

SELECTED FCC RULES

This is an unofficial staff compilation of selected rules applicable to the VHF Public Coast Service, drawn from Parts 1 and 80 of the FCC's Rules, which applicants may use until such time as the Government Printing Office publishes a current version of the Code of Federal Regulations (CFR). Applicants should refer to the official version of the rules contained in FCC orders and in the Federal Register. The official rules govern in the case of conflicts. Relevant orders adopted to date by the FCC are provided in Tab E of this Bidder Information Package. **Applicants need to stay apprised of any rule changes that occur after release of this Bidder Information Package by checking the FCC web site (<http://www.fcc.gov/wtb/auctions>), and the Federal Register (http://www.access.gpo.gov/su_docs/aces/aces140.html).**

PART 1--PRACTICE AND PROCEDURE

SUBPART Q--Competitive Bidding Proceedings

Sec. 1.2101 Purpose.

The provisions of this subpart implement Section 309(j) of the Communications Act of 1934, as added by the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66) and the Balanced Budget Act of 1997 (Pub. L. 105-33), authorizing the Commission to employ competitive bidding procedures to choose from among two or more mutually exclusive applications for certain initial licenses.

Sec. 1.2102 Eligibility of applications for competitive bidding.

(a) Mutually exclusive initial applications are subject to competitive bidding.

(b) The following types of license applications are not subject to competitive bidding procedures:

(1) Public safety radio services, including private internal radio services used by state and local governments and non-government entities and including emergency road services provided by not-for-profit organizations, that

(i) Are used to protect the safety of life, health, or property; and

(ii) Are not commercially available to the public;

(2) Initial licenses or construction permits for digital television service given to existing terrestrial broadcast licensees to replace their analog television service licenses; or

(3) Noncommercial educational and public broadcast stations described under 47 U.S.C. 397(6).

Note to Section 1.2102: To determine the rules that apply to competitive bidding, specific service rules should also be consulted.

Sec. 1.2103 Competitive bidding design options.

(a) The Commission will choose from one or more of the following types of auction designs for services or classes of services subject to competitive bidding:

(1) Simultaneous multiple-round auctions (using remote or on-site electronic bidding);

(2) Sequential multiple round auctions (using either oral ascending or remote and/or on-site electronic bidding);

(3) Sequential or simultaneous single-round auctions (using either sealed paper or remote and/or on-site electronic bidding); and

(4) Combinatorial (package/contingent) bidding auctions.

(b) The Commission may use combinatorial bidding, which would allow bidders to submit all or nothing bids on combinations of licenses or authorizations, in addition to bids on individual licenses or authorizations. The Commission may require that to be declared the high bid, a combinatorial bid must exceed the sum of the individual bids by a specified

amount. Combinatorial bidding may be used with any type of auction. The Commission may also allow bidders to submit contingent bids on individual and/or combinations of licenses.

(c) The Commission may use single combined auctions, which combine bidding for two or more substitutable licenses and award licenses to the highest bidders until the available licenses are exhausted. This technique may be used in conjunction with any type of auction.

(d) Minimum Bid Increments, Minimum Opening Bids and Maximum Bid Increments. The Commission may, by announcement before or during an auction, require minimum bid increments in dollar or percentage terms. The Commission also may establish minimum opening bids and maximum bid increments on a service-specific basis.

Sec. 1.2104 Competitive bidding mechanisms.

(a) Sequencing. The Commission will establish the sequence in which multiple licenses will be auctioned.

(b) Grouping. In the event the Commission uses either a simultaneous multiple round competitive bidding design or combinatorial bidding, the Commission will determine which licenses will be auctioned simultaneously or in combination.

(c) Reservation Price. The Commission may establish a reservation price, either disclosed or undisclosed, below which a license subject to auction will not be awarded.

(d) Minimum Bid Increments, Minimum Opening Bids and Maximum Bid Increments. The Commission may, by announcement before or during an auction, require minimum bid increments in dollar or percentage terms. The Commission also may establish minimum opening bids and maximum bid increments on a service-specific basis.

(e) Stopping Rules. The Commission may establish stopping rules before or during multiple round auctions in order to terminate the auctions within a reasonable time.

(f) Activity Rules. The Commission may establish activity rules which require a minimum amount of bidding activity.

(g) Withdrawal, Default and Disqualification Payment. As specified below, when the Commission conducts an auction pursuant to Section 1.2103, the Commission will impose payments on bidders who withdraw high bids during the course of an auction, or who default on payments due after an auction closes or who are disqualified.

