

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the *Federal Register* as provided in 39 CFR 111.3.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87-3513 Filed 2-19-87; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1780

[Circular No. 2589; WO-150-06-4380-11]

Advisory Committees; Appointment and Reappointment to District Advisory Councils, etc.; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking; correction.

SUMMARY: The Department of the Interior is correcting errors in the October 29, 1986 [51 FR 39528] final rulemaking on Advisory Committees to clarify two provisions that were confusing and susceptible of misinterpretation.

EFFECTIVE DATE: February 20, 1987.

ADDRESS: Inquiries or suggestions should be sent to: Director (150), Bureau of Land Management, 1800 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: David S. Johnson, (202) 343-2054.

SUPPLEMENTARY INFORMATION: This document corrects 2 provisions of the final rulemaking on Advisory Committees in Part 1780 published in the *Federal Register* on October 29, 1986 [51 FR 39528]. These corrections clarify the final rulemaking to reflect the intention of the Department of the Interior in that final rulemaking.

1. Section 1784.3(b)(4), page 39530, first column, is corrected by removing the unnecessary phrase, "if 3 years had elapsed since the completion of that person's last 3-year term before being appointed to the vacancy," which, in the context of paragraph (b)(4), could be misinterpreted to imply that, under some unstated circumstances, a person could be appointed to a council to fill a vacancy sooner than 3 years after completion of 2 consecutive 3-year terms. The phrase is rendered unnecessary by the prohibition in paragraph (b)(5) that a person cannot be

subsequently appointed sooner than 3 years after the completion of 2 consecutive 3-year terms.

2. Section 1784.3(b)(5), page 39530, first column, is corrected to avoid the possible misinterpretation that it applies only to immediate reappointments to extend or continue a term on a council, and not to subsequent appointments. The phrase "may be reappointed" and the word "reappoint" are removed, and the phrase "may be subsequently appointed" and the word "appoint" are inserted in their places.

Dated: February 13, 1987.

James E. Cason,

Acting Assistant Secretary of the Interior.

The following corrections are made in the final rulemaking on 43 CFR Part 1780, Advisory Committees; Appointment and Reappointment to District Advisory Councils, etc., published in the *Federal Register* on October 29, 1986 [51 FR 39528].

§ 1784.3 [Corrected]

1. Section 1784.3, paragraph (b)(4) is corrected to read as follows:

* * * * *

(4) A person who has served an appointed term of less than 3 years on a council to fill a vacancy occurring for reasons described in paragraph (b)(2) of this section may, at the discretion of the Secretary, be reappointed to two consecutive 3-year terms;

2. Section 1784.3, paragraph (b)(5) is corrected to read as follows:

(5) A person who has served 2 consecutive 3-year terms on a council may be subsequently appointed no earlier than 3 years after his or her last date of membership on that council. However, the Secretary may waive this 3-year waiting period and appoint that person to a 1-year term, upon determining that the member's continued or renewed service on the council is in the public interest and critical to the effective functioning of the council, and the responsible district manager has certified that these conditions have been met.

[FR Doc. 87-3575 Filed 2-19-87; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 10

Environmental Considerations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Environmental Impact Statements and environmental assessments will no longer be required for those community-wide exceptions for floodproofed residential basements which meet certain technical standards.

EFFECTIVE DATE: March 1, 1987.

FOR FURTHER INFORMATION CONTACT:

John Scheibel, Associate General Counsel, FEMA, 500 C Street, SW., Washington, DC 20472. Telephone: (202) 646-4100.

SUPPLEMENTARY INFORMATION: Pursuant to 44 CFR 10.8(d), on September 5, 1986, in the *Federal Register*, the Federal Emergency Management Agency (FEMA) published a proposed rule to amend its regulations to expand the list of categorical exclusions, actions which are not subject to the application of 44 CFR Part 10 of FEMA's regulations. That part implements the National Environmental Policy Act of 1969 and the regulations of the Council on Environmental Quality (40 CFR Parts 1500 through 1508).

No comments were received, consequently FEMA is publishing this notice of a final rule. This relates to the final rule published in the *Federal Register* by FEMA on August 25, 1986, which included supplemental information on "Exceptions for Floodproofed Residential Basements." FEMA determined, after reviewing exception requests and conducting a study, that such exceptions will continue to be granted but under a simplified procedure.

The simplified procedure would be based solely on a technical review by FEMA of flooding characteristics in the community to determine if the community met criteria in § 60.6(c) of the final rule published in the *Federal Register* on August 25, 1986. If a community met the criteria, no finding would be required that there would be severe hardship or gross inequity if the exception were denied and no special environmental clearance (environmental assessment or Environmental Impact Statement) would be prepared.

This regulation is not a major rule within the meaning of the term in Executive Order 12291 nor will it have a significant economic impact on a substantial number of small entities. Hence, no regulatory impact statements have been prepared. Also there are no information collection requirements needing clearance under 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 10

Environmental impact statements.

Accordingly, FEMA will amend § 10.8(c)(2) of Part 10, Chapter 1, Subchapter A of Title A as follows:

PART 10—ENVIRONMENTAL CONSIDERATIONS

1. The authority citation for Part 10 continues to read as follows:

Authority: 42 U.S.C. 4321 *et seq.* E.O. 11514 as amended by E.O. 11991; Reorganization Plan No. 3 of 1978, E.O. 12127, E.O. 12148.

§ 10.8 [Amended]

2. Section 10.8(c)(2) as amended by adding paragraph (c)(2)(ix) to read as follows:

(c) * * *

(2) * * *

(ix) Community-wide exceptions for floodproofed residential basements meeting the requirements of 44 CFR 60.6 (c) under the National Flood Insurance Program.

Dated: February 11, 1987.

Julius W. Becton, Jr.,
Director, Federal Emergency Management Agency.

[FR Doc. 87-3418 Filed 2-19-87; 8:45 am]

BILLING CODE 6716-02-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 2, 21, 22, 23, 25, 62, 73, and 74

[General Docket No. 86-285; FCC 86-562]

Establishment of a Fee Collection Program To Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985

AGENCY: Federal Communications Commission (FCC).

ACTION: Final rule.

SUMMARY: This action creates new rules and procedures for implementing the Schedule of Charges and other provisions established by the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. Number 99-272). The decisions made in the Report and Order include: (1) Adoption of the fees exactly as mandated by Congress; (2) retention of fees by the government regardless of the Commission's disposition of an application or filing; (3) new locations for the filing of fees and applications; (4) a policy whereby fees will be due in full upon submission of an application or filing to the Commission; (5) payment of fees by check, bank draft, or money order; (6) penalties for late or failed

payments; (7) a procedure for modifying the fees based upon changes in the Consumer Price Index; (8) fee exemptions for certain radio services or users; (9) a procedure for waivers or deferrals of fees; and (10) an analysis of each fee including its calculation and connection to current processing rules.

EFFECTIVE DATE: April 1, 1987.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Brent Weingardt, Office of the Managing Director, (202) 632-3906, or Marilyn McDermott, (202) 632-5316.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in General Docket 86-285, FCC 86-562, Adopted December 23, 1986 and Released February 17, 1987.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

1. The Report and Order amends the Commission's rules in order to implement those provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 ("Budget Act") that prescribe charges for certain regulatory actions provided to the public (sections 5002(e) and 5002(f) of Pub. L. Number 99-272, 47 U.S.C. 158). The Budget Act establishes a Schedule of Charges for various communications services under the Commission's regulatory jurisdiction; creates procedures for modifications to the Schedule of Charges; delineates charges and other penalties for late payments; exempts specific radio services and entities from charges; and provides for Commission-approved waivers and deferrals. The Budget Act also directs the Commission to prescribe appropriate rules and regulations to carry out the provisions of this legislation.

2. On June 25, 1986 the Commission adopted a Notice of Proposed Rule Making to consider new rules and procedures for fee collection (General Docket Number 86-285, FCC 86-301, 51 FR 25792 (July 16, 1986)). This document detailed proposed new collection procedures and discussed the intended calculation of each fee in the Schedule of Charges. The Commission received and reviewed 54 public comments and

13 reply comments. The Commission's consideration of its proposed rules and the public comments in response to them was guided by three distinct principles: (1) The fee collection process should not have an adverse impact on the Commission's application processing and equipment authorization programs; (2) fees should be collected and deposited in the most cost effective manner possible; and (3) fees should impose little or no additional paperwork burden on the public.

Amount of Charges

3. The Commission adopts the statutory Schedule of Charges into its rules exactly as approved by the Congress. The Commission determines that the fees may not be changed, except to reflect increases or decreases in the Consumer Price Index, without future legislation.

Retention and Refund of Charges

4. The Commission decides that fees will be retained by the government irrespective of the Commission's ultimate disposition of the underlying application or filing. Fees will be returned in certain limited instances. These include: applications or filings with an insufficient fee; fees submitted with applications or filings not requiring a fee; unnecessary filings requiring no staff action; submissions from an applicant who cannot meet a prescribed age requirement; instances when a waiver request is granted; overpayments of \$8 or more; and instances when the Commission adopts new rules that nullify applications already accepted for processing.

