

**Fixed satellite earth station.** An earth station intended to be used at a specified fixed point.

**Fixed relay station.** A fixed station associated with one or more stations, established to receive radio signals directed to it and to retransmit them automatically on a fixed service frequency.

**Fixed Service.** A radiocommunications service between specified fixed points.

**Fixed station.** A station in the fixed service.

**Frequency tolerance.** The maximum permissible departure by the center frequency of the frequency band occupied by an emission from the assigned frequency or, by the characteristic frequency of an emission from the reference frequency.

**NOTE:** The frequency tolerance is expressed in parts in  $10^6$  or in hertz.

**General communication.** Two-way voice communication, through a base station, between (1) a common carrier land mobile or airborne station and a landline telephone station connected to a public message landline telephone system, or (2) two common carrier land mobile stations, or (3) two common carrier airborne stations, or (4) a common carrier land mobile station and a common carrier airborne station.

**Harmful interference.** Interference that endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs or repeatedly interrupts a radiocommunication service operating in accordance with these Regulations.

**Internodal link.** A point-to-point communications link used to provide communications between Nodal Stations or to interconnect Nodal Stations to other communications media.

**Landing area.** A landing area means any locality, either of land or water, including airports and intermediate landing fields, which is used, or approved for use for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

**Local Television Transmission Service.** A public radio communication service for the transmission of television material and related communications.

**Long haul system.** A microwave system licensed under this Part in which the longest radio circuit of tandem radio paths exceeds 402 kilometers (250 miles).

**Master station.** A station in a multiple address radio system that controls, activates or interrogates four or more remote stations. Master stations performing such functions may also receive transmissions from remote stations.

**Message center.** The point at which messages from members of the public are accepted by the carrier for transmission to the addressee.

**Microwave frequencies.** As used in this part, this term refers to frequencies of 890 MHz and above.

**Microwave link.** A link is defined as a simplex communications circuit between two points utilizing a single frequency/polarization assignment. A duplex communications circuit would require two links, one link in each direction.

**Miscellaneous common carriers.** Communications common carriers that are not engaged in the business of providing either a public landline message telephone service or public message telegraph service.

**Mobile earth station.** An earth station intended to be used while in motion or during halts at unspecified points.

**Mobile Service.** A radiocommunication service between mobile and land stations or between mobile stations.

**Mobile station.** A station in the mobile service intended to be used while in motion or during halts at unspecified points.

**Multiple address system (MAS).** A point-to-multipoint radio communications system, either one-way or two-way, utilizing frequencies listed in Section 101.605 ~~101.147~~ and serving a minimum of four unique remote stations. Each master station must serve at least its own four remotes operating on its assigned frequency. The remote stations must be scattered over the service area in such a way that two or more point-to-point systems would be needed to serve those remotes.

**Necessary bandwidth.** For a given class of emission, the width of the frequency band that is just sufficient to ensure the transmission of information at the rate and with the quality required under specified conditions. The necessary bandwidth may be calculated using the formulas in §2.202 of this Chapter.

**Nodal station.** The central or controlling station in a radio system operating on point-to-multipoint frequencies in the 2.5, 10.6, or 18 GHz bands.

**Occupied bandwidth.** The width of a frequency bandwidth such that, below the lower and above the upper frequency limits, the mean powers emitted are each equal to a specified percentage,  $B/2$  of the total mean power of a given emission. Unless otherwise specified by the CCIR for the appropriate class of emission, the value of  $B/2$  should be taken as 0.5%.

Note: The percentage of the total power outside the occupied bandwidth is represented by B.

Operational fixed station. A private fixed station not open to public correspondence.

Passive repeater. A re-radiation device ~~located in the far field of~~ ~~associated with~~ a transmitting/receiving antenna ~~system~~ that re-directs intercepted radiofrequency energy. For example, it may consist of reflector(s) or back-to-back parabolic or horn antennas.

~~Path Length. The total distance of a path from the transmit to the receive antenna, inclusive of all passive repeaters, if any.~~

~~Periscope antenna system. An antenna system that re-directs intercepted radio frequency energy consisting of an active portion and a reflector which is located in the near field or transition field (i.e., within several hundred meters) of the active portion. which involves the use of a passive reflector to deflect radiation from or to a directional transmitting or receiving antenna which is oriented vertically or near vertically.~~

~~Prior coordination. A bilateral process conducted prior to filing applications which includes the distribution of the technical parameters of a proposed radio system to potentially affected parties for their evaluation and timely response.~~

~~Point to point microwave radio service. A common carrier public radio service rendered on microwave frequencies by fixed and temporary fixed stations between points that lie within the United States or between points to its possessions or to points in Canada or Mexico.~~

Private carrier. An entity licensed in the private service and authorized to provide communications service to other private service eligibles on a commercial basis.

Private line service. A service whereby facilities for communication between two or more designated points are set aside for the exclusive use or availability for use of a particular customer and authorized users during stated periods of time.

~~Private operational fixed point-to-point microwave service. A private line radio service rendered on microwave frequencies by fixed and temporary fixed stations between points that lie within the United States or between points to its possessions or to points in Canada or Mexico.~~

Public correspondence. Any telecommunication which the offices and stations must, by reason of their being at the disposal of the public, accept for transmission.

Public message service. A service whereby facilities are offered to the public for communication between all points served by a carrier or by interconnected carriers on a

non-exclusive message by message basis, contemplating a separate connection for each occasion of use.

**Radio station.** A separate transmitter or a group of transmitters under simultaneous common control, including the accessory equipment required for carrying on a radiocommunication service.