(1) Bid withdrawal prior to close of auction. A bidder who withdraws a high bid during the course of an auction is subject to a payment equal to the difference between the amount bid and the amount of the winning bid the next time the license is offered by the Commission. The bid withdrawal payment is either the difference between the net withdrawn bid and the subsequent net winning bid, or the difference between the gross withdrawn bid and the subsequent gross winning bid, whichever is less. No withdrawal payment is assessed if the subsequent winning bid exceeds the withdrawn bid. This payment amount is deducted from any upfront payments or down payments that the withdrawing bidder has deposited with the Commission.

(2) Default or disqualification after close of auction. If a high bidder defaults or is disqualified after the close of such an auction, the defaulting bidder will be subject to the payment in paragraph (g)(1) of this section plus an additional payment equal to 3 percent of the subsequent winning bid. If the subsequent winning bid exceeds the defaulting bidder's bid amount, the 3 percent payment will be calculated based on the defaulting bidder's bid amount.

If either bid amount is subject to a bidding credit, the 3 percent credit will be calculated using the same bid amounts and basis (net or gross bids) as in the calculation of the payment in paragraph (g)(1) of this section. Thus, for example, if gross bids are used to calculate the payment in paragraph (g)(1) of this section, the 3 percent will be applied to the gross amount of the subsequent winning bid, or the gross amount of the defaulting bid, whichever is less.

(h) The Commission will generally release information concerning the identities of bidders before each auction but may choose, on an auction-by-auction basis, to withhold the identity of the bidders associated with bidder identification numbers.

(i) The Commission may delay, suspend, or cancel an auction in the event of a natural disaster, technical obstacle, evidence of security breach, unlawful bidding activity, administrative necessity, or for any other reason that affects the fair and efficient conduct of the competitive bidding. The Commission also has the authority, at its sole discretion, to resume the competitive bidding starting from the beginning of the current or some previous round or cancel the competitive bidding in its entirety.

Sec. 1.2105 Bidding application and certification procedures; prohibition of collusion.

(a) Submission of Short-Form Application (FCC Form 175). In order to be eligible to bid, an applicant must timely submit a short-form application (FCC Form 175), together with any appropriate upfront payment set forth by Public Notice. Beginning January 1, 1999, all short-form applications must be filed electronically.

(1) All short-form applications will be due:

(i) On the date(s) specified by public notice; or

(ii) In the case of application filing dates which occur automatically by operation of law (see, e.g., 47 CFR 22.902), on a date specified by public notice after the Commission has reviewed the applications that have been filed on those dates and determined that mutual exclusivity exists.

(2) The short-form application must contain the following information:

(i) Identification of each license on which the applicant wishes to bid;

(ii)(A) The applicant's name, if the applicant is an individual. If the applicant is a corporation, then the short-form application will require the name and address of the corporate office and the name and title of an officer or director. If the applicant is a partnership, then the application will require the name, citizenship and address of all general partners, and, if a partner is not a natural person, then the name and title of a responsible person should be included as well. If the applicant is a trust, then the name and address of the trustee will be required. If the applicant is none of the above, then it must identify and describe itself and its principals or other responsible persons; and

(B) Applicant ownership information, as set forth in Section 1.2112.

(iii) The identity of the person(s) authorized to make or withdraw a bid;

(iv) If the applicant applies as a designated entity pursuant to Section 1.2110, a statement to that effect and a declaration, under penalty of perjury, that the applicant is qualified as a designated entity under Section 1.2110.

(v) Certification that the applicant is legally, technically, financially and otherwise qualified pursuant to section 308(b) of the Communications Act of 1934, as amended. The

Commission will accept applications certifying that a request for waiver or other relief from the requirements of section 310 is pending;

(vi) Certification that the applicant is in compliance with the foreign ownership provisions of section 310 of the Communications Act of 1934, as amended;

(vii) Certification that the applicant is and will, during the pendency of its application(s), remain in compliance with any service-specific qualifications applicable to the licenses on which the applicant intends to bid including, but not limited to, financial qualifications. The Commission may require certification in certain services that the applicant will, following grant of a license, come into compliance with certain service-specific rules, including, but not limited to, ownership eligibility limitations;

(viii) An exhibit, certified as truthful under penalty of perjury, identifying all parties with whom the applicant has entered into partnerships, joint ventures, consortia or other agreements, arrangements or understandings of any kind relating to the licenses being auctioned, including any such agreements relating to the post-auction market structure.