5. In response to comments suggesting partial or full refunds for applications rejected on substantive grounds, the Commission notes that it incurs a cost regardless of the final result to the applicant and that it proposed to Congress that these fixed processing costs be recovered in equal amounts from each applicant. According to the Commission, neither the Budget Act nor its legislative history would require the apportioning of fees according to the actual work done on any particular application.

Role of FCC FORMS

6. The Commission decides that a new fee form need not accompany the required fees. For the present, the public will be expected to submit fees with the current OMB-approved application forms or in approved filing formats. However, applicants are urged to attach a cover letter to the application or filing that details the number and type of fees

encompassed by the submission. The Commission rejects the use of fee receipts, as it does not believe they would serve any useful purpose justifying their costs. Applicants will receive receipts through their cancelled checks or "receipt copies" of the application provided to the Commission.

Payment Locations

7. The Commission concludes that certain changes in the filing locations for feeable applications are necessary in order to comply with the cash management directives of the Deficit Reduction Act of 1984 and Department of Treasury regulations. As of April 1, 1987 the public must submit feeable private radio applications to the Treasury lockbox bank located in Pittsburgh, Pennsylvania. The Public will be able to mail or hand carry its applications to the lockbox bank. (Mailing addresses and delivery times for all feeable FCC submissions will be provided in a later Order.) The Commission will not accept feeable applications sent to Gettysburg. Feeable applications mailed or delivered to this location will be returned to the sender without processing.

8. The Commission will continue to receive mass media and common carrier applications at its headquarters building in Washington, DC. Equipment authorization applications, now filed with the Commission's laboratory near Columbia, Maryland, will be filed at the headquarters building as of April 1, 1987. The Commission indicates that equipment authorization applications will be processed in order of their receipt at the Washington, DC location. This change in filing location should not impact overall speed of processing.

9. The public should continue to submit applications directly to the appropriate frequency coordinator for those applications in the private radio and mobile radio services that are subject to the mandatory frequency coordination procedures established in Private Radio Docket 83-737. Statutory fees will not be due from the applicant at the time it submits an application to a frequency coordinator. However, the applicant may attach the statutory fee to the application in the form of a check or money order made payable to the Federal Communications Commission. In the absence of an agency relationship between the coordinator and the applicant for the coordinator to serve as a fee filing agent, a payment instrument that commingles the statutory fee and the coordinator's fee will be returned to the applicant. The coordinator will mail or otherwise deliver the application and attached fee to the Treasury lockbox

bank within three days of the completion of coordination. The applicant may also choose to submit the statutory fee to the frequency coordinator after it receives notice from the coordinator that its application is ready for submission to the Commission. The coordinator will have three days from its receipt of the fee from the applicant to forward the fee and application to the Treasury lockbox bank. It is the coordinator's responsibility not to forward applications requiring a fee to the Treasury lockbox bank without such fees.

Timing of Payments

10. Unless an applicant is granted a deferral of fees under the authority of section 8(d)(2) of the Communications Act, all fees will be due in full upon submission of an application or filing to the Commission. Partial payments or installment payments will not be permitted. Therefore, no submission will be deemed sufficient for processing by the appropriate bureau or office unless the full fee is attached. The Commission indicates that for it to allow partial payments, an extensive billing and collection program would be necessary. Any such billing program adds significantly to the cost of a cash management system, delays Treasury's receipt of funds, and ultimately decreases the amount of regulatory costs recovered by the government. Should an applicant believe it has filed an incorrect fee and wish to correct this error, it should resubmit the application or filing with the *entire* fee attached.

Method of Payment

11. The public may pay its fees by check, bank draft, or money order made payable to the Federal Communications Commission and drawn upon funds deposited in a bank in the United States. In most instances, one payment instrument must accompany each application or filing. A single payment instrument will be permitted for multiple applications if these applications are filed simultaneously on behalf of the same legal applicant, request the same Commission action in the same radio service on the same FCC Forms. If the single payment is insufficient, all of the applications encompassed by the payment will be returned to the applicant.

12. The Commission rejects alternative payment methods, such as deposit/drawing accounts and credit cards, because they would either place additional administrative burden on the processing staff, intertwine the agency with private fee decisions, or delay

payments to the Treasury. The conditions imposed on the payment of multiple applications through one payment instrument are necessary to avoid the commingling of separate legal applicants and to aid the staff in processing, auditing and accounting for fees.

Penalties for Late or Failed Payments

13. The Commission will dismiss as unacceptable for processing any application or filing that is not accompanied by a sufficient fee. When the Commission permits an untimely paid application to enter the processing system, that is, one not accompanied by a sufficient fee, it will bill the applicant for the amount due plus a 25 percent penalty on the amount owed. Untimely payments, resulting in a bill to the applicant, will be permitted only when a deferral request is granted or when the staff does not detect the insufficient fee payment in 30 calendar days or less from the receipt of the application. Prior to this date, the application will be dismissed if an insufficient payment is discovered. If an applicant is billed and does not pay by the date indicated, its application will be dismissed or its authorization rescinded.

14. While the Commission believes that section 8(c)(2) of the Communications Act gives it the authority to dismiss an application whenever the fee underpayment is discovered, such a policy would upset the ongoing activities of applicants and licensees who relied on the first fee review by the staff. The 30 calendar day rule provides a clear demarcation point as to the consequences of a fee underpayment. This time frame is consistent with the amount of time needed by the bureaus to complete a second review of the fee and report mistakes to the fee staff. This second review will significantly decrease the errors in fee collection that could otherwise result in an expensive accounts receivable program and lost revenues to the government.

15. The Commission also decides that all instruments of authorization will be conditioned upon final payment of the applicable fee. Therefore, if the Commission receives word that a payment instrument has failed for insufficient funds, the authorization will be automatically rescinded and the grantee notified to cease operations. If the application is still pending, it will be dismissed. In response to the comments, the Commission notes that it is not concerned with determining fault for failed payments, as payment remains the ultimate responsibility of the

applicant. However, the Commission will instruct its depository banks to present all instruments to the drawee's bank twice before returning the instrument to the Commission as an uncollectible item. This should allow the applicant to correct inadvertent errors. Finally, the Commission notes that it has the authority to condition its grants upon payment of the fee and need not hold a revocation hearing under section 312 of the Communications Act. The Supreme Court has stated that the hearing requirement cannot be interpreted as withdrawing from the Commission the rulemaking authority necessary to conduct its business, particularly when Congress has specifically authorized limitations against licensing that the Commission must implement. *See, U.S. v. Storer Broadcasting Company*, 351 U.S. 192, 202-203 (1956).

Modifications to the Schedule of Charges

16. In line with the statutory formula contained in new section 8(b)(1) of the Communications Act, the Commission will review the Schedule of Charges every two years after the date of enactment and adjust these charges to reflect changes in the Consumer Price Index for all Urban Consumers (CPI-U). Adjustments to fee under \$100 will not occur until the change equals at least five dollars, or in the case of \$100 or more, until the CPI-U has changed by five percent. All fees requiring adjustment will be rounded up or down to the next five dollar increment.

Radio Services and Entities Exempt From Charges

17. New section 8(d)(1) of the Communications Act and the Budget Act's legislative history create specific exemptions from the fee requirement. The Commission concludes that these exemptions will constitute all of the radio services and entities exempt from the Schedule of Charges. Unlike the former fee program, which was implemented under the authority of the Independent Offices Appropriation Act of 1952 and allowed the Commission to consider "public policy and interest served" in creating fees, the Budget Act establishes discrete fees and specific exemptions to them. The Commission believes it is without authority to create additional exemptions beyond those approved by Congress.

18. All applicants and licensees in the Public Safety and Special Emergency Radio services are exempt from fees. This exemption includes all of the specific radio services encompassed within these categories (*See* 47 CFR

90.15 and 90.33 for a delineation of these radio services).

19. Applicants, permittees, on licensees of noncommercial educational broadcast stations in the FM and TV services, as well as AM applicants, permittees or licensees who certify that the station will operate or does operate in conformance with § 73.503 of the rules, are exempt from fees associated with these services. The exemption also applies to stations operated on a noncommercial educational basis on unreserved channels. Applications by these stations for any other mass media, private radio, or common carrier authorization will also be exempt from fees if the radio service is used in conjunction with the noncommercial educational broadcast station on a noncommercial educational basis. (*See* 47 U.S.C. 397(14)).

20. Fees will not be required for applications or filings made by interconnection organizations—such as the Public Broadcasting Service or National Public Radio—funded directly or indirectly through the Corporation for Public Broadcasting if the mass media, private radio or common carrier service is used in conjunction with the interconnection organization on a noncommercial education basis (*See* 47 U.S.C. 397(14)).

21. Governmental entities are exempt from any fee in the Schedule of Charges. These entities are defined at new § 1.1112(f) of the Commission's rules. The Commission rejects the proposed modifications to the rules as unnecessary and complicating. In addition, the Commission rejects the suggestion to permit a non-governmental license holder to assert the exemption on behalf of a governmental user who is the sole user of the facility. Such an assertion would clearly violate section 8(d)(1) of the Communications Act, which limits the exemption to "governmental entities *licensed* in other services" (emphasis added).

