority for a term of three years. Users shall resubmit their priority requirements on FCC Form 915 at least 60 days before expiration.

⁹ The authority of the President to provide disaster preparedness assistance. (Disaster Relief Act of 1974, P.L. 93-288; 99 Stat. 143, Title II, Sec. 201(a)) was delegated to the Director of the Federal Emergency Management Agency by Executive Order 12148 of July 20, 1979. We note also that under the Civil Defense Act of January 12, 1951 (c. 1228, 64 Stat. 1245, 50 U.S.C. App. § 2281(h) (1979 Supp.)) the President is authorized to "procure by condemnation or otherwise" telecommunications facilities.

¹⁰ Normally a "state of emergency" will have been declared by the Governor of the affected state, or by the President. In such circumstances when this state of emergency terminates, the RP's authorized as a result of it will automatically terminate also.

13. Requests for restoration priority assignments which are denied by the Federal Communications Commission may be resubmitted for reconsideration after 90 days. In the event that requirements for the denied priority have changed, the waiting period may be waived.

14. The Commission may periodically review restoration priority certifications and, if in the opinion of the Commission the restoration priority certification is no longer warranted, it may be rescinded upon written notice to the user and common carrier. The cooperation of users and common carriers will be required to determine the accuracy of certification records. We will continue, on the new Form 915—Priority Request and Certification, the existing requirement that non-government assignees of RP's make appraisals of the criticality of RP certifications semiannually and at the time of any change in the nature or use of the services. We require prompt written notice of any factors that may affect either the requirement for an RP or the priority level.

15. This Order is issued pursuant to Sections 1, 4(i) and 201 through 205 of the Communications Act of 1934, as amended, and Executive Order No. 11490, as amended, and shall remain in effect until such time as the Commission amends, modifies, or revokes it, or until it is superseded by the President pursuant to the powers conferred upon him by, and in accordance with, the procedures specified in Section 606 of the Communications Act.

[FR Doc. 80-11719 Filed 4-16-80; 8:45 am]

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47 CFR Parts 73 and 74

[FCC 80-165]

Radio Broadcast Services; Reregulation and Oversight of the AM, FM and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final order.

SUMMARY: By Reregulation and Rules Oversight Order, broadcast rules are amended to clarify and contemporize rules on multiple ownership operator requirements, presunrise service authorizations, antenna monitors, AM-FM program duplication, Emergency Broadcast System Tests, replacement of transmitters public inspection files, rebroadcasting, logs of auxiliary stations, Subsidiary Communications service, type approval of modulation monitors, microwave STL links, and International radio broadcast logs.

EFFECTIVE DATE: April 30, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Reiser, Philip Cross, Steve Crane, (202) 653-7275.

SUPPLEMENTARY INFORMATION:

Adopted: March 27, 1980.

Released: April 16, 1980.

By the Commission: Commissioner Lee absent.

1. This a further Order in the Commission's continuing reregulation of broadcasting and oversight review of Parts 73 and 74 of the rules for the radio and TV broadcast services. The changes covered by this Order either delete or modify certain operating requirements which no longer serve any useful regulatory purpose. A summary of each of the amendments follows:

(a) Note 6 in the Report and Order amending the multiple ownership rules (Docket 20548, 67 FCC 2d 58) describes the procedures for determining city-to-city distances. The community geographic coordinates as published in the Department of the Interior "National Atlas of the United States of America" are to be used, however the rules as amended did not include the instructions in the "Note." Since there are different procedures for determining distances between communities for other purposes in the rules, clarification of the correct method for determining "city-to-city" distances for multiple ownership purposes should be included in the rule text. Sections 73.35, 73.240, and 73.636 are revised to include the provisions of the Report and Order, Note 6. (Appendix paragraphs 1, 9, and 17.)

(b) The procedures to be used by manufacturers of broadcast equipment in obtaining FCC type approval of modulation monitors now duplicated in three separate AM, FM, and TV rules are being deleted therefrom and combined into a single rule in Subpart H, § 73.1668. Reference to Part 2, Subpart F is also being corrected to read Part 2, Subpart J. (Appendix paragraphs 2, 13, 21, 22, and 28.)

(c) In the rule concerning measurement of AM antenna resistance (§ 73.54) the word "person" is substituted for the term "engineer" in describing the individual making those measurements. The FCC does not prescribe the qualifications for "engineers" and the rule tends to indicate that antenna measurements may be made only by persons holding a license as a registered professional engineer. Qualified broadcasting professionals may not, nor need not, be registered under state laws to prepare technical exhibits for FCC applications. (Appendix paragraph 3.)

(d) Some AM stations operating directional antenna systems may find it advantageous to install the phasing equipment used to distribute radio

energy to the several antenna towers at the center of the tower group rather than at the transmitter building. This arrangement may provide simplification of antenna design and construction cost savings. Some licensees have requested permission to install the antenna monitor at the location of the phasing equipment rather than at the transmitter building since the monitor is used in adjusting the antenna phasing equipment. The present rules indicate that the monitor must be installed at the transmitter control point where an operator is on duty. Section 73.69 is being amended to state that the antenna monitor may be installed with the phasing equipment if adequate instrumentation and enclosures are used to insure reliable monitor operation; and extension metering is used at the control locations. Only monitors designed and type approved for remote control or extension meter use are suitable for such installations described above. (Appendix paragraph 4.)

(e) With this Order additional relaxations are being made in the operator requirements for AM, FM, and TV stations. The specific changes are:

(i) Agreements for chief operator appointments no longer need to be filed with the Engineer in Charge of the station's radio district.

(ii) AM operator rules will clearly state a partial antenna proof of performance measurement need be made upon appointment of a chief operator for the first time, and only once each three years thereafter, and not upon each appointment of a replacement chief operator.

(iii) Exemption of requirement to make skeleton antenna proof of performance measurements by AM stations having approved sampling systems included in the operator rules to conform to existing § 73.68.

(iv) Provision of the FM and NCE-FM rules indicating that a designated chief operator may not hold concurrently the chief operator position at more than one FM station is being deleted. (This dual employment restriction for chief operators was established when the chief operator was required to be in full time employment, however the restriction was not deleted from the FM and NCE-FM rules when the full time chief operator requirement was deleted.)