**Radiocommunication.** Telecommunication by means of radio waves.

**Rated power output.** The maximum radio frequency power output capability (peak or average power) of a transmitter, under optimum conditions of adjustment and operation, specified by its manufacturer.

**Record communication.** Any transmission of intelligence which is reduced to visual record form at the point of reception.

**Reference frequency.** A frequency coinciding with or having a fixed and specified relation to the assigned frequency. This frequency does not necessarily correspond to any frequency in an emission.

**Relay station.** A fixed station used for the reception and retransmission of the signals of another station or stations.

**Remote station.** A fixed station in a multiple address radio system that transmits one-way to one or more central receive sites, controls a master station, or is controlled, activated or interrogated by, and may respond to, a master station.

**Repeater station.** A fixed station established for the automatic retransmission of radiocommunications received from one or more mobile stations and directed to a specified location; for public mobile radio operations, a fixed station that automatically retransmits the mobile communications and/or transmitter information about the base station, along a fixed point-to-point link between the base station and the central station.

**Short haul system.** A microwave system licensed under this Part in which the longest radio circuit of tandem radio paths does not exceed 402 kilometers (250 miles).

**Signaling communication.** One-way communications from a base station to a mobile or fixed receiver, or to multi-point mobile or fixed receivers by audible or subaudible means, for the purpose of actuating a signaling device in the receiver(s) or communicating information to the receiver(s), whether or not the information is to be retained in record form.

**Standby transmitter.** A transmitter installed and maintained for use in lieu of the main transmitter only during periods when the main transmitter is out of service for maintenance or repair.

**Symbol rate. Modulation rate in bauds. This rate may be higher than the transmitted bit rate as in the case of coded pulses or lower as in the case of multilevel transmission.**

**Telegraphy. A form of telecommunication which is concerned in any process providing transmission and reproduction at a distance of documentary matter, such as written or printed matter or fixed images, or the reproduction at a distance of any kind of information in such a form. Unless otherwise specified, telegraphy means a form of telecommunication for the transmission of written matter by the use of signal code.**

**Telemetry. The use of telecommunication for automatic indicating or recording measurements at a distance from the measuring instrument.**

**Telephony. A form of telecommunication set up for the transmission of speech, or in some cases, other sounds.**

**Television. A form of telecommunication for transmission of transient images of fixed or moving objects.**

**Temporary fixed station. A station established in a non-permanent mode (temporary) at a specified location for a short period of time, ranging up to one year. Temporary-fixed operations are itinerant in nature, and are not to be confused with mobile-type operations.**

**Temporary fixed station facilities that are intended to be used only until replacement facilities, including permanent microwave facilities, can be constructed and placed into operation.**

**Video entertainment material. The transmission of a video signal (e.g. United States Standard Monochrome or National Television Systems Committee 525-line television) and an associated audio signal which is designed primarily to amuse or entertain, such as movies and games.**

## Subpart B: Applications and Licenses

### GENERAL FILING REQUIREMENTS

#### §101.4 Transition period.

(a) All systems subject to Part 21 and 94 of the Rules, which are licensed or which are proposed in an application on file, as of the effective date of this part, can meet the requirements under Part 21 or Part 94, as applicable, indefinitely.

(b) For purposes of this section, a "system" shall include:

(i) the originally licensed system;

(ii) any modification to the original system involving a change in antenna azimuth, antenna beam width, channel loading, emission, station location, antenna height, authorized power, or authorized frequencies;

(iii) additional links constructed to complete an integrated communications network; or

(iv) operationally connecting new facilities and/or frequencies.

(c) All radio frequency devices authorized pursuant to Part 2 of the Rules as being in compliance with applicable Part 21 or Part 94 requirements can be used indefinitely with systems licensed under Part 101, unless such devices otherwise do not meet applicable Part 101 requirements.

#### §101.5 Station authorization required.

(a) No radio transmitter shall be operated in this service except under and in accordance with a proper station authorization granted by the Federal Communications Commission. Except as provided in paragraph (d) of this section, no construction, modification or operation of a station may be commenced without an authorization from the Commission.

(b) A separate application form must be filed for each Digital Electronic Message Service Nodal Station. No license is required for a Digital Electronic Message User Station. Authority for a Digital Electronic Message Nodal Station licensee to serve a specific number of user stations to be licensed in the name of the carrier must be requested on FCC Form 494 filed for the Digital Electronic Message Nodal Station.

(c) If construction and or operation may have a significant environmental impact as defined by Sec. 1.1307 of the Commission's rules, the requisite environmental assessment as prescribed in Sec. 1.1311 of this chapter must be filed with the application and Commission

environmental review must be completed before construction of the station is initiated. See §1.1312 of this chapter.

(d) For stations authorized under Subpart H (Private Operational Fixed Radio Point-to-Point Microwave Service) and Subpart I (Common Carrier Fixed Point-to-Point Microwave Service), construction and operation of new or modified stations may be initiated prior to grant of an authorization, provided that the applicant for such construction and operation meets the following requirements:

(i) The application has been accepted for filing by the Commission, and has appeared on public notice issued by the Commission;

(ii) All operations conducted under the provisions of this subparagraph (d) will be in exact accordance with an associated application(s) on file with the Commission, with the exception of those minor modifications which may be made without prior notice to the Commission under Section 101.59 of the Commission's rules. In the event that such modification(s) is made, the appropriate Form \_\_\_\_\_ will be timely filed with the Commission in accordance with Section 101.13 of the Commission's rules;