Waivers and Deferrals

22. The Commission decides to consider waivers and deferrals on a case by case basis for specific applicants who file requesting such action on their own behalf. It rejects the comments seeking categorical waivers of deferrals as inconsistent with the narrow authority by the Congress to consider specific requests. In accordance with 8(d)(2) of the Communications Act, the waiver of deferral will be granted for good cause shown when such action will promote the public interest. Those requesting a waiver of deferral will have the burden of demonstrating that, for each request,

a waiver or deferral would override the public interest, as determined by Congress, that the government should be reimbursed for the specific regulatory action of the FCC. These requests will be acted upon by the Managing Director, with the concurrence of the General Counsel, and must accompany the underlying application or filing.

Chargeable Radio Services and Authorizations

23. The Commission makes several decisions interpreting the new Schedule of Charges and its accompanying legislative history as they relate to the radio services and authorization functions subject to fees. These interpretations are incorporated into the rules.

Effective Date of Schedule of Charges

24. The Commission decides that fee collection will begin on April 1, 1987. Applications or filings received at the Commission or the Treasury lockbox bank on or after this date will require a fee. The postmark date will not determine whether a fee is required. There will be no grace period for improperly filed application or insufficient fees. Applications on file with the Commission prior to April 1, 1987 will not require a fee. However, applications on file prior to this date that are designated for hearing on or after April 1, 1987 will be subject to the hearing charge. The hearing fee is justified because it represents a charge for a prospective action of the Commission in which the applicant may choose not to participate.

Procedural Matters

25. Final Regulatory Flexibility Analysis. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 604, a final regulatory flexibility analysis has been prepared. It is available for public viewing as part of the full text of this decision, which may be obtained from the Commission or its copy contractor.

26. The rules adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements, and will not increase or decrease burden hours imposed on the public.

27. Accordingly, it is hereby ordered, that, pursuant to authority contained in section 5002(e) of Pub. L. Number 99-272, the Consolidated Omnibus Budget Reconciliation Act of 1985, and in sections 4(i), 4(j), 8(f) and 303(r) of the Communications Act of 1934, as

amended, 47 U.S.C. 154(i), 154(j), 158(f) and 303(r), Parts 0, 1, 2, 21, 22, 23, 25, 62, 73, and 74 if the Commission's rules are amended as set forth below. These rules and regulations are effective 30 days after publishing in the **Federal Register**.

List of Subjects

47 CFR Part 0

Organization and functions.

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 2

Communications equipment.

47 CFR Part 21

Communications common carriers.

47 CFR Part 22

Communications common carriers.

47 CFR Part 23

Communications common carriers.

47 CFR Part 25

Communications common carriers.

47 CFR Part 62

Communications common carriers.

47 CFR Part 73

Radio and television broadcasting.

47 CFR Part 74

Radio and television broadcasting.

Rule Amendments

47 CFR Parts, 0, 1, 2, 21, 22, 23, 25, 62, 73, and 74 are amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read:

Authority: Sec. 4, 303, 48 Stat. 1066, 1082 as amended; 47 U.S.C. 154, 303 unless otherwise noted. Implement 5 U.S.C. 552, unless otherwise noted.

2. 47 CFR 0.231 is amended by revising paragraph (c); redesignating existing paragraph (i) as paragraph (h); and by removing existing paragraph (h) as follows:

§ 0.231 Authority delegated.

(c) The Managing Director, or his designee, upon securing concurrence of the General Counsel, is delegated authority to act upon requests for waiver or deferral of fees established under Subpart G, Part 1 of this chapter.

§ 0.284 [Amended]

3. 47 CFR 0.284 is amended by removing existing paragraph (a)(3) and redesignating paragraphs (a)(4) through (a)(11) as paragraphs (a)(3) through (a)(10).

§ 0.332 [Amended]

4. 47 CFR 0.332 is amended by removing existing paragraph (c) and redesignating paragraphs (d) through (j) as paragraphs (c) through (i).

5. 47 CFR 0.406 is amended by revising paragraph (b)(2) to read as follows:

§ 0.406 The rules and regulations.

(b) * * *

(2) Part 1, practice and procedure. Subpart A of Part 1 contains the general rules of practice and procedure. Except as expressly provided to the contrary, these rules are applicable in all Commission proceedings and should be of interest to all persons having business with the Commission. Part 1 also contains certain other miscellaneous provisions. Subpart B contains the procedures applicable in formal hearing proceedings (see § 1.201). Subpart C contains the procedures followed in making or revising the rules or regulations. Subpart D contains rules applicable to applications for licenses in the Broadcast Radio Services, including the forms to be used, the filing requirements, the procedures for processing and acting on such applications, and certain other matters. Subpart E contains general rules and procedures applicable to common carriers. Additional procedures applicable to certain common carriers by radio are set forth in Part 21. Subpart F contains rules applicable to applications for licenses in the Private Radio Services, including the forms to be used, the filing requirements, the procedures for processing and acting on such applications, and certain other matters. Subpart G contains rules pertaining to the application processing fees established by the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. Number 99-272). Subpart H, concerning ex parte presentations, sets forth standards governing communications with Commission personnel in hearing proceedings and contested application proceedings. Subparts G and H will be of interest to all applicants, and Subpart H will, in addition, be of interest to all persons involved in hearing proceedings.

PART 1—PRACTICE AND PROCEDURE

6. The authority citation for Part 1 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

7. 47 CFR 1.80 is amended by revising paragraph (h) to read as follows:

§ 1.80 Forfeiture proceedings.

(h) Payment. The forfeiture should be paid by check or money order drawn to the order of the Federal Communications Commission. The Commission does not accept responsibility for cash payments sent through the mails. The check or money order should be mailed to the Forfeiture Unit, Financial Services Branch, FCC, Box 19209, Washington, DC 20036, or delivered to the Forfeiture Unit, Financial Services Branch, Room 452, 1919 M St., NW., Washington, DC 20554.

8. 47 CFR 1.221 is amended by adding new paragraphs (f), (g), and Note to read as follows:

§ 1.221 Notice of hearing; appearances.

(f) A processing fee must accompany each written appearance filed with the Secretary in certain cases designated for hearing on or after the date fee collection is implemented by the Commission. See Subpart G, Part 1 for amount due. The hearing fee is required of each applicant designated for hearing in a case involving the comparative review of applicants for a new commercial television, radio, or Direct Satellite Broadcasting (DSB) construction permit, a major/minor change construction permit for a previously authorized commercial television, radio, or DSB facility, or a comparative renewal license proceeding for these facilities. The fee must accompany each written appearance at the time of its filing and must be in a form of payment prescribed by § 1.1108 of the Commission's rules.

(g) A written appearance that does not contain the proper fee, or is not accompanied by a waiver or deferral request as per § 1.1115 of the Commission's rules, shall be dismissed and returned to the applicant by the fee processing staff. The presiding judge will be notified of this action and may dismiss the applicant with prejudice for failure to prosecute if the written appearance is not resubmitted with the correct fee within the original 20 day filing period.

Note.—If the parties wish to file a settlement agreement with the Administrative Law Judge, the hearing fee need not accompany the Notice of Appearance. In filing the Notice of

Appearance, the applicant should clearly indicate that a settlement agreement has been filed. (The fact that there are ongoing negotiations that may lead to a settlement does not affect the requirement to pay the hearing fee.) If the settlement agreement is not effectuated, the hearing fee must be paid immediately.

9. 47 CFR 1.742 is revised to read as follows:

§ 1.742 Place of filing, fees, and number of copies.

All applications shall be tendered for filing at the Commission's main office in Washington, DC. Hand-delivered applications will be dated by the Secretary upon receipt (mailed applications will be dated by the Mail Branch) and then forwarded to the Common Carrier Bureau. The number of copies required for each application and the nonrefundable processing fees (see Subpart G) which must accompany each application in order to qualify it for acceptance for filing and consideration are set forth in the rules in this chapter relating to various types of applications. However, if any application is not of the types covered by this chapter, an original and two copies of each such application shall be submitted.

10. 47 CFR 1.762 is revised to read as follows:

§ 1.762 Interlocking directorates.

Applications under section 212 of the Communications Act for authority to hold the position of officer or director of more than one carrier subject to the act or for a finding that two or more carriers are commonly owned shall be made in the form and manner, with the number of copies set forth in Part 62 of this chapter. The Commission shall be informed of any change in status of any person authorized to hold the position of officer or director of more than one carrier, as required by Part 62 of this chapter.

11. 47 CFR 1.764 is amended by revising paragraph (a) to read as follows:

§ 1.764 Discontinuance, reduction, or impairment of service.

(a) Applications under section 214 of the Communications Act for the authority to discontinue, reduce, or impair service to a community or part of a community or for the temporary, emergency, or partial discontinuance, reduction, or impairment of service shall be made in the form and manner, with the number of copies specified in Part 63 of this chapter (see also Subpart G, Part 1 of this chapter). Posted and public

notice shall be given the public as required by Part 63 of this chapter.