(ix) Certification under penalty of perjury that it has not entered and will not enter into any explicit or implicit agreements, arrangements or understandings of any kind with any parties other than those identified pursuant to paragraph (a)(2)(viii) regarding the amount of their bids, bidding strategies or the particular licenses on which they will or will not bid.

(x) Certification that the applicant is not in default on any Commission licenses and that it is not delinquent on any non-tax debt owed to any Federal agency.

Note to paragraph (a): The Commission may also request applicants to submit additional information for informational purposes to aid in its preparation of required reports to Congress.

(b) Modification and Dismissal of Short-Form Application (FCC Form 175).

(1) Any short-form application (FCC Form 175) that does not contain all of the certifications required pursuant to this section is unacceptable for filing and cannot be corrected subsequent to the applicable filing deadline. The application will be dismissed with prejudice and the upfront payment, if paid, will be returned.

(2) The Commission will provide bidders a limited opportunity to cure defects specified herein (except for failure to sign the application and to make certifications) and to resubmit a corrected application. During the resubmission period for curing defects, a short-form application may be amended or modified to cure defects identified by the Commission or to make minor amendments or modifications. After the resubmission period has ended, a short-form application may be amended or modified to make minor changes or correct minor errors in the application. Major amendments cannot be made to a short-form application after the initial filing deadline. Major amendments include changes in ownership of the applicant which would affect eligibility for designated entity provisions, and changes in the license service areas identified on the short-form application on which the applicant intends to bid. Minor amendments include, but are not limited to, the correction of typographical errors and other minor defects not identified as major. An application will be considered to be newly filed if it is amended by a major amendment and may not be resubmitted after applicable filing deadlines.

(3) Applicants who fail to correct defects in their applications in a timely manner as specified by public notice will have their applications dismissed with no opportunity for resubmission.

(c) Prohibition of collusion. (1) Except as provided in paragraphs (c)(2), (c)(3) and (c)(4) of this section, after the filing of short-form applications, all applicants are prohibited from cooperating, collaborating, discussing or disclosing in any manner the substance of their bids or bidding strategies, or discussing or negotiating settlement agreements, with other applicants until after the high bidder makes the required down payment, unless such applicants are members of a bidding consortium or other joint bidding arrangement identified on the bidder's short-form application pursuant to Section 1.2105(a)(2)(viii).

(2) Applicants may modify their short-form applications to reflect formation of consortia or changes in ownership at any time before or during an auction, provided such changes do not result in a change in control of the applicant, and provided that the parties forming consortia or entering into ownership agreements have not applied for licenses in any of the same geographic license areas. Such changes will not be considered major modifications of the application.

(3) After the filing of short-form applications, applicants may make agreements to bid jointly for licenses, provided the parties to the agreement have not applied for licenses in any of the same geographic license areas.

(4) After the filing of short-form applications, a holder of a non-controlling attributable interest in an entity submitting a short-form application may acquire an ownership interest in, form a consortium with, or enter into a joint bidding arrangement with, other applicants for licenses in the same geographic license area, provided that:

(i) The attributable interest holder certifies to the Commission that it has not communicated and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has a consortium or joint bidding arrangement, and which have applied for licenses in the same geographic license area(s); and

(ii) The arrangements do not result in any change in control of an applicant; or

(iii) When an applicant has withdrawn from the auction, is no longer placing bids and has no further eligibility, a holder of a non-controlling, attributable interest in such an applicant may obtain an ownership interest in or enter into a consortium with another applicant for a license in the same geographic service area, provided that the attributable interest holder certifies to the Commission that it did not communicate with the new applicant prior to the date that the original applicant withdrew from the auction.

(5) Applicants must modify their short-form applications to reflect any changes in ownership or in membership of consortia or joint bidding arrangements.

(6) For purposes of this paragraph:

(i) The term applicant shall include all controlling interests in the entity submitting a short-form application to participate in an auction (FCC Form 175), as well as all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application, and all officers and directors of that entity; and

(ii) The term bids or bidding strategies shall include capital calls or requests for additional funds in support of bids or bidding strategies.

Example: Company A is an applicant in area 1. Company B and Company C each own 10 percent of Company A. Company D is an applicant in area 1, area 2, and area 3. Company C is an applicant in area 3. Without violating the Commission's Rules, Company B can enter into a consortium arrangement with Company D or acquire an ownership interest in Company D if Company B certifies either (1) that it has communicated with and will communicate neither with Company A or anyone else concerning Company A's bids or bidding strategy, nor with Company C or anyone else concerning Company C's bids or bidding strategy, or (2) that it has not communicated with and will not communicate with Company D or anyone else concerning Company D's bids or bidding strategy.