(v) Cross reference to the procedures for obtaining temporary waivers of the operator requirements in § 73.3547 is being included in the operator requirement rules.

(Appendix paragraphs 5, 11, 15, and 18.)

(f) Section 73.99 "Presunrise service authorizations (PSA)" is being

completely restructured for ease of understanding and use, and to correct many obsolete cross references and terms. Eligibility and procedures for obtaining a presunrise service authorization and the operating requirements under the PSA are not being changed. (Appendix paragraph 6.)

(g) Paragraph (f) of Section 73.182, "Engineering standards of allocation" has been restructured with obsolete terms and references corrected. (Appendix paragraph 7.)

(h) The information in paragraph (b)(9) in Section 73.189 concerning making changes in existing AM station antenna systems appears to conflict with other rules containing complete information on antenna modifications. Paragraph (b)(9) is amended to make reference to the current rules on antenna systems and procedures for obtaining authority, when required, to modify antennas. (Appendix paragraph 8.)

(i) The present limitations on the amount of programming that may be duplicated on commonly owned AM and FM stations assigned to the same community have been in effect since May 1, 1979. Therefore all obsolete limitations applicable prior to that date are being deleted from Section 73.242 of the rules. Also being deleted are procedures for obtaining temporary exemptions from the rule requirements since exemption requests were to have been filed prior to November 1, 1978. (Appendix paragraph 10.)

(j) The cross reference rule sections for logging, sponsor and station identification, and other requirements from which SCA multiplex programming are exempted are corrected in the Subsidiary Communications Authorization rules for FM and NCE-FM stations. (Appendix paragraphs 12 and 16.)

(k) In Section 73.685, the terms "field strength" and "AM broadcast" are being substituted in several paragraphs for the obsolete terms "field intensity" and "standard broadcast." The change in terms is made to conform this rule section with terminology used throughout Part 73. (Appendix paragraph 19.)

(l) The modulation monitor requirement rule for TV stations, Section 73.691, fails to reference the remote control operation provided for in Section 73.676(a). Paragraph (a) of Section 73.691 is amended to conform to the remote control rule requirements. (Appendix paragraph 20.)

(m) Three separate rules in Subpart F for international radio broadcast stations; "Logs; by whom kept;" "Log form;" and "Correction of logs" have texts essentially the same as rules in

Subpart H applicable to all other broadcast stations. Therefore the Subpart F rules are revised to cross reference rules applicable in common for the broadcast services. (Appendix paragraphs 23, 24, and 25.)

(n) By the provisions of § 73.931(b) of the rules, Class D 10 watt noncommercial educational FM stations are exempted from the requirement to have an EBS two-tone attention signal generator for transmitting emergency broadcast system tests and alert messages. This exemption has been misinterpreted by some Class D licensees to mean that their stations are also exempt from transmitting EBS tests or following the prescribed emergency action procedures in event of an actual EBS alert. Section 73.691 is being revised to clearly state that EBS procedures apply to 10 watt NCE-FM stations, except for use of the two-tone attention signal. (Appendix paragraph 26.)

(o) The rule on rebroadcasting is being revised so that broadcast licensees will no longer require prior FCC authority to transmit messages originated by non-broadcast radio stations operated by the Federal Government upon obtaining prior permission from the station's controlling agency. (U.S. Government stations are neither licensed nor under the direct regulatory control of the FCC.) This amendment will not, however, apply to the rebroadcasting of messages originated by FCC licensed stations that may be in communication with stations operated by the Federal Government. The revision also deletes the term "point-to-point" in reference to communications by non-broadcast stations in § 73.1207 because it implies communications between two land based fixed transmitters, whereas many non-broadcast communications are conducted between land mobile, ship, and aircraft stations. (Appendix paragraph 27.)

(p) On November 2, 1978, the Commission adopted rules on the procedures for licensing an auxiliary antenna for use by a broadcast station when the main antenna is out of service for repairs. An auxiliary antenna may be at a separate location some distance from the main antenna, or of a different configuration. However, an auxiliary antenna will not be licensed if its 1 mV/m coverage area would extend in any direction beyond the 1 mV/m coverage area provided by the main antenna. This condition for licensing of auxiliary antennas was inadvertently omitted in the licensing procedures described in § 73.1675, and is being included in the rule with this Order. (Appendix paragraph 29.)

(q) Paragraph (d) of § 73.1940 on broadcasts by candidates for public office is corrected to cross reference the applicable rules in Part 73 rather than the rules in Part 1 which were previously deleted. (Appendix paragraph 30.)

(r) Non-commercial educational stations frequently broadcast a series of continuing programs supported by a group of "donors." Since the repeated listing of donors in the program log for each time a program in the series is broadcast would require a considerable number of repetitive entries, NCE stations may, as an alternative logging procedure, enter the word "donor" in the log and keep a listing of the donors by program series title in the public inspection file. These procedures are described in program log rule Section 73.1820. The public inspection file requirement in Section 73.3527 is being revised to show "donor" lists should be included if the licensee elects to use the alternative logging procedures. This revision does not add a new public inspection file requirement, but is intended to guide licensees using the rule in reviewing the file for completeness. (Appendix paragraph 31.)

(s) Under amended broadcast remote pickup station rules adopted on June 7, 1979, licensees may elect to use automatic Morse code for station identification as an operating convenience. The revised identification options were based on rules previously adopted for stations in the private land mobile radio services. The technical specification for the rate (20 to 25 words per minute) of code transmission was inadvertently omitted from the remote pickup rule text. The omission is being corrected with this Order. (Appendix paragraph 32.)

(t) Under previous Reregulation Orders amendments were made to permit fixed microwave transmitters licensed in the TV auxiliary services to remain in operation continuously and without a duty operator in attendance at either the transmitter or receiver location. Many microwave transmitters are less subject to failure or may require less frequent adjustment and maintenance if operated continuously. With this Order we are also amending rule § 74.533 for aural broadcast STL and intercity relay stations to permit continuous transmitter operation. Required operator observations are being reduced to once each 24 hours in lieu of the presently required check every three hours. In addition, the station identification rule is amended to delete the identification requirement during periods when the STL or intercity

relay station is not carrying program material. (Appendix paragraphs 33 and 34.)