12. 47 CFR 1.766 is amended by revising paragraph (a) to read as follows:

§ 1.766 Consolidation of domestic telegraph carriers.

(a) Applications under section 22 of the Communications Act by two or more domestic telegraph carriers for authorization to effect a consolidation or merger or by any domestic telegraph carrier to acquire all or any part of the domestic telegraph properties, domestic telegraph facilities, or domestic telegraph operations of any carrier shall contain such information as is necessary for the Commission to act upon such application under the provisions of section 222 of the Act.

* * * * *

13. 47 CFR 1.767 is amended by revising paragraph (a) to read as follows:

§ 1.767 Cable landing licenses.

(a) Applications for cable landing licenses under 47 U.S.C. 34-39 and Executive Order No. 10530, dated May 10, 1954, should be filed in duplicate and in accordance with the provisions of that Executive Order. These applications should contain the name and address of the applicant; the corporate structure and citizenship of officers if a corporation; a description of the submarine cable, including the type and number of channels and the capacity thereof; the location of points on the shore of the United States and in foreign countries where cable will land (including a map); the proposed use, need, and desirability of the cable; and such other information that as may be necessary to enable the Commission to act thereon. A separate application shall be filed with respect to each individual cable system for which a license is requested, or for which modification or amendment of a previous license is requested.

* * * * *

14. 47 CFR 1.772 is revised to read as follows:

§ 1.772 Application for special tariff permission.

Applications under section 203 of the Communications Act for special tariff permission shall be made in the form and manner, with the number of copies set out in Part 61 of this chapter.

15. Part 1, Subpart G consisting of § 1.1101 through 1.1116 is revised in its entirety to read as follows:

Subpart G—Schedule of Statutory Charges and Procedures for Payment

Sec.

- 1.1101 Authority.
- 1.1102 Schedule of charges for private radio services.
- 1.1103 Schedule of charges for equipment approval services.
- 1.1104 Schedule of charges for mass media services.
- 1.1105 Schedule of charges for common carrier services.
- 1.1106 Attachment of charges.
- 1.1107 Payment of charges.
- 1.1108 Form of payment.
- 1.1109 Filing locations.
- 1.1110 Conditionality of Commission or staff authorizations.
- 1.1111 Return or refund of charges.
- 1.1112 General exemptions to charges.
- 1.1113 Adjustments to charges.
- 1.1114 Penalties for late or insufficient payments.
- 1.1115 Waivers or deferrals.
- 1.1116 Error claims.

Subpart G—Schedule of Statutory Charges and Procedures for Payment

Authority: Sec. 5002 (e) and (f), Pub. L. No. 99-272, 100 Stat. 82, 118-121, 47 U.S.C. 158.

§ 1.1101 Authority.

Authority for this Subpart is contained in Title V, section 5002 (e) and (f) of the Consolidated Omnibus Reconciliation Act of 1985 (47 U.S.C. 158), which directs the Commission to prescribe charges for the regulatory services it provides to many of the communications entities within its jurisdiction. This law adds a new section 8 to the Communications Act of 1934, as amended, which includes a Schedule of Charges as well as procedures for modifying and collecting these charges.

§ 1.1102 Schedule of charges for private radio services.

Except as provided elsewhere in this subpart, the charges prescribed below are required for all requests for private radio authorizations submitted to the Commission.

Private Radio Service

Marine Coast Stations:¹

New Authorizations.....	² \$60
Modifications and Assignments ...	³ \$60
Renewals	⁴ \$60

Operational Fixed Microwave Stations:

New Authorizations.....	⁵ \$135
Modifications and Assignments ...	⁶ \$135
Renewals	⁷ \$135

Aviation (Ground Stations)⁸

New Authorizations.....	⁹ \$60
Modifications and Assignments ...	¹⁰ \$60
Renewals	¹¹ \$60

Land Mobile Radio Licenses:¹²

New Authorizations.....	¹³ \$30
Modifications and Assignments ...	¹⁴ \$30

Renewals.....¹⁵ \$30

¹ Includes applications for public coast stations, limited (private) coast stations, marine-utility stations, maritime radio location stations, maritime radionavigation stations, marine-receiver test stations, shore radiolocation test stations, shore radar test stations, shore radiolocation training stations, operational fixed stations, Alaska-public fixed stations and Alaska-private fixed stations.

² An additional fee of \$60 is required for each station requested. No fee is required for special temporary authority or duplicate licenses.

³ An additional fee of \$60 is required for each station requested. No fee is required to inform the FCC of changes in licensee name or address, vessel name, or that station is no longer in service when done through FCC Form 405 or letter. A fee of \$60 per call sign also applies for applications for assignments of licenses.

⁴ An additional fee of \$80 is required for each station requested. Concurrent modifications and renewals on FCC Form 503 require fee of \$80 per station.

⁵ An additional fee of \$135 is required for each station requested. No fee is required for special temporary authority or duplicate licenses.

⁶ An additional fee of \$135 is required for each station modified. No fee is required when the FCC is informed of a change of licensee name or address, or that the station is no longer in service, when done by FCC Form 405-A or letter. A fee of \$80 per call sign applies to requests for assignment of a station.

⁷ An additional fee of \$135 is required for each station renewed. Concurrent modifications and renewals on FCC Form 402 require a fee of \$135 per station.

⁸ Fee applies to all radio stations licensed under Part 87 of our rules except Civil Air Patrol stations. An additional fee of \$80 is required for each station requested.

⁹ No fee is required for special temporary authority or duplicate licenses.

¹⁰ No fee is required when the FCC is informed of a change in licensee name or address, or that a station is no longer in service, when done by FCC Form 405-A or letter. Requests for assignment of a station are treated as modifications and require a fee of \$80 per call sign.

¹¹ Requests for a concurrent modification and renewal made on FCC Form 406 require a fee of \$80.

¹² Land mobile radio includes all radio services regulated under Part 90 of our rules as well as the general mobile radio services (GMRs) regulated under Part 95 of the rules.

¹³ Each request consisting of not more than six (6) specific fixed stations will require a fee of \$30. An additional fee of \$30 is required for each increment of six fixed stations. Example: Thirteen (13) fixed stations requires a fee of \$90. No fee is required for special temporary authority or duplicate licenses.

¹⁴ An additional fee of \$30 is required for each increment of six (6) fixed stations. No fee is required to inform the FCC of a change in licensee name or address, a change in the number or locations of station control points, a change in the number or location of control stations meeting the requirements of § 90.119(a)(2)(ii), a change in the number of mobile units operated by radiolocation service licensees, or that the station is no longer in service when done by FCC Form 405-A or letter. Requests to assign a station are considered modifications and require a fee of \$30 for each increment of six (6) fixed stations.

¹⁵ An additional fee is required for each station license renewed. Concurrent modifications and renewals made on FCC Form 574 require a fee of \$30 per station license.

§ 1.1103 Schedule of charges for equipment approval services.

Except as provided elsewhere in this subpart, the charges prescribed below are required for all requests for equipment approvals submitted to the Commission.

Equipment Approval Service

Certification:¹⁶

Receivers (Except TV & FM Receivers).....	\$250
All Other Devices.....	\$650

Type Acceptance:

Approval of Subscription TV Systems.....	¹⁷ \$2,000
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¹⁸ Certification fees are also required under the abbreviated procedures for private label equipment and non-permissible changes.

¹⁷ Modifications that require a new application for advance approval will require an additional fee of \$2000.

All Other.....	¹⁸ \$325
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Type Approval:

All Devices (With Testing).....	¹⁹ \$1,300
All Devices (Without Testing).....	²⁰ \$150
Notifications.....	\$100

¹⁸ Fee applies for non-permissive changes. Ship radio radiotelegraph automatic alarm systems and ship and lifeboat radiotelegraph transmitters are subject to \$325 type acceptance fee.

¹⁹ Fee also applies to major modifications that require testing.

²⁰ Fee applies to previously tested and approved equipment resubmitted for approval under new identification or for minor modification without FCC testing.

§ 1.1104 Schedule of charges for mass media services.

Except as provided elsewhere in this subpart, the charges prescribed below are required for all requests for mass media authorizations submitted to the Commission.

Mass Media Service

Commercial TV Stations²¹

New and Major Change Construction Permits Application Fees.....	²² \$2,250
Minor Changes Application Fee.....	\$500
Hearing Charge.....	²³ \$6,000
License Fee.....	²⁴ \$150
Station Assignment and Transfer Fees: ²⁵	
Application Fee (Forms 314/315).....	\$500
Application Fee (Form 316).....	\$70
Renewals.....	²⁶ \$30

Commercial Radio Stations²⁷

New and Major Change Construction Permits ²⁸	
Application Fee AM Station.....	\$2,000
Application Fee FM Station.....	\$1,800
Minor Changes Application Fee ²⁹	
AM.....	\$500
FM.....	\$500
Hearing Charge.....	³⁰ \$6,000
License Fee:	
AM.....	³¹ \$325
FM.....	³² \$100
Station Assignment and Transfer Fees:	
Application Fee (Forms 314/315).....	\$500
Application Fee (Form 316).....	\$70
Renewals.....	\$30
Directional Antenna License Fee (AM only).....	³³ \$375
FM Translators:	
New & Major Change Construction Permits Application Fee.....	\$375
License Fee.....	\$75
Station Assignment and Transfer Fee.....	³⁴ \$75
Renewals.....	³⁵ \$30
TV Translators and LPTV Stations:	
New & Major Change Construction Permits Application Fee.....	³⁶ \$375
License Fee.....	³⁷ \$75

³¹ These fees apply to television stations other than those classified by the FCC as noncommercial educational stations.