Sec. 1.2106 Submission of upfront payments.

(a) The Commission may require applicants for licenses subject to competitive bidding to submit an upfront payment. In that event, the amount of the upfront payment and the procedures for submitting it will be set forth in a Public Notice. No interest will be paid on upfront payments.

(b) Upfront payments must be made by wire transfer in U.S. dollars from a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation and must be made payable to the Federal Communications Commission.

(c) If an upfront payment is not in compliance with the Commission's Rules, or if insufficient funds are tendered to constitute a valid upfront payment, the applicant shall have a limited opportunity to correct its submission to bring it up to the minimum valid upfront payment prior to the auction. If the applicant does not submit at least the minimum upfront payment, it will be ineligible to bid, its application will be dismissed and any upfront payment it has made will be returned.

(d) The upfront payment(s) of a bidder will be credited toward any down payment required for licenses on which the bidder is the high bidder. Where the upfront payment amount exceeds the required deposit of a winning bidder, the Commission may refund the excess amount after determining that no bid withdrawal penalties are owed by that bidder.

(e) In accordance with the provisions of paragraph (d), in the event a penalty is assessed pursuant to Section 1.2104 for bid withdrawal or default, upfront payments or down payments on deposit with the Commission will be used to satisfy the bid withdrawal or default penalty before being applied toward any additional payment obligations that the high bidder may have.

Sec. 1.2107 Submission of down payment and filing of long-form applications.

(a) After bidding has ended, the Commission will identify and notify the high bidder and declare the bidding closed.

(b) Unless otherwise specified by public notice, within ten (10) business days after being notified that it is a high bidder on a particular license(s), a high bidder must submit to the Commission's lockbox bank such additional funds (the "down payment") as are necessary to

bring its total deposits (not including upfront payments applied to satisfy bid withdrawal or default payments) up to twenty (20) percent of its high bid(s). (In single round sealed bid auctions conducted under Section 1.2103, however, bidders may be required to submit their down payments with their bids.) Unless otherwise specified by public notice, this down payment must be made by wire transfer in U.S. dollars from a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation and must be made payable to the Federal Communications Commission. Down payments will be held by the Commission until the high bidder has been awarded the license and has paid the remaining balance due on the license or authorization, in which case it will not be returned, or until the winning bidder is found unqualified to be a licensee or has defaulted, in which case it will be returned, less applicable payments. No interest on any down payment will be paid to the bidders.

(c) A high bidder that meets its down payment obligations in a timely manner must, within ten (10) business days after being notified that it is a high bidder, submit an additional application (the "long-form application") pursuant to the rules governing the service in which the applicant is the high bidder. Notwithstanding any other provision in title 47 of the Code of Federal Regulations to the contrary, high bidders need not submit an additional application filing fee with their long-form applications. Specific procedures for filing applications will be set out by Public Notice. Ownership disclosure requirements are set forth in Section 1.2112. Beginning January 1, 1999, all long-form applications must be filed electronically. An applicant that fails to submit the required long-form application under this paragraph and fails to establish good cause for any late-filed submission, shall be deemed to have defaulted and will be subject to the payments set forth in Section 1.2104.

(d) As an exhibit to its long-form application, the applicant must provide a detailed explanation of the terms and conditions and parties involved in any bidding consortia, joint venture, partnership or other agreement or arrangement it had entered into relating to the competitive bidding process prior to the time bidding was completed. Such agreements must have been entered into prior to the filing of short-form applications pursuant to Section 1.2105.

Sec. 1.2108 Procedures for filing petitions to deny against long-form applications.

(a) Where petitions to deny are otherwise provided for under the Act or the Commission's Rules, and unless other service-specific procedures for the filing of such petitions are provided for elsewhere in the Commission's Rules, the procedures in this section shall apply to the filing of petitions to deny the long-form applications of winning bidders.

(b) Within a period specified by Public Notice, and after the Commission by public notice announces that long-form applications have been accepted for filing, petitions to deny such applications may be filed. In all cases, the period for filing petitions to deny shall be no shorter than five (5) days. Any such petitions must contain allegations of fact supported by affidavit of a person or persons with personal knowledge thereof.