(iii) The associated application(s) will not have been dismissed, granted, or otherwise finally disposed of by the Commission. When the associated application(s) is finally disposed of by the Commission, the provisions of this subparagraph (d) would cease to be effective with respect to that application(s);

(iv) No waiver of the Commission's rules is required;

(v) Operation does not occur within 56.3 kilometers (35 miles) of any international border, or within a radio "Quiet Zone" and monitoring facilities, see Section 101.123 of the Commission's rules;

(vi) The antenna(s) is no more than 6.1 meters (twenty 20 feet) above the ground or manmade structure other than a tower or pole, or is mounted on a structure that complies with an existing and approved Federal Aviation Administration Final Determination;

(vii) All proposed operations have been fully and successfully coordinated as required by Section 101.103 of the Commission's rules;

(viii) Operation will not cause interference. Should interference occur, operations will be terminated immediately;

(ix) The associated application(s) will have no significant impact on the environment, as set forth in Section 1.1301, et seq. of the Commission's rules;

~~(x) As a condition to operation under this subparagraph (d), the Commission may, at any time and without hearing or notice, prohibit such operation for any reason. Any operation conducted hereunder is at the applicant's sole risk and that grant of such operation will not prejudice the outcome of action on any application(s) associated therewith.~~

§101.7 Eligibility for station license.

NO CHANGE.

§101.9 Formal and informal applications.

NO CHANGE.

§101.11 Filing of applications, fees, and number of copies.

NO CHANGE.

§101.13 Application forms and requirements ~~for private operational fixed stations.~~

(a) A separate application must be submitted on FCC Form 402  for the following:

(1) New station ~~authorization for private operational fixed microwave station authorization.~~

(2) New authorization to operate one or more fixed stations at temporary locations in this service.

(3) Modification of station license.

(4) New station authorization or modification of license for each master station of a system consisting of a master station and its associated remote stations.

(5) The Commission's consent to the ~~complete or partial~~ assignment of an authorization to another person or ~~entity.~~ ~~entity or the transfer of control of an entity holding an authorization.~~ In addition, the application must be accompanied by a signed letter from proposed ~~assignor~~ ~~assignor/transferor~~ stating the desire to assign all or part of its right, title, and interest in and to such ~~authorization, or to transfer control over the entity holding the~~ authorization, stating the call sign and location of the station, and that, if applicable, the assignor will submit its current station authorization for cancellation upon completion of the assignment. Form 1046  may be used in lieu of this letter. ~~Such assignment or transfer of control must be consummated within 45 days from the date of~~

~~Commission approval, and the Commission must be notified by letter of the date of consummation within 10 days of its occurrence.~~

~~(6) Amendment of any application.~~

(b) An application for authority to operate a fixed station at temporary locations must specify the precise geographic area within which the operation will be confined. The area specified must be defined as a radius of operation about a given ~~state or states, latitude/longitude latitude/longitude~~, or as a rectangular area bounded by upper and lower lines of latitude and longitude. Exception to this specific requirement may be made for exceptionally large areas, such as the continental United States. Sufficient data must be submitted to show the need for the proposed area of operation.

(1) ~~If an operational fixed~~ station is authorized to be operated at temporary locations and actually remains, or is to remain, at the same location for a period of over a year, application for a permanent authorization specifying the fixed location must be made as soon as possible but not later than 30 days after the expiration of the one-year period.

~~(2) Operation of a fixed station at temporary locations will be authorized only on the frequency pair 6535/6575 MHz, and in frequency bands shared for operational fixed and mobile operations.~~

(c) A separate ~~application form Form~~ for point-to-multipoint frequencies in the 10.6 GHz and 18 GHz bands must be filed for each Nodal Station except for operations consistent with ~~§101.605(1)(3), §101.147~~. Each Nodal Station application must specify the service area that will be served by the station in terms of a distance radius or other geographical specification, and, if applicable, the Standard Metropolitan Statistical Area (SMSA) being served.

(d) Application for renewal of station licenses must be submitted on ~~such form as the Commission may designate by public notice, Form~~. Applications for renewal must be made during the license term and should be filed within 90 days, but not later than 30 days, prior to the end of the license term. When a licensee submits a timely application for renewal of a station license, the existing license for that station will continue as a valid authorization until the Commission has made a final decision on the application.

~~(d) Renewal of station license. Except for renewal of special temporary authorizations, FCC Form 405 ("Application for Renewal of Station License") must be filed by the licensee between thirty (30) and sixty (60) days prior to the expiration date of the license sought to be renewed. Whenever a group of station licenses in the same radio service are to be renewed simultaneously, a single "blanket" application may be filed to cover the entire group if the application identifies each station by call sign and station location. Applicants should note also any special renewal requirements under the rules for each radio service. Section 101.705.~~

(c) A separate application must be filed for each fixed master station in a Multiple Address System (MAS). Applications may include any number of remote stations in a single application, but must specify the geographic service area in which these remote stations will be located. Applications for mobile operations or for systems employing only remote stations must designate a reference point (set of coordinates) at or near the center of the area being served.