³² Fee is required for each application for a construction permit or a major change to an authorized facility.

³³ Fee required for each application designated for hearing in a new and major/minor change construction permit comparative proceeding and for applications designated in a comparative renewal license proceeding. Fee is due in accordance with procedures set out at § 1.221 of the rules.

³⁴ No fee is required to request a modified station license to reflect changes that do not require prior authorization from the FCC.

³⁵ An additional fee is required for each station license requested for assignment or transfer on FCC Forms 314, 315, or 316.

²⁴ An additional fee is required for each license submitted for renewal.

²⁷ Fees do not apply to stations that operate as noncommercial educational stations. See § 1.1112 of the rules.

²⁸ A separate fee is required for each application submitted.

²⁹ An additional fee is required for each application for a construction permit to make minor changes in a previously authorized facility. No fee is required for requests for special temporary authority, requests for extension of time and/or replacement of construction permits, requests for remote control operation, or modifications that may be made without prior authorization from the Commission.

³⁰ Fee is required for each application designated for hearing in a new or major/minor change construction permit comparative proceeding and applications designated in comparative license renewal proceedings. Fee must accompany the Notice of Appearance filed under § 1.221 of the rules.

³¹ An additional fee is required for each application for a license to cover a construction permit. No fee is required for requests to determine power by the direct method or license modifications that may be made without prior authorization from the FCC.

³² Fee not applicable to any license modification that may be made without prior authorization from the FCC.

³³ Fee is required for each application for a directional antenna license. This fee is in addition to the \$325 fee for an AM station license.

³⁴ An additional fee of \$75 is required for each station license or construction permit requested for assignment or transfer regardless of the number of forms used. These fees are in addition to the fees for the full service stations that may be simultaneously assigned or transferred.

³⁵ An additional fee of \$30 is required for each application requesting a station renewal.

³⁶ An additional fee is required for each application.

³⁷ No fee is required to obtain a modified station license to reflect either a change in the type of TV transmitter antenna or a change in the output power of TV aural or visual transmitters to accommodate a change in the antenna type or transmission line.

Station Assignment and Transfer Fee.....	³⁸ \$75
Renewals.....	\$30
Auxiliary Services Major Actions ³⁹	
Application Fee.....	⁴⁰ \$75
Renewals.....	⁴¹ \$30
Cable Television Service:	
Cable Television Relay Service:	
Construction Permits.....	⁴² \$135
Assignments & Transfers.....	⁴³ \$135
Renewals.....	⁴⁴ \$135
Modifications.....	\$135
Cable Special Relief Petitions—	
Filing Fee.....	⁴⁵ \$700
Direct Broadcast Satellite New & Major Change Construction Permits:	
Application for Authorization to Construct a Direct Broadcast Satellite.....	⁴⁶ \$1,800
Issuance of Construction Permits & Launch Authority.....	\$17,500
License to Operate Satellite.....	\$500
Hearing Charge.....	⁴⁷ \$6,000

³⁸ An additional fee of \$75 is required for each license or construction permit requested to be assigned or transferred.

³⁹ Auxiliary services include Remote Pickup stations, TV Auxiliary Broadcast stations, Aural Broadcast STL and Intercity Relay stations, and Low Power Auxiliary stations.

⁴⁰ The fee will be required for applications for changes in frequency, antenna system, power, and number of mobiles; relocation of stations; addition of a base station; and replacement of equipment.

⁴¹ Renewal charge not required for each auxiliary license held by a broadcast licensee.

⁴² An additional fee of \$135 is required for each application for a CARS station. This request also includes the resulting license to cover the construction permit.

⁴³ An additional fee of \$135 is required for each license requested to be assigned or transferred.

⁴⁴ Each application for license renewal requires a fee of \$135.

⁴⁵ This fee applies to those petitioning under § 7.7 of the rules seeking an exemption from the rules or the imposition of special requirements beyond those provided in the rules.

⁴⁶ This fee also applies to requests to make a major change in the authorization to construct. A major change is considered any modification involving a significant, additional use of the orbit/spectrum resource.

⁴⁷ The hearing fee is required for each application designated for hearing in a new or major/minor change comparative construction permit proceeding as well as comparative license renewal proceedings.

§ 1.1105 Schedule of charges for common carrier service requests.

Except as provided elsewhere in this subpart, the charges prescribed below are required for all requests for common carrier authorizations submitted to the Commission.

COMMON CARRIER SERVICE ⁴⁸

Domestic Public Land Mobile Stations (Base Dispatch, Control & Repeater Stations):	
New or Additional Facility Authorizations (Per transmitter).....	⁴⁹ \$200
Assignments & Transfers (Per call sign).....	⁵⁰ \$200
Renewals (per station).....	⁵¹ \$20
Minor Modifications (Per station).....	⁵² \$20

⁴⁸ The applicable fee will also be required for requests for developmental authorizations that involve service to the public and are not purely for testing purposes.

⁴⁹ An additional fee of \$200 is required for each transmitter requested in the construction permit application.

⁵⁰ An additional fee of \$200 is required for each call sign requested for assignment or transfer.

⁵¹ An additional fee of \$20 is required for each station requested for renewal.

⁵² An additional fee of \$20 is required for each station requested for minor modification.

Air-Ground Individual License:⁵³

Initial License.....	\$20
Renewal of License.....	\$20
Modification of License.....	\$20

Cellular Systems:

Initial Construction Permits & Major Modification Applications (Per cellular system).....	\$200
Assignments & Transfers (Per call sign).....	⁵⁴ \$200
Initial covering license (Per cellular system)	
Wireline carrier.....	\$525
Nonwireline carrier.....	\$50
Renewals.....	⁵⁵ \$20
Minor modifications.....	⁵⁶ \$50
Additional licenses.....	⁵⁷ \$50

Rural Radio (Central Office, Inter-office or Relay Facilities):

Initial Construction Permit (Per transmitter).....	\$90
Assignments & Transfers (Per call sign).....	\$90
Renewals (Per station).....	\$20
Modifications (Per station).....	\$20

Offshore Radio Service:⁵⁸

Initial Construction Permit (Per transmitter).....	\$90
Assignments & Transfers (Per transmitter).....	\$90
Renewals (Per station).....	\$20
Modifications (Per station).....	\$20

Local Television or Point to Point Microwave Radio Service:

Construction Permits.....	⁵⁹ \$135
Modifications of Construction Permits.....	⁶⁰ \$135
Initial License for New Frequency (per station).....	⁶¹ \$135
Renewals of Licenses (per station).....	\$135
Assignments & Transfers of Control (per station).....	\$45

International Fixed Public Radio (Public & Control Stations):

Initial Construction Permits.....	⁶² \$450
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Assignments & Transfers.....	⁶³ \$450
Renewals.....	⁶⁴ \$325
Modifications.....	⁶⁵ \$325

Satellite Services:

Transmit Earth Stations:	
Initial Station Authorization (per earth station).....	⁶⁶ \$1,350

⁶² These requests require an additional fee of \$20 per station.

⁶³ Each request for the assignment of a construction permit or license or request to transfer control of a corporation a construction permit or license will require an additional fee of \$200 per call sign.

⁶⁴ An additional fee of \$20 is required for each cellular system requested for renewal.

⁶⁵ Fee is required per each cellular system.

⁶⁶ An additional fee of \$50 is required per each cellular system.

⁶⁷ Should the Commission permit the expansion of this service into coastal waters other than the Gulf of Mexico by rule or waiver, the fees established for offshore radio would be required.

⁶⁸ An additional fee of \$135 is required for each application for a construction permit or modification thereto. No fee is required for requests for special temporary authority or for waiver of construction permit requirements.

⁶⁹ No fee is required for permissive changes that do not require a modified construction permit.

⁷⁰ This fee is required in addition to that for a construction permit although a license and construction permit may be requested simultaneously.

⁷¹ An additional fee of \$450 is required for each station requested.

⁷² An additional fee of \$450 is required for each application for assignment or transfer.

⁷³ An additional fee of \$325 is required for each license renewed.

⁷⁴ An additional fee of \$325 is required for each station modified.

⁷⁵ An additional fee of \$1,350 is required for each application for an initial authorization to construct and/or operate a domestic or international transmitting earth station for private or common carrier service or for telemetry, tracking, and command functions.

Assignments & Transfers of Station Authorization (per earth station).....