(c) An applicant may file an opposition to any petition to deny, and the petitioner a reply to such opposition. Allegations of fact or denials thereof must be supported by affidavit of a person or persons with personal knowledge thereof. The time for filing such oppositions shall be at least five (5) days from the filing date for petitions to deny, and the time for filing

replies shall be at least five (5) days from the filing date for oppositions. The Commission may grant a license based on any long-form application that has been accepted for filing. The Commission shall in no case grant licenses earlier than seven (7) days following issuance of a public notice announcing long-form applications have been accepted for filing.

(d) If the Commission determines that:

(1) an applicant is qualified and there is no substantial and material issue of fact concerning that determination, it will grant the application.

(2) an applicant is not qualified and that there is no substantial issue of fact concerning that determination, the Commission need not hold an evidentiary hearing and will deny the application.

(3) substantial and material issues of fact require a hearing, it will conduct a hearing. The Commission may permit all or part of the evidence to be submitted in written form and may permit employees other than administrative law judges to preside at the taking of written evidence. Such hearing will be conducted on an expedited basis.

Sec. 1.2109 License grant, denial, default, and disqualification.

(a) Unless otherwise specified by public notice, auction winners are required to pay the balance of their winning bids in a lump sum within ten (10) business days following the release of a public notice establishing the payment deadline. If a winning bidder fails to pay the balance of its winning bids in a lump sum by the applicable deadline as specified by the Commission, it will be allowed to make payment within ten (10) business days after the payment deadline, provided that it also pays a late fee equal to five percent of the amount due. When a winning bidder fails to pay the balance of its winning bid by the late payment deadline, it is considered to be in default on its license(s) and subject to the applicable default payments. Licenses will be awarded upon the full and timely payment of winning bids and any applicable late fees.

(b) If a winning bidder withdraws its bid after the Commission has declared competitive bidding closed or fails to remit the required down payment within ten (10) business days after the Commission has declared competitive bidding closed, the bidder will be deemed to have defaulted, its application will be dismissed, and it will be liable for the default payment specified in Section 1.2104(g)(2). In such event, the Commission, at its discretion, may either re-auction the license to existing or new applicants or offer it to the other highest bidders (in descending order) at their final bids. The down payment obligations set forth in Section 1.2107(b) will apply.

(c) A winning bidder who is found unqualified to be a licensee, fails to remit the balance of its winning bid in a timely manner, or defaults or is disqualified for any reason after having made the required down payment, will be deemed to have defaulted and will be liable for the payment set forth in Section 1.2104(g)(2). In such event, the Commission may either re-auction the license to existing or new applicants or offer it to the other highest bidders (in descending order) at their final bids.

(d) Bidders who are found to have violated the antitrust laws or the Commission's Rules in connection with their participation in the competitive bidding process may be subject, in addition to any other applicable sanctions, to forfeiture of their upfront payment, down payment or full bid amount, and may be prohibited from participating in future auctions.

Sec. 1.2110 Designated entities.

(a) Designated entities are small businesses, businesses owned by members of minority groups and/or women, and rural telephone companies.

(b) Definitions. (1) Small businesses. The Commission will establish the definition of a small business on a service-specific basis, taking into consideration the characteristics and capital requirements of the particular service.

(2) Businesses owned by members of minority groups and/or women. Unless otherwise provided in rules governing specific services, a business owned by members of minority groups and/or women is one in which minorities and/or women who are U.S. citizens control the applicant, have at least 50.1 percent equity ownership and, in the case of a corporate applicant, a 50.1 percent voting interest. For applicants that are partnerships, every general partner either must be a minority and/or woman (or minorities and/or women) who are U.S. citizens and who individually or together own at least 50.1 percent of the partnership equity, or an entity that is 100 percent owned and controlled by minorities and/or women who are U.S. citizens. The interests of minorities and women are to be calculated on a fully-diluted basis; agreements such as stock options and convertible debentures shall be considered to have a present effect on the power to control an entity and shall be treated as if the rights thereunder already have been fully exercised. However, upon a demonstration that options or conversion rights held by non-controlling principals will not deprive the minority and female principals of a substantial financial stake in the venture or impair their rights to control the designated entity, a designated entity may seek a waiver of the requirement that the equity of the minority and female principals must be calculated on a fully-diluted basis. The term minority includes individuals of African American, Hispanic-surnamed, American Eskimo, Aleut, American Indian and Asian American extraction.

(3) Rural telephone companies. A rural telephone company is any local exchange carrier operating entity to the extent that such entity--

(i) provides common carrier service to any local exchange carrier study area that does not include either

(A) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census, or

(B) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

(ii) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(iii) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(iv) has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996.

(4) Affiliate.