~~§101.15 Application forms for common carrier fixed stations.~~

~~(a) New or modified facilities. FCC Form 494 must be submitted and a license granted for each station prior to commencement of any proposed station construction. FCC Form 494 also must be submitted to amend any license application, to modify any license pursuant to §§101.57(a) and 101.59, and to notify the Commission of modifications made pursuant to §101.61. Cancellation of a license can be made by letter.~~

~~(b)  Certification of completion of construction. FCC Form 494A  must be submitted to certify completion of construction.~~

~~(c)  Additional time to construct. FCC Form 701 ("Application for Additional Time to Construct Radio Station") must be filed prior to the expiration of the time for construction noted in a license to modify the license by extending the period of construction.~~

~~(d) Renewal of station license. Except for renewal of special temporary authorizations, FCC Form 405 ("Application for Renewal of Station License") must be filed by the licensee between thirty (30) and sixty (60) days prior to the expiration date of the license sought to be renewed. Whenever a group of station licenses in the same radio service are to be renewed simultaneously, a single "blanket" application may be filed to cover the entire group if the application identifies each station by call sign and station location. Applicants should note also any special renewal requirements under the rules for each radio service.~~

~~(e) Assignment of license. FCC Form 702 ("Application for Consent to Assignment of Radio Station Construction Authorization or License for Stations in Services Other than Broadcast") must be submitted to assign voluntarily (as by, for example, contract or other agreement) or involuntarily (as by, for example, death, bankruptcy, or legal disability) the station authorization. In the case of involuntary assignment (or transfer of control) the application must be filed within 10 days of the event causing the assignment (or transfer of control). FCC Form 702 must also be used for non-substantial (pro forma) assignments. In addition, FCC Form 430 ("Licensee Qualification Report") must be submitted by the proposed assignee unless such assignee has a current and substantially accurate report on file with the Commission. Whenever a group of station licenses in the same radio services are to be assigned to a single assignee, a single "blanket" application may be filed to cover the entire group, if the application identifies each station by call sign and station location. The assignment must be completed within 45 days from the date of authorization. Upon~~

~~consummation of an approved assignment, the Commission must be notified by letter of the date at consummation within 10 days of its occurrence.~~

~~(f) Partial assignment of license. Authorization for assignment from one company to another of only a part or portions of the facilities (transmitters) authorized under an existing license (as distinguished from an assignment of the facilities in their entirety) may be granted upon application:~~

~~(1) By the assignor on FCC Form 494 for deletion of the assigned facilities (no fee required).~~

~~(2) By the assignee on FCC Form 494 with a request for recertification in the name of the assignee for frequencies eliminated from assignor's license (fee required).~~

~~The assignment must be consummated within 45 days from the date of authorization. In the event that consummation does not occur, FCC Form 494 must be submitted to return the assignor's license to its original condition.~~

~~(g) Transfer of control of corporation holding a conditional license or license. FCC Form 704 ("Application for Consent to Transfer of Control") must be submitted in order to voluntarily or involuntarily transfer control (de jure or de facto) of a corporation holding any conditional licenses or licenses. FCC Form 704 must also be used for non-substantial (pro forma) transfers of control. The transfer must be completed within 45 days from the date of authorization. Upon consummation of an approved transfer, the Commission must be notified by letter of the date of consummation within 10 days of its occurrence. Applicant may request extension of time to consummate by submitting an informal request within 10 days of date expiration of authorization.~~

(h) Licensee qualifications. FCC Form 430 [REDACTED] ("Licensee Qualification Report") must be filed annually, no later than March 31 for the end of the preceding calendar year, by licensees for each common carrier radio service authorized under this part, if service was offered at any time during the preceding year. Each annual filing must include all changes of information required by FCC Form 430 [REDACTED] that occurred during the preceding year. In those cases in which there has been no change in any of the required information, the applicant or licensee, in lieu of submitting a new form, may so notify the Commission by letter.

~~(i) Cancellation of license may be made by letter.~~

§101.17 [Reserved]

§101.19 General application requirements.

(a) Each application for a license or for consent to assignment or transfer of control must:

(1) Disclose fully the real party (or parties) in interest, including (as required) a complete disclosure of the identify and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant;

(2) Demonstrate the applicant's legal, technical, and other qualifications to be a licensee;

(3) Submit the information required by the Commission's Rules, requests, and application forms;

(4) Be maintained by the applicant substantially accurate and complete in all significant respects in accordance with the provisions of Sec. 1.65 of this chapter; and

(5) Show compliance with the special requirements applicable to each radio service and make all special showings that may be applicable (e.g., those required by §§101.103(d), 101.701, ~~101.713~~ and of this part, etc.).

(b) In addition to the general application requirements of §§101.19 and 101.21 of this part, applicants must submit any additional documents, exhibits, or signed written statements of fact:

(1) As may be required by the other parts of the Commission's Rules, and the other subparts of this part (particularly Subpart C and those subparts applicable to the specific radio service involved); and

(2) As the Commission, at any time after the filing of an application and during the term of any authorization, may require from any applicant, permittee, or licensee to enable it to determine whether a radio authorization should be granted, denied, or revoked.

(c) All applicants are required to indicate at the time their application is filed whether an authorization of the facilities is categorically excluded as defined by §1.1306 of the Commission's rules. If answered affirmatively, an Environmental Assessment as described by §1.1311, need not be filed with the application.

§101.21 Technical content of ~~common-carrier~~ applications.

Applications must contain all technical information required by the application form and any additional information necessary to fully describe the proposed facilities and to demonstrate compliance with all technical requirements of the rules governing the radio service involved (see Subparts C, F, G, I, and J, as appropriate). The following paragraphs describe a number of technical requirements.

(a) Each application proposing a new or modified antenna structure for a station (including a receive-only or passive repeater) must include a copy of the FAA "no hazard determination" if FAA notification is required by Part 17 of this chapter. Complete information as to rules concerning the construction, marking and lighting of antenna structures is contained in Part 17 of this chapter. See also Sec. 101.121 if the structure is used by more than one station.

(b) Each application for construction permit for a developmental authorization must be accompanied by pertinent supplemental information as required by Sec. 101.411 in addition to such information as may be specifically required by this section.