(u) In Docket 20189, extensive reregulation of the broadcast remote pickup operating procedure rules was completed whereby detailed operating logs are no longer required. In this Order, the detailed operating log requirements for aural STL and intercity relay stations, and for TV auxiliary stations are also being deleted since such logged data no longer serves their original regulatory purpose. In lieu of the mandatory log requirements for all stations, the FCC may require licensees to keep specific records of station operation on a case-by-case basis for interference studies or to determine channel utilization. The Sections being amended are 74.581 and 74.681. (Appendix paragraphs 35 and 36.)

(v) Licensees of broadcast stations are no longer required to obtain construction permits or any other form of prior FCC authority to replace station transmitters or install additional transmitters at the authorized location when using type accepted equipment. Licensees of FM and TV translator stations and instructional TV fixed stations are still required to file for and obtain prior FCC authorization to replace existing transmitting equipment. With this Order, rule §§ 74.751, 74.951, and 74.1251 are being amended to delete such requirements, as well as the requirement that written notification of transmitter changes be sent to the Engineer in Charge of the radio district in which the station is located. Licensees are to place in their own files a certification that the replacement transmitter has been checked upon installation to show that it meets the terms of the station license and all the applicable operating specifications for the particular type of service. (Appendix paragraphs 37, 38, and 40.)

(w) The definition of 100% modulation of the aural carrier for instructional TV fixed stations in Section 74.970 is revised to conform with that of the other TV broadcast services. (Appendix paragraph 39.)

2. Although some of the changes described above relax certain operating requirements, no substantive changes are being made which will either impose additional burdens or remove provisions relied upon by licensees or the public. We therefore conclude that, for the reasons set forth above, adoption of these revisions will service the public interest and inasmuch that these amendments impose no additional burdens and raise no issues upon which comments would serve any useful purpose, prior notice of rulemaking,

effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

3. Therefore, It Is Ordered, That pursuant to Sections (4)(i) and 303(r) of the Communications Act of 1934, as amended, Parts 73 and 74 of the Commission's Rules are amended as set forth in the attached Appendix, effective April 30, 1980.

4. For further information concerning this Order, contact John Reiser, Steve Crane, or Philip Cross, Broadcast Bureau, (202) 653-7275.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 73—RADIO BROADCAST SERVICES

1. In § 73.35, paragraph (b) is amended to read as follows:

§ 73.35 Multiple ownership.

(b)(1) No license for an AM broadcast station shall be granted to any party (including all parties under common control) if such party, or any stockholder, officer or director of such party, directly or indirectly owns, operates, controls, or has any interest in, or is an officer or director of any other AM broadcast station if the grant of such license would result in a concentration of control of AM broadcasting in a manner inconsistent with the public interest, convenience, or necessity. The FCC however, will in any event consider that there would be such a concentration of control contrary to the public interest, convenience or necessity for any party or any of its stockholders, officers, or directors to have a direct or indirect interest in, or be stockholders, officers, or directors of, more than seven AM broadcast stations, or of 3 broadcast stations in one or several services, where any two are within 100 miles of the third (measured city to city), if there is primary service contour overlap of any of the stations.

(2) The reference points which shall be used for city-to-city measurements are those listed in the Index to *The National Atlas of the United States of America*, United States Department of Interior, Geological Survey, Washington, D.C., 1970. (Future editions will supersede.) In the case of any community of license which is not referenced by the National Atlas, such

as a newly established community, the point of reference shall be the main post office until such town is referenced. The National Atlas is available for reference at most public libraries and at the FCC in Washington.

2. In § 73.50, paragraph (a) is amended to read as follows:

§ 73.50 Requirements for type approval of AM modulation monitors.

(a) Procedures for obtaining type approval of AM modulation monitors are contained in § 73.1668 and in Subpart J of Part 2 of the FCC rules.

3. In § 73.54, the headnote and paragraph (e)(6) are amended to read as follows:

§ 73.54 Antenna resistance and reactance measurements.

(e) * * *

(6) The qualifications of the person(s) making the measurements.

4. In § 73.69, paragraph (a) is amended to read as follows:

§ 73.69 Antenna monitors.

(a) Each station using a directional antenna must have in operation at the transmitter site an FCC type approved antenna monitor. However, if the station authorization sets specific tolerances within which the phase and amplitude relationships must be maintained, or requires the use of a monitor of specified repeatability, resolution or accuracy, the antenna monitor used will be authorized on an individual basis.

(1) Normally, the antenna monitor is to be installed immediately adjacent to the transmitter and antenna phasing equipment. When the phasing equipment is located within the antenna field at a distance from the transmitter, the monitor may be located with the phasing equipment in suitable housing such that the temperature variation is maintained at all times within those limits under which the monitor was type approved. Additionally, remote switching and metering must be installed so that all required monitor indications can be observed at the position(s) where the duty operator is located.

(2) The antenna monitor installed at a station operating a directional antenna by remote control, using extension meters to read and log the monitor indications, or when the monitor is installed in the antenna field at a distance from the transmitter, must be designed and type approved for such use in accordance with the provisions of § 73.53(c)(9).

5. In § 73.93, paragraphs (c), (e)(3), and (h)(3) are amended; the note following paragraph (j) is deleted; and new paragraph (k) is added as follows:

§ 73.93 Operator requirements.

(c) Stations using non-directional antennas with nominal operating power of 10 kW or less may employ persons holding any class of commercial radio operator license or permit for the routine duty operation of the transmitting system as defined in paragraph (f) of this section. In addition, such stations must employ at least one person holding a First-Class Radiotelephone Operator License either in the full-time or whatever less than full-time the licensee determines is needed to keep the station's technical operation in compliance with the FCC rules and terms of the station authorization. As an alternative to the employment of a first-class operator, the licensee may contract in writing for one or more first-class operators who will be readily available on a part-time basis. Signed contracts must be kept in the station file and made available for inspection upon request by authorized representatives of the FCC.

(e) * * *

(3) Within 1 year of the date on which a chief operator is designated for the first time as required by paragraph (h) of this Section, the station must complete a partial proof of performance as defined in § 73.154 for the directional antenna system, and must complete subsequent partial proofs of performance at least once each 3 years thereafter, with not less than 33 nor more than 36 months between successive proofs.