Initial Construction Permits & Major Modification Applications (Per cellular system).....	\$200
Assignments & Transfers (Per call sign).....	⁵⁴ \$200

Initial covering license (Per cellular system)	
Wireline carrier.....	\$525
Nonwireline carrier.....	\$50
Renewals.....	⁵⁵ \$20
Minor modifications.....	⁵⁶ \$50
Additional licenses.....	⁵⁷ \$50

Initial Construction Permit (Per transmitter).....	\$90
Assignments & Transfers (Per call sign).....	\$90
Renewals (Per station).....	\$20
Modifications (Per station).....	\$20

Initial Construction Permit (Per transmitter).....	\$90
Assignments & Transfers (Per transmitter).....	\$90
Renewals (Per station).....	\$20
Modifications (Per station).....	\$20

Initial Construction Permit (Per transmitter).....	\$90
Assignments & Transfers (Per transmitter).....	\$90
Renewals (Per station).....	\$20
Modifications (Per station).....	\$20

Initial Construction Permit (Per transmitter).....	\$90
Assignments & Transfers (Per transmitter).....	\$90
Renewals (Per station).....	\$20
Modifications (Per station).....	\$20

Initial Construction Permit (Per transmitter).....	\$90
Assignments & Transfers (Per transmitter).....	\$90
Renewals (Per station).....	\$20
Modifications (Per station).....	\$20

Initial Construction Permit (Per transmitter).....	\$90
Assignments & Transfers (Per transmitter).....	\$90
Renewals (Per station).....	\$20
Modifications (Per station).....	\$20

Initial Construction Permit (Per transmitter).....	\$90
Assignments & Transfers (Per transmitter).....	\$90
Renewals (Per station).....	\$20
Modifications (Per station).....	\$20

Initial Construction Permit (Per transmitter).....	\$90
Assignments & Transfers (Per transmitter).....	\$90
Renewals (Per station).....	\$20
Modifications (Per station).....	\$20

Initial Construction Permit (Per transmitter).....	\$90
Assignments & Transfers (Per transmitter).....	\$90
Renewals (Per station).....	\$20
Modifications (Per station).....	\$20

Initial Construction Permit (Per transmitter).....	\$90
Assignments & Transfers (Per transmitter).....	\$90
Renewals (Per station).....	\$20
Modifications (Per station).....	\$20

Initial Construction Permit (Per transmitter).....	\$90
Assignments & Transfers (Per transmitter).....	\$90
Renewals (Per station).....	\$20
Modifications (Per station).....	\$20

Initial Construction Permit (Per transmitter).....	\$90
Assignments & Transfers (Per transmitter).....	\$90
Renewals (Per station).....	\$20
Modifications (Per station).....	\$20

Initial Construction Permit (Per transmitter).....	\$90
Assignments & Transfers (Per transmitter).....	\$90
Renewals (Per station).....	\$20
Modifications (Per station).....	\$20

Initial Construction Permit (Per transmitter).....	\$90
Assignments & Transfers (Per transmitter).....	\$90
Renewals (Per station).....	\$20
Modifications (Per station).....	\$20

All Other 214 Applications..... ⁸⁴ \$540

⁸¹ These requests include applications for regular or temporary authorization, renewal or modification of station authorizations, or waivers.

⁸² These earth stations operate in the 4 GHz frequency band.

⁸³ A lead authorization is the first earth station authorization in a network of user earth stations. The lead authorization establishes the terms and conditions under which routine authorizations may be granted.

⁸⁴ An additional fee of \$30 is required for each earth station requested under the terms and conditions of the lead authorization. Each routine authorization must identify the lead authorization to which it is associated.

⁸⁵ An additional fee of \$90 is required for each earth station. These requests include, but are not limited to, applications for regular or temporary authorization, modification or renewal of station authorizations, requests for waivers, transfers and assignments, and requests for developmental authority.

⁸⁶ These requests involve the authorization or assignment of a frequency to a regular commercial receive-only earth station for which protection from interference is being requested.

⁸⁷ See note 71.

⁸⁸ This fee also applies to requests to construct an in-orbit or on-ground spare. Fee is required for domestic and international space stations.

⁸⁹ This fee is also required to request authority to launch and/or operate an in-orbit spare. Only one fee of \$18,000 will be required to request the launch of the in-orbit spare and later request to operate.

⁹⁰ These systems consist of technically identical small earth station antennas that operate in bands where frequency coordination is not required, such as the 12/14 GHz bands, and interconnect through a hub station. Fees apply to fixed-satellite systems, the radiodetermination satellite service and the mobile satellite service.

⁹¹ Each hub station will require an additional fee of \$5,000.

⁹² This fee is charged per satellite system.

⁹³ Each construction permit request requires an additional fee of \$135. No fee is required for requests for special temporary authority or a waiver of the construction permit requirements.

⁹⁴ An additional fee of \$135 is required for each application for modification to an existing construction permit. Permissive changes do not require a fee.

⁹⁵ Commission rules designate frequencies that correspond to each channel in the MDS service. Each time an applicant requests a license to operate on an MDS frequency, and additional fee of \$400 is required.

⁹⁶ An additional fee of \$135 is required for each station requested to be renewed.

⁹⁷ Each 214 request to install or acquire communications channels, regardless of the number of communications channels requested, will require only one multiple of the applicable fee.

⁹⁸ Requests for reduction or discontinuance of service, or 214 applications that are submitted purely for notification purposes, do not require a fee.

Tariff Filings:⁹⁹

Filing Fee.....	\$250
Special Permission Filings.....	\$200
Telephone Equipment Registration.....	\$135

Digital Electronic Message Service:

Construction Permits.....	\$135
Modifications of Construction Permits.....	\$135
Initial License (First License or License Adding a New Frequency).....	⁸⁶ \$135
Renewals of License.....	⁸⁷ \$135
Assignments & Transfers of Control (Per station).....	\$45

⁹⁹ The \$250 Filing fee is required for each Tariff Publication, which is accompanied by a Letter of Transmittal; the \$200 Special Permission Fee is required for each Special Permission filing.

¹⁰⁰ An additional fee of \$135 will be required for each new or additional frequency (channel) requested.

¹⁰¹ Fee required for each station requested for renewal.

§ 1.1106 Attachment of charges.

The charges required to accompany a request for the Commission regulatory services listed in §§ 1.1102 through 1.1105 of this subpart will not be refundable to the applicant irrespective of the Commission's disposition of that request. Return or refund of charges will

be made in certain limited instances as set out at § 1.1111 of this subpart.

§ 1.1107 Payment of charges.

(a) Each application or other filing submitted to the Commission on or after April 1, 1987 for which a fee is prescribed by §§ 1.1102 through 1.1105 of this subpart must be accompanied by a remittance in the full amount of the fee due.

(b) Filings for which no remittance is received or for which an insufficient remittance is received shall be dismissed and the application returned to the applicant or his designated agent without processing.

(c) Unless otherwise stated in this subpart, no application or other filing will be deemed sufficient for processing unless the correct fee is attached. The Commission reserves the right to discontinue processing and dismiss any application or filing if, at any time, bureau or office staff discover upon further examination that an insufficient fee has been submitted.

(d) Application returned to applicants for additional information or corrections will not require an additional fee when resubmitted, unless the additional information results in an increase of the original fee amount. The additional fee will then be required with the resubmission. The entire fee will be forfeited if the application is not resubmitted to the Commission by the appropriate resubmission deadline. Applicants should attach a copy of the Commission request for additional or corrected information, or a stamped copy of the original submission, to their resubmission.

(e) Should the staff change the status of an application, resulting in an increase in the fee due, the applicant will be billed for the remainder under the conditions established by § 1.110(b) of the rules.

Note.—Due to the statutory requirements applicable to tariff filings, the procedures for handling tariff filings may vary from the procedures set out in the rules.

§ 1.1108 Form of payment.

(a) Fee payments should be in the form of a check, bank draft or money order denominated in U.S. dollars and deposited in a United States financial institution. These payment instruments must be made payable to the Federal Communications Commission. The Commission discourages applicants from sending cash and will not be responsible for cash sent through the mails.

(b) Applicants are required to submit one check, bank draft or money order with each application. Multiple checks,

bank drafts or money orders for a single application or filing are not permitted.

(i) One check, bank draft or money order may be submitted for multiple applications in those instances where:

(A) Applications are received simultaneously as one package; and

(B) Are from the same legal applicant; and

(C) Request the same Commission authorization (e.g., renewal, assignment), in the same radio service; and

(D) All applications represented by the single payment instrument are the same numbered FCC Form or prescribed filing.

(ii) In those instances where a single check, bank draft or money order is remitted for multiple applications, the applicant should attach to the remittance an accounting sheet or notice stating what fees are covered by the check or money order. Otherwise, fee processing staff will be required to match the remitted funds to the accompanying applications to determine whether sufficient funds have been submitted.

(iii) If the single remittance is found to be insufficient, all applications associated with the remittance will be dismissed and returned to the applicant. Applications will not be forwarded for staff processing on a *pro rata* basis.

(c) All fees collected will be paid into the general fund of the United States Treasury in accordance with Pub. L. 99-272.

Note.—Receipts will not be furnished. Information on receipt of payments will be provided through cancelled checks, rejection letters issued by the fee processing staff, or return copies provided by the applicant with a stamped, self-addressed envelope.

§ 1.1109 Filing locations.