(c) Each application in the ~~Point-to-Point Radio, Operational Fixed Point-to-Point Microwave, Common Carrier Point-to-Point Microwave, and Local Television~~ ~~Transmission, and Digital Electronic Message Service Service~~ (excluding user stations) proposing a new or replacement antenna (excluding omnidirectional antennas) must include an antenna radiation pattern showing the antenna power gain distribution in the horizontal plane expressed in decibels, unless such pattern is known to be on file with the Commission in which case the applicant may reference in its application the FCC-ID number that indicates that the pattern is on file with the Commission.

~~(d) Each application for construction permit for a developmental authorization in the Point-to-Point Microwave Service and the Common Carrier Point-to-Point Microwave Service must include the following information:~~

- ~~Applicant's name and address.~~
- ~~Transmitting station name.~~
- ~~Transmitting station coordinates.~~
- ~~Frequencies and polarizations to be added, changed or deleted.~~
- ~~Transmitting equipment type, its stability, actual output power, emission designator, and type of modulation (loading).~~
- ~~Transmitting antenna type(s), model, gain, and, if required, a radiation pattern provided or certified by the manufacturer.~~
- ~~Transmitting antenna center line height(s) above ground level and ground elevation above mean sea level.~~
- ~~Receiving station name.~~
- ~~Receiving station coordinates.~~
- ~~Receiving antenna type(s), model, gain, and, if required, a radiation pattern provided or certified by the manufacturer.~~
- ~~Receiving antenna center line height(s) above ground level and ground elevation above mean sea level.~~
- ~~Path azimuth and distance.~~
- ~~Estimated transmitter transmission line loss expressed in dB.~~
- ~~Estimated receiver transmission line loss expressed in dB.~~

(e) All applicants for regular authorization must, before filing an application, amendments to a pending application, or modifications to a license, prior coordinate the proposed frequency usage with existing users in the area and other applicants with previously filed applications in accordance with the procedures in §101.103

(f) In those frequency bands shared with the communication-satellite service an applicant for a new station, for new points of communication, for the initial frequency assignment in a shared band for which coordination has not been previously effected, or for authority to modify the emission or radiation characteristics of an existing station in a manner that may increase the likelihood of harmful interference, must ascertain in advance whether the station(s) involved lie within the great circle coordination distance contours of an existing Earth station(s) for which an application has been accepted for filing, and must coordinate his proposal with each such Earth station operator or applicant. For each potential interference path, the applicant must perform the computations required to determine that the expected level of interference to or from the terrestrial station does not exceed the maximum permissible interference power level in accordance with the technical standards and requirements of Secs. 25.251-25.256 of this chapter. The Commission may, in the course of examining any application, require the submission of additional showings, complete with pertinent data and calculations in accordance with Part 25 of this chapter, showing that harmful interference will not likely result from the proposed operation. (Technical characteristics of the Earth stations on file and coordination contour maps for those Earth stations will be kept on file for public inspection in the offices of the Commission's Common Carrier Bureau in Washington, D.C.)

§101.23 Waiver of rules.

NO CHANGE.

§101.25 Inconsistent or conflicting applications.

NO CHANGE.

§101.27 Repetitious applications.

NO CHANGE.

§101.29 Amendment of pending applications.

(a) Any pending application may be amended as a matter of right if the application has not been designated for hearing, or for comparative evaluation pursuant to §101.51, or for the random selection process, provided, however, that the amendments must comply with the provisions of §101.41 as appropriate.

(b) Requests to amend an application designated for hearing or for comparative evaluation, or tentatively selected by the random selection process may be granted only if a written petition demonstrating good cause is submitted and properly served upon the parties of record.

(c) The Commission will classify amendments on a case-by-case basis. Whenever previous amendments have been filed, the most recent amendment will be classified by reference to how the information in question stood as of the latest Public Notice issued which concerned the application. An amendment will be deemed to be a major amendment subject to Sec. 101.37 and Sec. 101.45 under any of the following circumstances:

(1) if the amendment results in a substantial modification of the engineering proposal such as (but not necessarily limited to):

(i) A change in, or an addition of a radio frequency channel;

(ii) A change in polarization of the transmitted signal;

(iii) An increase in the transmitter output power of three (3) dB or ~~more in the Private Fixed, Point to Point, and Local Television Transmission Services;~~ ~~more;~~

(iv) A change in type of transmitter emission or an increase in emission bandwidth ~~requiring a larger authorized bandwidth~~ ~~of more than ten (10) percent;~~

(v) A change in the geographic coordinates of a station's transmitting antenna of more than ~~ten (10)~~ ~~five (5)~~ seconds of latitude or longitude, or both;

(vi) A change of more than one (1) degree in the azimuth of the center of the main lobe of radiation of a point-to-point station's transmitting antenna (including any deflections by repeating devices);

(vii) Any change which increases the antenna center line height ~~to a new height that would trigger a requirement for a new aeronautical study;~~ or ~~by 3.0 meters (ten (10) feet) or more;~~

(viii) Any changes or combination of changes which would cause harmful electrical interference to an authorized facility or result in a mutually exclusive conflict with another pending application; or

(ix) Any technical change that would increase the effective radiated power in any direction by more than one and one-half (1.5) dB in the Digital Electronic Message Service.

(2) If the amendment would convert a proposal, such that it may have a significant impact upon the environment under Sec. 1.1307 of the Commission's rules, which would require the submission of an environmental assessment, see Sec. 1.1311 of this chapter, and Commission environmental review, see Secs. 1.1308 and 1.1312 of this chapter.