For stations not having an approved sampling system pursuant to § 73.68(a), a skeleton proof of performance, as defined in § 73.154 must be completed during each year that a partial proof of performance is not required. Not less than 10, nor more than 14 months, may elapse between the completion dates of successive proofs of performance. The results of each proof, signed and dated by the qualified person(s) making it, must be kept on file at the transmitter or remote control point for a period of 3 years, and be made available during that time on request by authorized representatives of the FCC.

(h) * * *

(3) At such time as the regularly designated chief operator is unavailable or unable to act as chief operator (e.g., vacations, sickness), and an assistant chief operator has not been designated,

or, if designated, for any reason is unable to assume the duties of the chief operator as acting chief on a temporary basis.

(k) Procedures for licensees employing full-time first-class radiotelephone duty operators to temporarily employ persons holding lesser grade licenses, or to employ a temporary pro-tem chief operator when the designated chief is incapacitated or unavailable are given in § 73.3547.

6. Section 73.99 is revised in its entirety to read as follows:

§ 73.99 Presunrise service authorizations (PSA).

(a) To provide the maximum uniformity in early morning operations compatible with interference considerations, the following classes of AM stations are eligible for presunrise service authority (PSA):

(1) Class II stations operating on clear channels, except those operating on Canadian 1-A clear channels and those located east of co-channel U.S. class 1-A stations.

(2) Class III stations.

(b) A presunrise service authorization will permit:

(1) Class II stations operating on Mexican and Bahamian 1-A clear channels to commence operation with their daytime antenna systems at 6:00 a.m. local time, and to continue such operation until the sunrise time specified in their basic instrument of authorizations;

(2) Other Class II stations, where eligible under (a)(1) of this Section, to commence operation with their daytime or critical hours antenna systems either at 6:00 a.m. local time, or at the time of sunrise at the westernmost Class I station located east of the Class II station (whichever is later), and to continue such operation until the sunrise times specified in their basic instruments of authorizations.

(3) Class III stations to commence operation with their daytime antenna systems at 6:00 a.m. local time and to continue such operation until local sunrise times specified in their basic instruments of authorization.

(c) The permissible power to be specified in the presunrise service authorization (PSA) will not exceed 500 watts (or the authorized daytime or critical hours power, if less than 500 watts), or such lesser power as may be determined by computations made pursuant to paragraph (d) of this Section.

(d) Requests for presunrise service authority will be treated as proposals for minor changes in existing facilities.

not subject to the provisions of §§ 73.3571 and 73.3580. Further, such requests are not subject to the procedural requirements or remedies applicable to applications for new facilities or major changes therein. PSA requests shall be submitted by letter, signed as specified in § 73.3513 with the following information:

- (1) *All stations.*
 - (i) licensee name, station call letters and station location,
 - (ii) a description of the method whereby any proposed power reduction will be achieved.

(2) *Class II stations.* (i) For Class II stations operating on clear channels other than Class I-A clear channels, a showing that objectionable interference as determined by the AM Broadcast Technical Standards (§§ 73.182 to 73.190), or by the engineering standards of the NARBA (whichever is controlling), will not be caused within the 0.5 mV/m 50% skywave contour of any domestic Class I-B station in any country signatory to the NARBA, where the Class II station is located east of the Class I-B station.

(ii) For Class II stations operating on Mexican Class I-A clear channels, and for Class II stations located east of co-channel Mexican Class I-B stations, a showing under the engineering standards of the United States/Mexican Agreement that the Class II station does not produce a signal in excess of 25 uV/m 10% skywave at any point on the co-channel Mexican Class I station's 0.5 mV/m 50% skywave contour which falls on Mexican territory, or more than 50 uV/m 10% skywave at any point on the Mexican border or boundary where the signal of the Mexican Class I station exceeds 0.5 mV/m-50% skywave in strength.

(iii) For all Class II stations, the applicant must show that foreign Class II stations (if any) assigned to the same channel as the U.S. Class II station will receive full protection under the standards for nighttime operation set forth in the applicable agreement. If the protections specified in (i) or (ii) above cannot be achieved by the Class II station while operating with 500 watts, a showing may be submitted to establish the level to which power must be limited to preclude objectionable interference. In relation to Canadian Class II stations, the permissible power level may be established in the manner described in (3) below by the use of Figure 12 of § 73.190.

(iv) Class II PSA applicants for the Bahamian I-A clear channel (1540 kHz) need not submit the nighttime interference study required of other PSA applicants under this paragraph.

Instead, the FCC will assign a power and the time of commencement of presunrise operation consistent with the provisions of the U.S.-Bahamian presunrise agreement (1974) and the protection requirements of U.S. I-B and foreign Class II full-time station assignments on this frequency.

(3) *Class III stations.* For Class III stations the applicant must show that co-channel stations in foreign countries will receive full treaty protection. If such protection cannot be achieved on the basis of 500 watt operation, calculations may be submitted to establish the level to which power must be reduced to preclude objectionable interference. With respect to Canadian Class III stations, such power level may be established by a showing that the radiation at the pertinent vertical angle toward co-channel Canadian stations does not exceed that defined in Figure 12 of § 73.190. If the latter showing cannot be made on the basis of 500 watt operation, calculations may be submitted to establish the level to which power must be reduced in order to limit radiation at the pertinent vertical angle to the values specified in Figure 12 of § 73.190.

(e) Calculations made under paragraph (d) of this Section may not take outstanding PSA's into account, nor will the grant of a PSA confer any degree of interference protection on the holder thereof.

(f) Operation under a PSA 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.

(g) The PSA is secondary to the basic instrument of authorization and 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.

(h) The PSA will be issued for a term coinciding with the current basic instrument of authorization and, unless surrendered by the holder or suspended, modified or withdrawn by the FCC will have continuing or renewed effect under succeeding instruments.

(i) The issuance of a PSA is intended to indicate the waiver of §§ 73.45, 73.182, 73.188, and 73.1560 where the operation might otherwise be considered as technically substandard. Further, the requirements of paragraphs (a)(5), (b)(2),

(c)(2), and (d)(2) of § 73.1215 concerning the scale ranges of transmission system indicating instruments are waived for PSA operation except for the radio frequency ammeters used in determining antenna input power.

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

(k) In the event of permanent discontinuance of presunrise operation, the PSA shall be forwarded to the FCC's Washington office for cancellation, and the Engineer in Charge of the radio district in which the station is located must also be concurrently notified.