(i) An individual or entity is an affiliate of an applicant or of a person holding an attributable interest in an applicant if such individual or entity--

(A) Directly or indirectly controls or has the power to control the applicant, or

(B) Is directly or indirectly controlled by the applicant, or

(C) Is directly or indirectly controlled by a third party or parties that also controls or has the power to control the applicant, or

(D) Has an "identity of interest" with the applicant.

(ii) Nature of control in determining affiliation.

(A) Every business concern is considered to have one or more parties who directly or indirectly control or have the power to control it. Control may be affirmative or negative and it is immaterial whether it is exercised so long as the power to control exists.

Example. An applicant owning 50 percent of the voting stock of another concern would have negative power to control such concern since such party can block any action of the other stockholders. Also, the bylaws of a corporation may permit a stockholder with less than 50 percent of the voting stock to block any actions taken by the other stockholders in the other entity. Affiliation exists when the applicant has the power to control a concern while at the same time another person, or persons, are in control of the concern at the will of the party or parties with the power to control.

(B) Control can arise through stock ownership; occupancy of director, officer or key employee positions; contractual or other business relations; or combinations of these and other factors. A key employee is an employee who, because of his/her position in the concern, has a critical influence in or substantive control over the operations or management of the concern.

(C) Control can arise through management positions where a concern's voting stock is so widely distributed that no effective control can be established.

Example. In a corporation where the officers and directors own various size blocks of stock totaling 40 percent of the corporation's voting stock, but no officer or director has a block sufficient to give him or her control or the power to control and the remaining 60 percent is widely distributed with no individual stockholder having a stock interest greater than 10 percent, management has the power to control. If persons with such management control of the other entity are persons with attributable interests in the applicant, the other entity will be deemed an affiliate of the applicant.

(iii) Identity of interest between and among persons. Affiliation can arise between or among two or more persons with an identity of interest, such as members of the same family or persons with common investments. In determining if the applicant controls or has the power to control a concern, persons with an identity of interest will be treated as though they were one person.

Example. Two shareholders in Corporation Y each have attributable interests in the same PCS application. While neither shareholder has enough shares to individually control Corporation Y, together they have the power to control Corporation Y. The two shareholders with these common investments (or identity in interest) are treated as though they are one person and Corporation Y would be deemed an affiliate of the applicant.

(A) Spousal affiliation. Both spouses are deemed to own or control or have the power to control interests owned or controlled by either of them, unless they are subject to a legal separation recognized by a court of competent jurisdiction in the United States. In calculating their net worth, investors who are legally separated must include their share of interests in property held jointly with a spouse.

(B) Kinship affiliation. Immediate family members will be presumed to own or control or have the power to control interests owned or controlled by other immediate family members. In this context "immediate family member" means father, mother, husband, wife, son, daughter, brother, sister, father- or mother-in-law, son- or daughter-in-law, brother- or sister-in-law, step-father or -mother, step-brother or -sister, step-son or -daughter, half brother or sister. This presumption may be rebutted by showing that the family members are estranged, the family ties are remote, or the family members are not closely involved with each other in business matters.

Example. A owns a controlling interest in Corporation X. A's sister-in-law, B, has an attributable interest in a PCS application. Because A and B have a presumptive kinship affiliation, A's interest in Corporation Y is attributable to B, and thus to the applicant, unless B rebuts the presumption with the necessary showing.

(iv) Affiliation through stock ownership.

(A) An applicant is presumed to control or have the power to control a concern if he or she owns or controls or has the power to control 50 percent or more of its voting stock.

(B) An applicant is presumed to control or have the power to control a concern even though he or she owns, controls or has the power to control less than 50 percent of the concern's voting stock, if the block of stock he or she owns, controls or has the power to control is large as compared with any other outstanding block of stock.

(C) If two or more persons each owns, controls or has the power to control less than 50 percent of the voting stock of a concern, such minority holdings are equal or approximately equal in size, and the aggregate of these minority holdings is large as compared with any other stock holding, the presumption arises that each one of these persons individually controls or has the power to control the concern; however, such presumption may be rebutted by a showing that such control or power to control, in fact, does not exist.

(v) Affiliation arising under stock options, convertible debentures, and agreements to merge. Stock options, convertible debentures, and agreements to merge (including agreements in principle) are generally considered to have a present effect on the power to control the concern. Therefore, in making a size determination, such options, debentures, and agreements are generally treated as though the rights held thereunder had been exercised. However, an affiliate cannot use such options and debentures to appear to terminate its control over another concern before it actually does so.