(3) If the amendment results in a substantial and material alteration of the proposed service.

(4) If the amendment specifies a substantial change in beneficial ownership or control (*de jure* or *de facto*) of an applicant such that the change would require, in the case of an authorized station, the filing of a prior assignment or transfer of control application under section 310(d) of the Communications Act of 1934 [47 U.S.C. 310(d)]. Such a change would not be considered major where the assignment or transfer of control is for legitimate business purposes other than the acquisition of applications.

(5) If the amendment, or the cumulative effect of the amendment, is determined by the Commission otherwise to be substantial pursuant to section 309 of the Communications Act of 1934.

(d) A pending application may be amended by a major amendment to reflect the relocation of a proposed station site and a new application will not be required if:

(1) The geographic coordinates of the new station site are within 32.2 km (twenty (20) miles) of the coordinates of the original site, and;

(2) The relocated station would serve essentially the same purpose in the system as originally proposed.

(e) The applicant must serve copies of any amendments or other written communications upon the following parties:

(1) Any applicant whose application appears on its face to be mutually exclusive with the application being amended, including those applicants originally served under §101.509;

(2) Any applicant whose application has been found by the Commission, as published in a public notice, to be mutually exclusive with the application being amended; and

(3) Any party who has filed a petition to deny the application or other formal objection, when that petition or formal objection has not been resolved by the Commission.

(e) (f) The Commission may waive the service requirements of paragraph (d) (e) of this section and prescribe such alternative procedures as may be appropriate under the

circumstances to protect petitioners' interests and to avoid undue delay in a proceeding, if an applicant submits a request for waiver which demonstrates that the service requirement is unreasonably burdensome. Requests for waiver must be served on petitioners. Oppositions to the petition may be filed within five (5) days after the petition is filed and must be served on the applicant. Replies to oppositions will not be entertained.

(f) (g) Any amendment to an application must be signed and must be submitted in the same manner, and with the same number of copies, as was the original application. Amendments may be made in letter form if they comply in all other respects with the requirements of this chapter.

§101.31 Special temporary authority: ~~authorization and temporary authorization.~~

(a) ~~Special temporary authorization.~~

(a) (1) In circumstances requiring immediate or temporary use of facilities, request may be made for special temporary authority to install and/or operate new or modified equipment. Any such request may be submitted as an informal application in the manner set forth in Section 101.9 and must contain full particulars as to the proposed operation including all facts sufficient to justify the temporary authority sought and the public interest therein. No such request will be considered unless the request is received by the Commission at least 10 days prior to the date of proposed construction or operation or, where an extension is sought, expiration date of the existing temporary authorization.

(b) (2) Special temporary authorization may be granted upon written request in the following circumstances:

- (1) (i) In emergency situations;
- (2) (ii) to permit restoration or relocation of existing facilities to continue communication service;
- (3) (iii) to conduct tests to determine necessary data for the preparation of an application for regular authorization;
- (4) (iv) for a temporary, non-recurring service where a regular authorization is not appropriate;
- (5) (v) in other situations involving circumstances which are of such extraordinary nature that delay in the institution of temporary operation would seriously prejudice the public interest.

(c) (3) The Commission may grant requests for special temporary authority without issuing the public notice provided for in §1.962 of this chapter for periods not

exceeding 180 days, if there are extraordinary circumstances supporting the request and where delay in commencing temporary operation would seriously prejudice the public interest. Requests for special temporary authorization not involving extraordinary circumstances may be granted without public notice for a period of 30 days where an application for regular operation is not contemplated or for 60 days pending or after the filing of an application for regular operation.

(d) (4) Request for special temporary ~~authority authorization~~ must contain the following information:

- (1) (i) Name, address, and citizenship status of the applicant;
- (2) (ii) Need for special action, including a description of any emergency or damage to equipment;
- (3) (iii) Type of operation to be conducted;
- (4) (iv) Purpose of operation;
- (5) (v) Time and date of operation desired;
- (6) (vi) Class of station and nature of service;
- (7) (vii) Location of station and points with which station will communicate;
- (8) (viii) Equipment to be used, specifying manufacturer, model number, and number of units;
- (9) (ix) Frequency(s) desired.
- (10) (x) Azimuth and beamwidth of major lobe of transmitting antenna and ERP;
- (11) (xi) Type of emission;
- (12) (xii) Description of antenna to be used, including height.
- (13) (xiii) Certification ~~that prior coordination is complete.~~

(5) ~~In cases of emergency found by the Commission, involving danger to life or property or due to damage of equipment, or during a national emergency proclaimed by the President or declared by the Congress or during the continuance of any war in which the United States is engaged and when such action is necessary for the national defense or safety~~

or otherwise in furtherance of the war effort or in case of emergency where the Commission finds that it would not be feasible to secure renewal applications from existing licensees or otherwise to follow normal licensing procedure, the Commission will grant construction permits and station licenses, or modifications or renewals thereof, during the emergency found by the Commission or during the continuance of any such national emergency or war, as special temporary licenses only for the period of emergency or war requiring such action, without the filing of formal applications.

**(b) Temporary authorizations. [FROM FORMER §§101.715, 101.717]**

(1) Applications for temporary authorizations for rendition of temporary service to subscribers under the following conditions:

(i) When a station is authorized to operate at a single location for less than six (6) months, the location of such station shall be a remote point where service which are initially known to be of longer than 6 months' duration shall not be provided under a temporary fixed authorization but rendered pursuant to a regular license.