7. In § 73.182, paragraph (f) is amended to read as follows:

§ 73.182 Engineering standards of allocation.

(f) The signals necessary to render primary service to different types of service areas are as follows:

Area	Field strength groundwave (mV/m)
City business or factory areas.....	10 to 50
City residential areas.....	2 to 10
Rural—all areas during winter or northern areas during summer.....	0.1 to 0.5
Rural—southern areas during summer.....	0.25 to 1.0

See § 73.184 for curves showing distance to various groundwave field strength contours for different frequency and ground conductivities, and also see § 73.183, "Groundwave signals."

(1) The above values are based on an absence of objectionable fading, either in changing strength or selective fading, the usual noise level in the area, and an absence of limiting interference from other AM broadcast stations. The values apply both day and night but generally fading or interference from other stations limits the primary service at night in all rural areas to higher values of field strength than the values given.

(2) The FCC will authorize a directional antenna for a Class IV station for daytime operation only with power in excess of 250 watts. In computing the degrees of protection which such antenna will afford, the radiation produced by this antenna 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 250 watts.

(3) Standards are not established for interference from atmospheric or man-made electric noise. Objectionable interference from any source, except other AM broadcast signals, may be determined by comparing the actual noise interference reproduced during reception of a desired signal to the degree of interference that would be caused by another AM signal within 20 Hz of the desired signal having a carrier ratio of 20 to 1 with both signals modulated 100% on peaks of usual programs.

8. In § 73.189, paragraph (b)(9) is amended to read as follows:

§ 73.189 Minimum antenna heights or field strength requirements.

(b) * * *

(9) See §§ 73.43 and 73.45 for additional information on AM station antenna systems and procedures for making antenna system modifications.

9. In § 73.240, new paragraph (a)(3) is added to read as follows:

§ 73.240 Multiple ownership.

(a) * * *

(3) The reference points which shall be used for city to city measurements are those listed in the Index to *The National Atlas of the United States of America*, United States Department of Interior, Geological Survey, Washington, D.C., 1970. (Future editions will supersede.) In the case of any community of license which is not referenced by the National Atlas, such as a newly established community, the point of reference shall be the main post office until such town is referenced. The National Atlas is available for reference at most public libraries and at the FCC in Washington.

10. Section 73.242 is revised to read as follows:

§ 73.242 Duplication of AM and FM programming.

(a) The licensee of an FM station authorized in a community of over 25,000 population shall operate so as to devote no more than 25% of the average FM broadcast week to program duplication from an AM station owned by the same licensee in the same local area.

(b) For the purposes of this Section, duplicated is defined to mean the simultaneous broadcasting of a particular program over both the AM

and FM stations or the broadcasting of a particular program by one station within 24 hours before or after the identical program is broadcast over the other station.

(c) For the purposes of this Section, the population is that shown in the latest regular U.S. Census Report.

(d) Compliance with the non-duplication requirement shall be verified by a showing in connection with the renewal applications as the FCC may require.

11. In § 73.265, paragraphs (c), the introduction to (d), (d)(1) and (d)(4) are revised, (d)(2) is deleted and reserved, and new paragraph (i) is added to read as follows:

§ 73.265 Operator requirements.

(c) FM stations may employ persons holding any class of commercial radio operator license or permit for the routine duty operation of the transmitting system as defined in paragraph (e) below. In addition, each station must employ at least one person holding a First-Class Radiotelephone Operator License either in full-time or whatever less than full time the licensee determines is needed to keep the station operation in compliance with the FCC rules and terms of the station authorization. As an alternative to the employment of a first-class operator, the licensee may contract in writing for the services of one or more first-class operators who will be readily available on a part-time basis. Signed contracts must be kept in the station file and made available for inspection on request by authorized representatives of the FCC.

(d) The licensee of an FM station operating with a total transmitter output power exceeding 25 kW and employing lesser grade duty operators in accordance with paragraph (c) above must designate one first-class radiotelephone operator as the chief operator who, together with the licensee, shall be responsible for the technical operation of the station. The licensee may also designate another first-class radiotelephone operator as assistant chief operator who will assume all responsibilities during absences of the designated chief operator.

(1) A copy of the designation must be posted with the license of the designated operator.

(2) [Reserved.]

(3) * * *

(4) At such time as the regularly designated chief operator is unavailable or unable to act as chief operator (e.g., vacations, sickness), and an assistant chief operator has not been designated, or, if designated, for any reason is

unable to assume the duties of the chief operator, the licensee must designate another first-class radiotelephone operator as acting chief on a temporary basis.

(i) Procedures for licensees employing full-time first-class radiotelephone duty operators to temporarily employ persons holding lesser grade licenses, or to employ a temporary pro-tem chief operator when the designated chief is incapacitated or unavailable are given in § 73.3547.

12. In § 73.295, paragraph (d) is corrected to read as follows:

§ 73.295 Use of multiplex subcarriers.

(d) The station identification, delayed recording, and sponsor identification announcements required by §§ 73.1201, 73.1208, and 73.1212, and the program log requirements for such announcements in § 73.1810 are not applicable to material transmitted under an SCA.

13. In § 73.332, the headnote and paragraph (a) are amended to read as follows:

§ 73.332 Requirements for type approval of FM modulation monitors.

(a) Procedures for obtaining type approval of FM modulation monitors are contained in § 73.1668 and in Subpart J of Part 2 of the FCC rules.

14. New § 73.531 is added to read as follows:

§ 73.531 Special rules relating to contracts providing for reservation of time upon sale of a station.

See § 73.1040.

15. In § 73.565, paragraphs (c), the introduction to (d), (d)(1) and (d)(4) are revised, (d)(2) is deleted and reserved, and new paragraph (j) is added to read as follows:

§ 73.565 Operator requirements.

(c) Noncommercial educational FM stations may employ persons holding any class of commercial radio operator license or permit for the routine duty operation of the transmission system as defined in paragraph (f) of this section. In addition, each station must employ at least one person holding the class of license specified for the station's power category specified in paragraph (b) of this section, either in full time or whatever less than full-time the licensee determines is needed to keep the station's technical operation in compliance with the FCC rules and

terms of the station authorization. As an alternative to the employment of a first-class or second-class operator, the licensee may contract in writing for the services of one or more operators of the applicable class who will be readily available on a part-time basis. Signed contracts must be kept in the station file and made available for inspection upon request by authorized representatives of the FCC.