Example 1. If company B holds an option to purchase a controlling interest in company A, who holds an attributable interest in a PCS application, the situation is treated as though company B had exercised its rights and had come owner of a controlling interest in company A. The gross revenues of company B must be taken into account in determining the size of the applicant.

Example 2. If a large company, BigCo, holds 70% (70 of 100 outstanding shares) of the voting stock of company A, who holds an attributable interest in a PCS application, and gives a third party, SmallCo, an option to purchase 50 of the 70 shares owned by BigCo, BigCo will be deemed to be an affiliate of company A, and thus the applicant, until SmallCo actually exercises its option to purchase such shares. In order to prevent BigCo from circumventing the intent of the rule which requires such options to be considered on a fully diluted basis, the option is not considered to have present effect in this case.

Example 3. If company A has entered into an agreement to merge with company B in the future, the situation is treated as though the merger has taken place.

(vi) Affiliation under voting trusts.

(A) Stock interests held in trust shall be deemed controlled by any person who holds or shares the power to vote such stock, to any person who has the sole power to sell such stock, and to any person who has the right to revoke the trust at will or to replace the trustee at will.

(B) If a trustee has a familial, personal or extra-trust business relationship to the grantor or the beneficiary, the stock interests held in trust will be deemed controlled by the grantor or beneficiary, as appropriate.

(C) If the primary purpose of a voting trust, or similar agreement, is to separate voting power from beneficial ownership of voting stock for the purpose of shifting control of or the power to control a concern in order that such concern or another concern may meet the Commission's size standards, such voting trust shall not be considered valid for this purpose regardless of whether it is or is not recognized within the appropriate jurisdiction.

(vii) Affiliation through common management. Affiliation generally arises where officers, directors, or key employees serve as the majority or otherwise as the controlling element of the board of directors and/or the management of another entity.

(viii) Affiliation through common facilities. Affiliation generally arises where one concern shares office space and/or employees and/or other facilities with another concern, particularly where such concerns are in the same or related industry or field of operations, or where such concerns were formerly affiliated, and through these sharing arrangements one concern has control, or potential control, of the other concern.

(ix) Affiliation through contractual relationships. Affiliation generally arises where one concern is dependent upon another concern for contracts and business to such a degree that one concern has control, or potential control, of the other concern.

(x) Affiliation under joint venture arrangements.

(A) A joint venture for size determination purposes is an association of concerns and/or individuals, with interests in any degree or proportion, formed by contract, express or implied, to engage in and carry out a single, specific business venture for joint profit for which purpose they combine their efforts, property, money, skill and knowledge, but not on a continuing or permanent basis for conducting business generally. The determination whether an entity is a joint venture is based upon the facts of the business operation, regardless of how the business operation may be designated by the parties involved. An agreement to share profits/losses proportionate to each party's contribution to the business operation is a significant factor in determining whether the business operation is a joint venture.

(B) The parties to a joint venture are considered to be affiliated with each other. Nothing in this subsection shall be construed to define a small business consortium, for purposes of determining status as a designated entity, as a joint venture under attribution standards provided in this section.

(xi) Exclusion from affiliation coverage. For purposes of this section, Indian tribes or Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), or entities owned and controlled by such tribes or corporations, are not considered affiliates of an applicant (or licensee) that is owned and controlled by such tribes, corporations or entities, and that otherwise complies with the requirements of this section, except that gross revenues derived from gaming activities conducted by affiliate entities pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2701

et seq.) will be counted in determining such applicant's (or licensee's) compliance with the financial requirements of this section, unless such applicant establishes that it will not receive a substantial unfair competitive advantage because significant legal constraints restrict the applicant's ability to access such gross revenues.

(c) The Commission may set aside specific licenses for which only eligible designated entities, as specified by the Commission, may bid.

(d) The Commission may permit partitioning of service areas in particular services for eligible designated entities.

(e) Bidding credits.

(1) The Commission may award bidding credits (*i.e.*, payment discounts) to eligible designated entities. Competitive bidding rules applicable to individual services will specify the designated entities eligible for bidding credits, the licenses for which bidding credits are available, the amounts of bidding credits and other procedures.

(2) Size of bidding credits. A winning bidder that qualifies as a small business or a consortium of small businesses may use the following bidding credits corresponding to their respective average gross revenues for the preceding 3 years:

(i) Businesses with average gross revenues for the preceding years, 3 years not exceeding \$3 million are eligible for bidding credits of 35 percent;

(ii) Businesses with average gross revenues for the preceding years, 3 years not exceeding \$15 million are eligible for bidding credits of 25 percent; and

(iii) Businesses with average gross revenues for the preceding years, 3 years not exceeding \$40 million are eligible for bidding credits of 15 percent.