(ii) When a station is authorized to operate at temporary locations, it is to remain at a single location for more than six (6) months, an application (FCC Form \_\_\_\_\_) for a station authorization designating that single location as the permanent location shall be filed at least 90 days prior to the expiration of the 6-month period.

(iii) The station shall be used only for rendition of communication service at a remote point where the provision of wire facilities is not practicable within the required time frame.

(iv) The antenna structure height employed at any location shall not exceed the criteria set forth in §173 of this chapter unless, in each instance, authorization for use of a specific maximum antenna structure height for each location has been obtained from the Commission prior to erection of the antenna. See §101.125.

(2) Applications for authorizations to operate stations at temporary locations under the provisions of this section shall be made upon FCC Form \_\_\_\_\_. Blanket applications may be submitted for the required number of transmitters.

(3) The licensee of stations which are authorized pursuant to the provisions of paragraph (b) of this section shall notify the Commission at least five (5) days prior to installation of the facilities, stating:

(i) The call sign, manufacturer's name, type or model number, output power and specific location of the transmitter(s).

(ii) The maintenance location for the transmitter.

(ii) The location of the equipment, the emitting station with which it will communicate and the identity of the correspondent operating such facilities.

(iv) The exact frequency or frequencies to be used.

(v) The public interest, convenience and necessity to be served by operation of the proposed installation.

(vi) The commencement and anticipated termination dates of operation from each location. In the event the actual termination date differs from the previous notification, written notice thereof promptly shall be given to the Commission.

(vii) A notification shall include compliance with the provisions of §101.21(e) when operations are to be conducted in the vicinity of terrestrial microwave stations and with the provisions of §101.21(c) when operations are to be conducted within the coordination distance contours of a fixed earth station.

(viii) Where the notification contemplates initially a service which is to be rendered for a period longer than 90 days, the notification shall contain a showing as to why application should not be made for regular authorization.

(4) Less than 30 days notice may be given when circumstances require shorter notice provided such notice is promptly given and the reasons in support of such shorter notice are stated.

(5) A copy of the notification shall be kept with the station license.

(6) Any applicant for temporary authorization under this section may commence operation prior to issuance of such authorization, at its own risk, if it complies with subparagraphs (a)-(d) hereof.

(c) Prior coordination.

(1) Stations authorized under this section may complete the prior coordination process orally and the period allowed for response to a coordination notification may be less than 30 days if the parties agree. The requirements under Section 101.103(d)(2)(i) for written documentation shall apply to such oral notice.

(d) Certification.

Any applicant under this section must submit a certification that neither the applicant nor any party to the applicant is subject to a denial of Federal benefits that includes FCC benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, 1988 as required by §1.2002 of this Chapter.

§101.33 Who may sign applications.

NO CHANGE.

#### Processing of Applications

§101.35 Preliminary processing of applications.

NO CHANGE.

§101.37 Public notice period.

NO CHANGE

§101.39 Dismissal and return of applications.

(a) Except as provided under paragraph (d) of this Section and under §101.41, any application may, upon written request, be dismissed without prejudice as a matter of right prior to the adoption date of any final Commission action or the application's designation for hearing or comparative evaluation.

(b) Applicants for stations licensed under Subpart H (Private Operational Fixed Point-to-Point Microwave Service) and Subpart I (Common Carrier Fixed Point-to-Point Microwave Service) may request the return of an application for correction without dismissal.

(c) A request to dismiss an application without prejudice will be considered after designation for hearing, after selection through the comparative evaluation procedure of §101.51, or after selection as a tentative selectee in a random selection proceeding, only if:

(1) A written petition is submitted to the Commission and, in the case of applications designated for hearing or comparative evaluation, is properly served upon all parties of record;

(2) The petition is submitted before the issuance date of a public notice of Commission action denying the application; and

(3) The petition complies with the provision of §101.41 (whenever applicable) and demonstrates good cause.

(d) Except as provided under §101.41, an application designated for inclusion in the random selection process may be dismissed without prejudice as a matter of right if the applicant requests its dismissal at least 2 days prior to a random selection proceeding.

(e) Dismissal for failure to prosecute or for failure to respond to official correspondence or requests for additional information within a specified time period will be without prejudice prior to its designation for hearing, or tentative selection by the random selection process. Dismissal may be with prejudice after selection of the comparative evaluation process, or after selection as a tentative selectee in a random selection proceeding.

§101.41 Ownership changes and agreements to amend or dismiss applications or pleadings.

NO CHANGE.

§101.43 Opposition to applications.

NO CHANGE.

§101.45 Mutually exclusive applications.

(a) The Commission will consider applications to be mutually exclusive if their conflicts are such that the grant of one application would effectively preclude by reason of harmful electrical interference, or other practical reason, the grant of one or more of the other applications. The Commission will presume "harmful electrical interference" to mean interference which would result in a material impairment to service rendered to the public despite full cooperation in good faith by all applicants or parties to achieve reasonable technical adjustments which would avoid electrical conflict.

(b) A common carrier application will be entitled to be included in a random selection process or to comparative consideration with one or more conflicting applications only if:

(1) The application is mutually exclusive with the other application; and

(2) The application is received by the Commission in a condition acceptable for filing by whichever "cut-off" date is earlier:

(i) Sixty (60) days after the date of the public notice listing the first of the conflicting applications as accepted for filing; or

(ii) One (1) business day preceding the day on which the Commission takes final action on the previously filed application (should the Commission act upon such application in the interval between thirty (30) and sixty (60) days after the date of its public notice).