(d) The licensee of a noncommercial educational FM station authorized to operate with a total transmitter output power of more than 25 kW and employing lesser grade duty operators in accordance with paragraph (c) of this section must designate one first-class radiotelephone operator as the chief operator who, together with the licensee, is responsible for the technical operation of the station. The licensee may also designate another first-class radiotelephone operator as assistant chief operator who will assume all responsibilities during absences of the designated chief operator.

(1) A copy of the designation must be posted with the license of the designated chief operator.

(2) [Reserved]

(3) * * *

(4) At such time as the regularly designated chief operator is unavailable or unable to act as chief operator (e.g., vacations, sickness), and an assistant chief operator has not been designated, or, if designated, for any reason is unable to assume the duties of the chief operator, the licensee must designate another first-class radiotelephone operator as acting chief on a temporary basis.

(j) Procedures for licensees employing full-time first-class radiotelephone duty operators to temporarily employ persons holding lesser grade licenses, or to employ a temporary pro-tem chief operator when the designated chief is incapacitated or unavailable are given in § 73.3547.

16. In § 73.595, paragraph (d) is amended to read as follows:

§ 73.595 Use of multiplex subcarriers.

(d) The station identification, delayed recording, and donor identification announcements required by §§ 73.1201, 73.1208, and 73.503, and the program log requirements for such announcements in § 73.1810 are not applicable to material transmitted under an SCA.

17. In § 73.636, new paragraph (a)(3) is added to read as follows:

§ 73.636 Multiple ownership.

(a) * * *

(3) The reference points which shall be used for city-to-city measurements are those listed in the Index to *The National Atlas of the United States of America*, United States Department of Interior, Geological Survey, Washington, D.C., 1970. (Future editions will supersede.) In the case of any community of license which is not referenced by the National Atlas, such as a newly established community, the point of reference shall be the main post office until such town is referenced. The National Atlas is available for reference at most public libraries and at the FCC in Washington.

18. In § 73.661, paragraph (b)(3) is revised and new paragraph (f) is added to read as follows:

§ 73.661 Operator requirements.

(b) * * *

(3) At such time as the regularly designated chief operator is unavailable or unable to act as chief operator (e.g., vacations, sickness), and an assistant chief operator has not been designated, or, if designated, for any reason is unable to assume the duties of chief operator, the licensee must designate another first-class radiotelephone operator as acting chief operator on a temporary basis.

(f) Procedures for licensees employing full-time first-class duty operators to temporarily employ persons holding lesser grade licenses, or to employ a temporary pro-tem chief operator when the designated chief operator is incapacitated or unavailable are given in § 73.3547.

§ 73.685 [Amended]

19. In § 73.685, the term "field intensity" in paragraphs (a) and (f)(3) is changed to read "field strength" and the term "standard broadcast" in paragraph (h)(1) is changed to read "AM broadcast."

20. In § 73.691, paragraph (a) is amended to read as follows:

§ 73.691 Modulation monitors.

(a) The licensee of each TV broadcast station shall have in operation at the transmitter, extension meter, or remote control point where the operator in charge of the transmitting system is on duty an approved modulation monitor for the aural transmitter and sufficient monitoring equipment for the visual signal to determine that the transmissions comply with the requirements of the Subpart.

* * *

§ 73.692 [Reserved]

21. Section 73.692 is deleted in its entirety and marked "Reserved."

22. In § 73.694, the headnote and paragraph (a) are amended to read as follows:

§ 73.694 Requirements for type approval of TV aural modulation monitors.

(a) Procedures for obtaining type approval of TV aural modulation monitors are contained in § 73.1668 and Subpart J of Part 2 of the FCC rules.

* * *

23. Section 73.783 is revised to read as follows:

§ 73.783 Logs; by whom kept.

See § 73.1800.

24. Section 73.784 is revised to read as follows:

§ 73.784 Log form.

See § 73.1800.

25. Section 73.785 is revised to read as follows:

§ 73.785 Correction of logs.

See § 73.1800.

26. In § 73.961, paragraph (c) is amended to read as follows:

§ 73.961 Tests of the Emergency Broadcast System procedures.

* * *

(c) *Weekly Transmission Tests of the Attention Signal and Test Script.* Except as provided in paragraph (d) of this Section, these tests shall be conducted by all AM, FM and TV stations a minimum of once a week at random days and times between the hours of 8:30 a.m. local time and local sunset. These tests will be conducted in accordance with procedures set forth in the EBS Checklist furnished to all broadcast stations, however, Class D non-commercial educational FM stations (those operating with 10 watts or less transmitter output power) need not transmit the two-tone attention signal.

* * *

27. In § 73.1207, new paragraph (a)(3) is added, and paragraphs (b) and (c) are amended as follows:

§ 73.1207 Rebroadcasts.

(a) * * *

(3) The broadcasting of a program relayed by a remote pickup broadcast station is not considered a rebroadcast.

(b) No broadcast station may retransmit the program, or any part thereof, of another U.S. broadcast station without the express authority of the originating station. A copy of the written consent of the licensee originating the program must be kept by the licensee of the station retransmitting

such program and made available to the FCC upon request.

(1) Stations originating emergency communications under a Detailed State EBS Operation Plan are deemed to have conferred rebroadcast authority to other participating stations.

(2) Permission must be obtained from the originating station to rebroadcast any FM station SCA subcarrier background music or other multiplex subscription program service.

(3) Programs originated by the Voice of America (VOA) and the Armed Forces Radio and Television Services (AFRTS) cannot, in general, be cleared for domestic rebroadcast, and may therefore be retransmitted only by special arrangements among the parties concerned.

(4) Except as otherwise provided by international agreement, programs originated by foreign broadcast stations may be retransmitted without the consent of the originating station.