Applications or other filings and their attached fees must be submitted to the locations and addresses listed in § 0.401 of the Commission's rules. These materials must be submitted as one package. The Commission cannot take responsibility for matching forms, fees, or applications submitted at different times or locations.

§ 1.1110 Conditionality of Commission or staff authorizations.

(a) Any instrument of authorization granted by the Commission, or by its staff under delegated authority, will be conditioned upon final payment of the applicable fee, as prescribed by Pub. L. 99-272 and this subpart. As applied to checks and money orders, final payment shall mean receipt by the Treasury of funds cleared by the financial institution

on which the check or money order is drawn.

(1) If, prior to a grant of an instrument of authorization, the Commission is notified that final payment has not been made, the application or filing will be:

(i) Dismissed and returned to the applicant;

(ii) Shall lose its place in the processing line;

(iii) And will not be accorded *nunc pro tunc* treatment if resubmitted after the relevant filing deadline.

(2) If, subsequent to a grant of an instrument of authorization, the Commission is notified that final payment has not been made, the Commission will:

(i) Automatically rescind that instrument of authorization for failure to meet the condition imposed by this subsection; and

(ii) Notify the grantee of this action; and

(iii) Not permit *nunc pro tunc* treatment for the resubmission of the application or filing if the relevant deadline has expired.

(3) Upon receipt of a notification of rescission of the authorization, the grantee will immediately cease operations initiated pursuant to the authorization.

(b) In those instances where the Commission has granted a request for deferred payment of the fee or issued a bill for an insufficient payment under this subpart until a future established date, further processing or grant or authorization shall be conditioned upon final payment of the fee, plus other required charges for late payments, by the date prescribed by the terms of the deferral decision or bill. Failure to comply with the terms of the deferral decision or bill shall result in the automatic dismissal of the application or rescission of the authorization for failure to meet the condition imposed by this subpart. Payments received by the Commission after the date established in the deferral decision or bill will be returned to the remitter. The Commission shall:

(1) Notify the grantee that the authorization has been rescinded;

(i) Upon such notification, the grantee will immediately cease operations initiated pursuant to the authorization.

(2) Not permit *nunc pro tunc* treatment to applicants who attempt to refile after the original deadline for the underlying submission.

§ 1.1111 Return or refund of charges.

(a) The full amount of any fee submitted will be returned or refunded,

as appropriate, in the following circumstances:

- (1) When no fee is required for the application or other filing.
- (2) When the fee processing staff or bureau/office determines that an insufficient fee has been submitted within 30 calendar days of receipt of the application or filing and the application or filing is dismissed.
- (3) When the application is filed by an applicant who cannot fulfill a prescribed age requirement.
- (4) When the Commission adopts new rules that nullify applications already accepted for filing, or new law or treaty would render useless a grant or other positive disposition of the application.
- (5) When a waiver is granted in accordance with this subpart.

Note.—Payments in excess of an application fee will be refunded only if the overpayment is \$8 or more.

§ 1.1112 General exemptions to charges.

No fee established in §§ 1.1102 through 1.1105 of this subpart, unless otherwise qualified herein, shall be required for:

(a) Applications filed for the sole purpose of amending or modifying a pending application (if a fee is otherwise required) so as to comply with new or additional requirements of the Commission's rules or the rules of another Federal Government agency affecting the pending authorization. However, if the applicant also requests an additional modification or the renewal of its authorization, the appropriate fee must accompany the application. Fee exemptions arising out of this exception will be announced to the public in the orders amending the rules or in other appropriate Commission notices.

(b) Applicants in the Special Emergency Radio and Public Safety Radio services.

(c) Applicants, permittees or licensees of noncommercial educational broadcast stations in the FM or TV services, as well as AM applicants, permittees or licensees who certify that the station will operate or does operate in accordance with § 73.503 of the rules.

(d) Applicants, permittees, or licensees qualifying under § 1.1112(c) requesting Commission authorization in any other mass media radio service, private radio service, or common carrier radio communications service otherwise requiring a fee if the radio service is used in conjunction with the noncommercial educational broadcast station on a noncommercial educational basis.

(e) Applicants, permittees, or licensees not qualified under § 1.1112(c)

if such organization is one that, like the Public Broadcasting Service or National Public Radio, receives funding directly or indirectly through the Public Broadcasting Fund, 47 U.S.C. 396(k), distributed by the Corporation for Public Broadcasting. Requests for Commission authorization in any mass media radio service, private radio service, or common carrier radio communications service otherwise requiring a fee will not require the fee if the radio service is used in conjunction with these organizations on a noncommercial educational basis.

(f) Applicants, permittees or licensees who qualify as governmental entities. For purposes of this exemption a governmental entity is defined as any state, possession, city, county, town, village, municipal corporation or similar political organization or subpart thereof controlled by publicly elected or duly appointed public officials exercising sovereign direction and control over their respective communities or programs.

Note.—Applicants claiming exemptions under the terms of this subpart must certify as to their eligibility for the exemption through a cover letter accompanying the application or filing. This certification is not required if the applicable FCC Form requests the information justifying the exemption.

§ 1.1113 Adjustments to charges.

(a) The schedule of fees established by §§ 1.1102 through 1.1105 of this subpart shall be adjusted by the Commission every two (2) years, beginning two years after the date of enactment of the authorizing legislation, April 7, 1986.

(1) The fees will be adjusted by the Commission to reflect the percentage change in the Consumer Price Index for all Urban Consumers (CPI-U) from the date of enactment of the authorizing legislation to the date of adjustment, and every two years thereafter, to reflect the percentage change in the CPI-U in the period between the adjustment date and the enactment date.

(2) Adjustments based on the percentage CPI-U change will be applied against the base fees as enacted or amended by Congress. Adjustments will not be calculated based upon the previously modified fee.

(b) Increases or decreases in charges will apply to all categories of fees covered by this subpart. Individual fees will not be adjusted until the increase or decrease, as determined by the net change in the CPI-U since the date of enactment of the authorizing legislation, amounts to at least \$5 in the case of fees under \$100, or 5% or more in the case of fees of \$100 or greater. All fees will be

adjusted upward to the next \$5 increment.

(c) Adjustments to fees made pursuant to these procedures will not be subject to notice and comment rulemakings, nor will these decisions be subject to petitions for reconsideration under § 1.429 of the rules. Requests for modifications will be limited to correction of arithmetical errors made during an adjustment cycle.

§ 1.1114 Penalty for late or insufficient payments.

(a) Applications or filings accompanied by insufficient fees or no fees will be dismissed and returned to the applicant by the fee processing staff if discovered in 30 calendar days or less from receipt of the application or filing at the Commission.

(b) Applications or filings accompanied by insufficient fees or no fees which are inadvertently forwarded to Commission staff for substantive review will be billed for the amount due if the discrepancy is not discovered until after 30 calendar days from the receipt of the application or filing at the Commission. A penalty charge of 25 percent of the amount due will be added to each bill. Any Commission actions taken prior to timely payment of this bill are contingent and subject to rescission.

(c) Applicants to whom a deferral of payment is granted under the terms of this subsection will be billed for the amount due plus a charge equalling 25 percent of the amount due. Any Commission actions taken prior to timely payment of these charges are contingent and subject to rescission.

§ 1.1115 Waivers or deferrals.

(a) The fees established by this subpart may be waived or deferred in specific instances where good cause is shown and where waiver or deferral of the fee would promote the public interest.

(b) Requests for waivers or deferrals will only be considered when received from applicants acting in respect to their own applications. Requests for waivers or deferrals of entire classes of services will not be considered.

(c) Requests for waivers or deferrals will be acted upon by the Managing Director with the concurrence of the General Counsel.

(1) Applicants seeking waivers should submit the request for waiver with the application or filing as well as the required fee. Submitted fees will be returned if a waiver is granted.

(2) Applicants who are not granted a waiver, and have not attached the fee due pending approval of a waiver, will

have their applications returned in accordance with § 1.1107. They will not be permitted to resubmit their applications if initial filing deadlines have expired. The Commission will not be responsible for delays in acting upon these requests.

(d) Deferrals of fees will be granted for an established period of time not to exceed six months.

§ 1.1116 Error claims.

Applicants who wish to challenge a staff determination of an insufficient fee may do so in writing. These claims should be addressed to the same location as the original submission marked "Attention Fee Supervisor".

Appendix B—[Removed]

16. Appendix B of Part 1, Interpretations of Fee Rules, is removed.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

17. The authority citation for Part 2 continues to read as follows:

Authority: Sec. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted.

18. 47 CFR 2.909 is amended by adding a new paragraph (f) to read as follows:

§ 2.909 Written application required.

(f) Each application shall be accompanied by the processing fee prescribed in Subpart G of Part 1 of this chapter.

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

19. The authority citation for Part 21 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted.

§ 21.20 [Amended]

20. 47 CFR 21.20 is amended by removing existing paragraph (b)(2) and redesignating paragraphs (b)(3) through (b)(9) as paragraphs (b)(2) through (b)(8).