(c) Whenever three or more applications are mutually exclusive, but not uniformly so, the earliest filed application established the date prescribed in paragraph (b)(2) of this section, regardless of whether or not subsequently filed applications are directly mutually

exclusive with the first filed application. [For example, applications A, B, and C are filed in that order. A and B are directly mutually exclusive, B and C are directly mutually exclusive. In order to be considered comparatively with B, C must be filed within the "cut-off" period established by A even though C is not directly mutually exclusive with A.]

(d) Private ~~operational~~ fixed ~~point-to-point~~ microwave applications for authorization under this Part will be entitled to be included in a random selection process or to comparative consideration with one or more conflicting applications in accordance with the provisions of §1.227(b)(4).

(e) An application otherwise mutually exclusive with one or more previously filed applications, but filed after the appropriate date prescribed in paragraphs (b) or (d) of this section, will be returned without prejudice and will be eligible for refiling only after final action is taken by the Commission with respect to the previously filed application (or applications).

(f) For the purposes of this section, any application (whether mutually exclusive or not) will be considered to be a newly filed application if it is amended by a major amendment (as defined by §101.29), except under any of the following circumstances:

(1) The application has been designated for comparative hearing, or for comparative evaluation (pursuant to Sec. 101.51), and the Commission or the presiding officer accepts the amendment pursuant to Sec. 101.29(b);

(2) The amendment resolves frequency conflicts with authorized stations or other pending applications which would otherwise require resolution by hearing, by comparative evaluation pursuant to Sec. 101.51, or by random selection pursuant to Sec. 101.49 provided that the amendment does not create new or additional frequency conflicts;

(3) The amendment reflects only a change in ownership or control found by the Commission to be in the public interest, and for which a requested exemption from the "cut-off" requirements of this section is granted;

(4) The amendment reflects only a change in ownership or control which results from an agreement under Sec. 101.41 whereby two or more applicants entitled to comparative consideration of their applications join in one (or more) of the existing applications and request dismissal of their other application (or applications) to avoid the delay and cost of comparative consideration;

(5) The amendment corrects typographical, transcription, or similar clerical errors which are clearly demonstrated to be mistakes by reference to other parts of the application, and whose discovery does not create new or increased frequency conflicts; or

(6) The amendment does not create new or increased frequency conflicts, and is demonstrably necessitated by events which the applicant could not have reasonably foreseen at the time of filing, such as, for example:

(i) The loss of a transmitter or receiver site by condemnation, natural causes, or loss of lease or option;

(ii) Obstruction of a proposed transmission path caused by the erection of a new building or other structure; or

(iii) The discontinuance or substantial technological obsolescence of specified equipment, whenever the application has been pending before the Commission for two or more years from the date of its filing.

(g) Applicants for the 932.5-935/941.5-944 MHz bands shall select a frequency pair. Applicants for these bands may select an unpaired frequency only upon a showing that spectrum efficiency will not be impaired and that unpaired spectrum is not available in other bands. During the initial filing window, frequency coordination is not required, except that an application for a frequency in the 942-944 MHz band must be coordinated to ensure that it does not affect an existing broadcast auxiliary service licensee. After the initial filing window, an applicant must submit evidence that frequency coordination has been performed with all licensees affected by the application. All frequency coordination must be performed in accordance with §101.103 of the Commission's Rules. In the event of mutually exclusive applications occurring during the initial filing window for the 932.5-935/941.5-944 MHz bands, applicants shall be given the opportunity to resolve these situations by applying for an alternative frequency pair, if one is available. To the extent that there are no other available frequencies or to the extent that mutually exclusive applications remain after this process is concluded, lotteries shall be conducted for each frequency pair among all remaining mutually exclusive applications, assuming appropriate coordination with existing broadcast auxiliary stations can be concluded, where necessary. In the event of mutually exclusive applications being received for these bands on the same day after the initial filing window has closed and a subsequent filing window opened, lotteries shall be conducted for each frequency pair among all mutually exclusive applications.

§101.47 Consideration of applications.

NO CHANGE.

§101.49 Grants by random selection.

NO CHANGE.

§101.51 Comparative evaluation of mutually exclusive applications.

**NO CHANGE.**

**License Transfers, Modifications, Conditions and Forfeitures**

**§101.53 Assignment or transfer of station authorization.**

**NO CHANGE.**

**§101.55 Considerations involving transfer or assignment applications.**

**(a) Licenses may not be assigned or transferred prior to the completion of construction of the facility. However, consent to the assignment or transfer of control of such a license may be given prior to the completion of construction where:**

**(1) The assignment or transfer does not involve a substantial change in or ownership or control of the authorized facilities; or in**

**(2) The assignment or transfer of control is involuntary due to the licensee's bankruptcy, death, or legal disability.**

**(b) The Commission will review a proposed transaction to determine if the circumstances indicate "trafficking" in licenses whenever applications (except those involving pro forma assignment or transfer of control) for consent to assignment of a license, or for transfer of control of a licensee, involve facilities that were:**

**(1) Authorized following a comparative hearing and have been operated less than one year, or;**

**(2) Involve facilities that have not been constructed, or;**

**(3) Involve facilities that were authorized following a random selection proceeding in which the successful applicant received preference and that have been operated for less than one year.**

**At its discretion, the Commission may require the submission of an affirmative, factual showing (supported by affidavits of a person or persons with personal knowledge thereof) to demonstrate that the proposed assignor or transferor has not acquired an authorization or operated a station for the principal purpose of profitable sale rather than public service. This showing may include, for example, a demonstration that the proposed assignment or transfer is due to changed circumstances (described in detail) affecting the licensee subsequent to the acquisition of the license, or that the proposed transfer of radio facilities is incidental to a sale of other facilities or merger of interests.**