(c) The transmission of messages of non-broadcast stations, other than stations in the personal radio services as stated in paragraph (e) of this section may be rebroadcast under the following conditions:

(1) The broadcasting of messages originated by privately owned non-broadcast stations may be done only upon the permission of the station licensee and with prior authorization from the FCC in Washington, D.C. Additionally, messages transmitted by common carrier stations may only be rebroadcast upon the permission of the originator of the message as well as the station licensee. FCC authority may be requested informally by telephone, to be followed with a written confirmation accompanied by the written consent of the station licensee of the originating station and the message originator of a common carrier station if transmission is rebroadcast.

(2) Except as provided for in paragraph (d) of this section, messages originated entirely by non-broadcast stations owned and operated by the Federal Government may be broadcast upon obtaining prior permission from the government agency originating the messages. Written notification must be sent to the FCC in Washington, D.C. within one week after such retransmission confirming that prior authorization for the transmissions had been obtained.

28. New § 73.1668 is added to Subpart H to read as follows:

§ 73.1668 Type approval of modulation monitors.

(a) A manufacturer desiring to obtain type approval of a modulation monitor must submit two copies of the full specifications of the monitor with the test data specified in the requirements for the particular type of monitor. (See § 73.50 for AM, § 73.332 for FM, or § 73.694 for TV monitors.) If this information appears to meet the requirements for type approval, the FCC will advise the manufacturer and request that a monitor be shipped to the Laboratory at Gilford, Maryland. Type approval of the monitor will be given only on the basis of data obtained by the FCC in testing the sample monitor supplied by the manufacturer.

(b) In approving the monitor upon the basis of tests conducted by the Laboratory, the FCC merely recognizes that type monitor has the inherent capability of functioning in compliance with the rules if properly constructed, maintained, and operated.

(c) All charges for shipping the sample monitor to and from the FCC Laboratory must be paid for by the manufacturer.

(d) Additional information concerning modification of type approved equipment, withdrawal of type approval, and limitations on findings upon which type approval is based are contained in Part 2, Subpart J of the FCC rules.

29. In § 73.1675, paragraph (a) is amended to read as follows:

§ 73.1675 Auxiliary antennas.

(a) 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. In either case, however, the coverage area when operating with the auxiliary antenna may not extend beyond the coverage area of the main antenna. An application for an auxiliary antenna authorization filed under the procedures given in paragraphs (b) or (c) of this section must contain a map showing the following contours for both the main and auxiliary antenna radiation:

(1) *AM stations:* The 0.5 mv/m field strength contours.

(2) *FM stations:* The 1.0 mv/m field strength contours.

(3) *TV stations:* The Grade B coverage contours.

30. Section 73.1940, paragraph (d) is corrected to read as follows:

§ 73.1940 Broadcasts by candidates for public office.

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

31. In § 73.3527, the introduction of paragraph (a) is amended, new paragraph (a)(8) is added and the introduction of paragraph (g) is amended as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

(a) *Records to be maintained.* Every applicant for a construction permit for a new station in the noncommercial educational broadcast services shall maintain for public inspection a file containing the material in (1) through (7) of this paragraph. Every permittee or licensee of a station in the noncommercial educational broadcast services shall maintain for public inspection a file containing the material described in (1) through (8) of this paragraph. The material to be contained in this file is as follows:

(8) The lists of donors supporting specific programs placed in the public file under the provisions of § 73.1810(f)(2) in lieu of showing the donors on the program log.

(g) *Period of retention.* The records specified in paragraph (a)(4) of this Section shall be retained for the periods specified in § 73.1940. The manual specified in paragraph (a)(6) of this Section shall be retained indefinitely. The donor lists specified in paragraph (a)(8) of this Section shall be retained for two years as specified in § 73.1840. The records specified in paragraphs (a)(1), (2), (3), (5), and (7); (b); and (c) of this Section shall be retained as follows:

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

32. In § 74.482, paragraph (d) is corrected to read:

§ 74.482 Station identification.

(d) Automatically activated equipment may be used to transmit station identification in international Morse code, provided that the modulation tone is 750 hertz $\pm$ 10 hertz, the level of modulation of the identification signal is maintained at 40% $\pm$ 10%, and that the code transmission rate is maintained between 20 and 25 words per minute.

33. In § 74.533, paragraphs (b)(1) is deleted and marked "Reserved", paragraph (b)(4) is amended, and paragraph (b)(5) is deleted in its entirety as follows:

§ 74.533 Remote control and unattended operation.

(b) * * *

(1) [Reserved.]

(4) Whenever an unattended aural broadcast STL or intercity relay station is in operation, appropriate observations must be made at the receiving end of the circuit at intervals not exceeding 24 hours by persons designated by the licensee who will institute measures sufficient to insure prompt correction of any condition of improper operation that is observed. If the aural broadcast STL station is associated with a station operated by remote control, the observations may be made by monitoring the broadcast station's transmitted signal at the remote control or ATS monitoring point.

34. In § 74.582, the introduction of paragraph (a) is amended to read as follows:

§ 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:

35. Section 74.581, including headnote is revised to read as follows:

§ 74.581 Logs and records.

(a) The licensee of aural broadcast STL and intercity relay stations, for each station or system separately licensed, must maintain an operating log in which entries shall be made in accordance with the following:

(1) If the instrument of authorization requires painting and lighting of an antenna structure:

(i) Entries required by § 17.49(a), (b), and (c) of the FCC rules concerning the time the tower lights are turned on and off each day if manually controlled, the time the daily check of proper operation of the tower lights was made if automatic alarm system is not provided, and any observed failure of the lighting system. See § 17.47(a) for daily tower lighting observation or automatic alarm system requirements.

(ii) Entries required by § 17.49(d) of the FCC rules concerning quarterly inspections of the condition of the tower lights and associated control equipment; when adjustments, replacement or repairs are made to insure compliance with the lighting requirements; and when towers are cleaned or repainted as required by § 17.50.

(2) An entry of frequency measurements made pursuant to § 74.562.

(3) An entry when service or maintenance is performed on any transmitter, if such service or maintenance could affect proper operation. The entry shall include a description of the work performed, the date and the signature and license serial number of the operator performing the service or maintenance duties or under whose supervision such duties have been performed.

(4) Entries as specifically requested by the FCC.

(b) Entries in the operating log shall be made by a person having knowledge of the facts entered. That person shall sign and date the log but the licensee is not relieved of its responsibility to maintain complete and accurate logs and records.