PART 22—PUBLIC MOBILE SERVICE

21. The authority citation for Part 22 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended (47 U.S.C. 154, 303), sec. 553 of the Administrative Procedure Act (5 U.S.C. 553), unless otherwise noted.

§ 22.20 [Amended]

22. 47 CFR 22.20 is amended by removing existing paragraph (b)(2) and redesignating paragraphs (b)(3) through (b)(9) as paragraphs (b)(2) through (b)(8).

PART 23—INTERNATIONAL FIXED PUBLIC RADIOCOMMUNICATION SERVICES

23. The authority citation for Part 23 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082 as amended; 47 U.S.C. 154, 303. Interpret or apply sec. 301, 48 Stat. 1081; 47 U.S.C. 301.

24. 47 CFR 23.50 is amended by revising paragraph (d) to read as follows:

§ 23.50 Place of filing application; fees and number of copies.

(d) Each application shall be accompanied by a fee prescribed in Subpart G of Part 1 of this chapter.

PART 25—SATELLITE COMMUNICATIONS

25. The authority citation for Part 25, Subpart H, continues to read as follows:

Authority: Secs. 101–104, 76 Stat. 419–427; 47 U.S.C. 701–744.

§ 25.523 [Amended]

26. 47 CFR 25.523 is amended by removing paragraph (c).

PART 62—APPLICATIONS TO HOLD INTERLOCKING DIRECTORATES

27. The authority citation for Part 62 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 212, 48 Stat. 1974, as amended; 47 U.S.C. 212.

28. 47 CFR 62.22 is revised to read as follows:

§ 62.22 Form of application; number of copies; size of paper; etc.

The original application and two copies thereof shall be filed with the Commission. Each copy shall bear the dates and signatures that appear on the original and shall be complete in itself, but the signatures on the copies may be stamped or typed. The application shall be submitted in typewritten or printed form, on paper not more than 8 and 1/2 inches wide and not more than 11 inches long, with a left-hand margin of approximately 1 and 1/2 inches, and if typewritten, the impression must be on only one side of the paper and must be doubled spaced.

PART 73—RADIO BROADCAST SERVICES

29. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48

Stat. 1081, 1082 as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory or executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

30. 47 CFR 73.943 is amended by revising paragraph (a) to read as follows:

§ 73.943 Individual construction of encoders and decoders.

(a) A station licensee who constructs decoders and/or encoders for use at his station and not for sale must submit the fees required for certification and type acceptance applications. Requests for waiver or deferral of fees will be considered on a case by case basis. See Subpart G, Part 1 of this section for fees due and waiver procedures.

31. 47 CFR 73.1010 is amended by revising paragraph (a)(5) to read as follows:

§ 73.1010 Cross references to rules in other parts.

(a) * * *

(5) Subpart G "Schedule of Statutory Charges and Procedures for Payment"

32. 47 CFR 73.3517 is amended by revising paragraph (a) to read as follows:

§ 73.3517 Contingent applications.

(a) Upon filing of an application for the assignment of a license or construction permit, or for a transfer of control of a license or permittee, the proposed assignee or transferee may, upon payment of the processing fee prescribed in Subpart G Part 11 of this chapter, file applications in its own name for authorization to make changes in the facilities to be assigned or transferred contingent upon approval and consummation of the of the assignment or transfer. Any application filed pursuant to this paragraph must be accompanied by a written statement from the existing licensee which specifically grants permission to the assignee or permittee to file such application. The processing fee will not be refundable should the assignment or transfer not be approved. The existing licensee or permittee may also file a contingent application in its own name, but fees in such cases also not refundable.

33. 47 CFR 73.3550 is amended by revising paragraph (a) to read as follows:

§ 73.3550 Requests for new or modified call sign assignments.

(a) Requests for new or modified call sign assignments for broadcast stations shall be made by letter to the Secretary, FCC, Washington, DC 20554. An original and one copy of the letter shall be submitted. Incomplete or otherwise defective filings will be returned by the FCC. As many as five call sign choices, listed in descending order of preference, may be included in a single request. A call sign may not be reserved.

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

34. The authority citation for Part 74 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083 as amended; 47 U.S.C. 301, 303, 307, unless otherwise noted.

35. 47 CFR 74.5 is amended by revising paragraph (a)(4) to read as follows:

§ 74.5 Cross reference to rules in other parts.

(a) * * *

(4) Subpart G "Schedule of Statutory Charges and Procedures for Payment".

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc 87-3496 Filed 2-19-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17****Endangered and Threatened Wildlife and Plants; *Notropis simus pecosensis* (Pecos Bluntnose Shiner)**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a fish, *Notropis simus pecosensis* (Pecos bluntnose shiner), to be a threatened species and designates critical habitat for it under the authority contained in the Endangered Species Act of 1973, as amended. A special rule is established to allow take of this subspecies in accordance with applicable State laws and regulations. *Notropis simus* historically occurred in the Rio Grande in New Mexico from El Paso, Texas north to near Abiquiu Reservoir on the Chama River, and in the Pecos River in

New Mexico from the upper reaches of Avalon Reservoir north to 1 mile (mi.) (1.6 kilometers) (km.) above Santa Rosa. The Pecos River subspecies, *Notropis simus pecosensis*, is still extant in much of the Pecos River, but has severely declined in numbers. A 1982 study by the New Mexico Department of Game and Fish reported this fish in the Pecos River only from Fort Sumner to Artesia 175 mi. (282 km.). The largest collections were made from 22 mi. (35 km.) south of Fort Sumner to Roswell. Population estimates were not made, but the abundance of this species appeared to be substantially lower than in previous years. No specimens were found in the northern and southern regions of the historic range. The most important factor in the species' decline is reduced flow in the main channel of the river due to water storage, irrigation, and water diversion. Some stretches of the Pecos River are frequently dry downstream from impoundments. This rule will implement Federal protection provided by the Endangered Species Act of 1973, as amended, for *Notropis simus pecosensis*.

EFFECTIVE DATE: The effective date of this rule is March 23, 1987.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Regional Office of Endangered Species, U.S. Fish and Wildlife Service, 500 Gold Avenue, SW., Room 4000, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Burton, Endangered Species Biologist, U.S. Fish and Wildlife Service, Albuquerque, New Mexico (505/766-3972 or FTS 474-3972).

SUPPLEMENTARY INFORMATION:**Background**

Notropis simus was first collected in 1874 in the Rio Grande near San Ildefonso, New Mexico, and was first described by Cope in 1875 (Cope and Yarow 1875). It was originally thought that *Notropis simus* was a single species whose range extended throughout the entire Rio Grande to its mouth, and that there was an undescribed species of *Notropis* which occupied the Pecos River. However, in 1982, Chernoff *et al.* did extensive taxonomic analyses of the species and determined that *Notropis simus* actually consists of two subspecies. The first of these, *Notropis simus simus*, was historically found in the Rio Grande drainage from the Chama River, north of Santa Fe, New Mexico, downstream in the Rio Grande to El Paso, Texas. The other subspecies, *Notropis simus pecosensis*, was

historically found in the Pecos River from just north of the town of Santa Rosa, New Mexico, downstream to the town of Carlsbad, New Mexico. A third form, which was originally thought to be *Notropis simus*, was determined to be a related species, *Notropis orca* (phantom shiner), whose range historically overlapped with that of *Notropis simus* from near Isleta, New Mexico, downstream to El Paso. Additionally, *Notropis orca* occupied the remainder of the Rio Grande from El Paso downstream to its mouth. However, *Notropis orca* has been collected only once in the past 30 years, when a single specimen was taken in 1975 from the lower Rio Grande, and the species may now be extinct.

Because of various alterations to the Rio Grande and Pecos River systems, primarily the diversion of water from the streams and the construction of impoundments, both subspecies of *Notropis simus* have undergone significant decline. *Notropis simus simus*, which was common in the mainstream Rio Grande throughout the 1930's and 1940's and was sufficiently common in the 1940's to be used as a bait fish (Koster 1957), has not been collected since 1964. *Notropis simus pecosensis* is still extant throughout a large portion of its range, and is now known to occupy the mainstream Pecos River from near the town of Fort Sumner, New Mexico, downstream to the town of Artesia, New Mexico, a distance of 175 mi. (282 km.). However, habitat for the species in this stretch is spotty and often marginal, and the present numbers of *Notropis simus pecosensis* are much reduced. A 1982 survey done by the New Mexico Department of Game and Fish in the Pecos River found only 76 specimens of this subspecies in their single largest collection. This is in contrast to single collections of 1,482 specimens in 1939 and 818 specimens in 1944.

Lands along the Pecos River are primarily privately owned, with small areas of Bureau of Land Management (BLM) lands scattered along the Pecos River between Fort Sumner and Roswell, New Mexico. A small portion of the Pecos River flows through the Bitter Lakes National Wildlife Refuge. The water of the Pecos River is administered by the States of New Mexico and Texas through the Pecos River Compact. The U.S. Bureau of Reclamation (BR) and the Army Corps of Engineers (COE) operate dams on the river in accordance with the Compact.

Notropis simus pecosensis is a moderately large-sized shiner (adults reach lengths of up to 3.5 in. (9 cm.) of