(c) Remote pickup broadcast station or system logs and records may be kept at any location convenient to the licensee. The log and records must be readily available for inspection by a duly authorized representative of the FCC upon request. Logs and records must be retained for a period of two years.

36. Section 74.681, including headnote, is revised to read as follows:

§ 74.681 Logs and records.

(a) The licensee of a TV auxiliary broadcast station system shall, for each station or system separately licensed, maintain an operating log in which entries shall be made in accordance with the following:

(1) If the instrument of authorization requires painting and lighting of an antenna structure:

(i) Entries required by § 17.49 (a), (b), and (c) of the FCC rules concerning the time the tower lights are turned on and off each day if manually controlled, the

time the daily check of proper operation of the tower lights was made if automatic alarm system is not provided, and any observed failure of the lighting system. See § 17.47(a) for daily tower lighting observation or automatic alarm system requirements.

(ii) Entries required by § 17.49(d) of the FCC rules concerning quarterly inspections of the condition of the tower lights and associated control equipment; when adjustments, replacement or repairs are made to insure compliance with the lighting requirements; and when towers are cleaned or repainted as required by § 17.50.

(2) An entry of frequency measurements made pursuant to § 74.662.

(3) An entry when service or maintenance is performed on any transmitter, if such service or maintenance could affect proper operation. The entry shall include a description of the work performed, the date and the signature and license serial number of the operator performing the service or maintenance duties or under whose supervision such duties have been performed.

(4) Entries as specifically requested by the F.C.C.

(b) Entries in the operating log shall be made by a person having knowledge of the facts entered. That person shall sign and date the log but the licensee is not to be relieved of its responsibility to maintain complete and accurate logs and records.

(c) TV auxiliary broadcast station or system logs and records may be kept at any location convenient to the licensee. The log and records must be readily available for inspection by a duly authorized representative of the FCC upon request. Logs and records must be retained for a period of two years.

37. In § 74.751, the headnote and paragraphs (b)(1) and (c) are amended to read as follows:

§ 74.751 Modification of transmission systems.

(b) * * *

(1) Replacement of the transmitter as a whole, except replacement with a transmitter of identical power rating which has been type accepted by the FCC for use by TV translator stations, or any change which could result in the electrical characteristics or performance of the station. Upon the installation or modification of 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.

(c) Any change in the location of the transmission system, except a move within the same building or upon the same antenna supporting structure must be reported to the FCC in Washington, D.C., and the Engineer in Charge of the radio district in which the transmitter is located within 30 days after the move.

38. Section 74.951, including headnote is revised to read as follows:

§ 74.951 Modification of transmission systems.

Formal application on FCC Form 330-P is required for any of the following changes or modifications of the transmission system:

(a) Replacement of the transmitter as a whole, except replacement with a transmitter of identical power rating which has been type accepted by the FCC for use by instructional TV fixed stations, or any change which could result in a change 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.

(b) Any change in the antenna system affecting the direction of radiation, directive radiation pattern, antenna gain, or radiated power.

(c) 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 the FCC Rules.

(d) Any change in the transmitter control system.

(e) Any change in the location of the transmission system except a move within the same building or upon the same antenna supporting structure.

(f) A change in frequency assignment.

(g) A change in the operating power.

39. In § 74.970, paragraph (b) is amended to read as follows:

§ 74.970 Modulation limits.

(b) *Aural transmitter.* The maximum frequency deviation of the aural carrier shall not be permitted to exceed ± 25 kHz on peaks of frequent occurrence during any transmission. This defined as 100% modulation.

40. In § 74.1251, the headnote and paragraph (b)(1) are amended, and paragraph (c) is deleted as follows:

§ 74.1251 Modification of transmission systems.

(b) * * *

(1) Replacement of the transmitter as a whole, except replacement with a transmitter of identical power rating which has been type accepted 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.

(c) [Deleted]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. No. 1-153]

Organization and Delegation of Powers; Miscellaneous Delegation of Powers and Duties

AGENCY: Department of Transportation.
ACTION: Final rule.

SUMMARY: Several amendments to the Department's Organization Manual have been made to cover changes in office duties relating to conducting labor-management relations. The Research and Special Programs Administrator has been delegated the authority to approve labor agreements negotiated within the Research and Special Programs Administration (RSPA). The Assistant Secretary for Administration has been delegated the authority to make certain determinations for the Department concerning the negotiability of proposed contract terms arising under the Civil Service Reform Act of 1978. Changes to the Part 1 of the regulations of the Office of the Secretary are necessary to reflect these amendments and to keep the Part up-to-date.

EFFECTIVE DATE: April 17, 1980.

FOR FURTHER INFORMATION CONTACT: Jack S. Lusk, Office of the General

Counsel, Office of the Secretary, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426-4723.

SUPPLEMENTAL INFORMATION: Since this amendment relates to departmental internal management procedures and practices, it is excepted from notice in public procedure requirements and it may be made effective in fewer than 30 days after publication in the *Federal Register*.

Discussion of Delegation

Currently, the Assistant Secretary for Administration has the authority to approve labor agreements negotiated within the Research and Special Programs Administration, including those for the Transportation Systems Center in Cambridge, Massachusetts. Previously, delegations granting authority to make labor agreements were made to the heads of the other administrations of the Department under section 1.45(a)(1) of the organizational manual. The elimination of the current delegation to the Assistant Secretary for Administration will place the RSPA Administrator in a position consistent with the heads of the other administrations.

Determinations concerning negotiability on proposed contract terms arising under section 7117 of Title VII of the Civil Service Reform Act of 1978 (CSRA) were previously made by the Deputy Secretary. They will now be made by the Assistant Secretary for Administration, or his delegatee. This action will enable the Department to effectively implement the new procedures of the Federal Labor Relations Authority, mandated by the CSRA, that drastically reduce the time for the agency determinations.

Accordingly, Part 1 of Title 49 of the Code of Federal Regulations is amended by (1) deleting the current § 1.59(b)(8) and (2) by adding a new paragraph (b)(8) to § 1.59, to read as follows:

§ 1.59 Delegations to the Assistant Secretary for Administration.

(b) * * *

(8) issue final interpretations for the Department and its administrations on matters arising under section 7117 of Title VII of the Civil Service Reform Act of 1978.

(Section 9(e)(1), Department of Transportation Act (49 U.S.C. 1657 (e)))