(f) Installment payments. The Commission may permit small businesses (including small businesses owned by women, minorities, or rural telephone companies that qualify as small businesses) and other entities determined to be eligible on a service-specific basis, which are high bidders for licenses specified by the Commission, to pay the full amount of their high bids in installments over the term of their licenses pursuant to the following:

(1) Unless otherwise specified by public notice, each eligible applicant paying for its license(s) on an installment basis must deposit by wire transfer in the manner specified in Section 1.2107(b) sufficient additional funds as are necessary to bring its total deposits to ten (10) percent of its winning bid(s) within ten (10) days after the Commission has declared it the winning bidder and closed the bidding. Failure to remit the required payment will make the bidder liable to pay a default payment pursuant to Section 1.2104(g)(2).

(2) Within ten (10) days of the conditional grant of the license application of a winning bidder eligible for installment payments, the licensee shall pay another ten (10) percent of the high bid, thereby commencing the eligible licensee's installment payment plan. If a winning bidder eligible for installment payments fails to submit this additional ten (10) percent of its high bid by the applicable deadline as specified by the Commission, it will be allowed to make payment within ten (10) business days after the payment deadline, provided that it also pays a late fee equal to five percent of the amount due. When a winning bidder eligible for installment payments fails to submit this additional ten (10) percent of its winning bid, plus the late fee, by the late payment deadline, it is considered to be in default on its license(s) and subject to the applicable default payments. Licenses will be awarded upon the full and timely payment of second down payments and any applicable late fees.

(3) Upon grant of the license, the Commission will notify each eligible licensee of the terms of its installment payment plan and that it must execute a promissory note and security

agreement as a condition of the installment payment plan. Unless other terms are specified in the rules of particular services, such plans will:

- (i) Impose interest based on the rate of U.S. Treasury obligations (with maturities closest to the duration of the license term) at the time of licensing;
- (ii) Allow installment payments for the full license term;
- (iii) Begin with interest-only payments for the first two years; and
- (iv) Amortize principal and interest over the remaining term of the license.

(4) A license granted to an eligible entity that elects installment payments shall be conditioned upon the full and timely performance of the licensee's payment obligations under the installment plan.

(i) Any licensee that fails to submit payment on an installment obligation will automatically have an additional ninety (90) days in which to submit its required payment without being considered delinquent. Any licensee making its required payment during this period will be assessed a late payment fee equal to five percent (5%) of the amount of the past due payment. Late fees assessed under this paragraph will accrue on the next business day following the payment due date. Payments made at the close of any grace period will first be applied to satisfy any lender advances as required under each licensee's "Note and Security Agreement." Afterwards, payments will be applied in the following order: late charges, interest charges, principal payments.

(ii) If any licensee fails to make the required payment at the close of the 90-day period set forth in paragraph (i) of this section, the licensee will automatically be provided with a subsequent 90-day grace period, except that no subsequent automatic grace period will be provided for payments from C or F block licensees that are not made within 90 days of the payment resumption date for those licensees, as explained in Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees, Order on Reconsideration of the Second Report and Order, WT Docket No. 97-82, FCC 98-46 (rel. Mar. 24, 1998). Any licensee making a required payment during this subsequent period will be assessed a late payment fee equal to ten percent (10%) of the amount of the past due payment.

Licensees shall not be required to submit any form of request in order to take advantage of the initial 90-day non-delinquency period and subsequent automatic 90-day grace period. All licensees that avail themselves of the automatic grace period must pay the required late fee(s), all interest accrued during the non-delinquency and grace periods, and the appropriate scheduled payment with the first payment made following the conclusion of the grace period.

(iii) If an eligible entity making installment payments is more than one hundred and eighty (180) days delinquent in any payment, it shall be in default, except that C and F block licensees shall be in default if their payment due on the payment resumption date, referenced in paragraph (f)(4)(ii) of this section, is more than ninety (90) days delinquent.

(iv) Any eligible entity that submits an installment payment after the due date but fails to pay any late fee, interest or principal at the close of the 90-day non-delinquency period and subsequent automatic grace period, if such a grace period is available, will be declared in default, its license will automatically cancel, and will be subject to debt collection procedures.

(g) The Commission may establish different upfront payment requirements for categories of designated entities in competitive bidding rules of particular auctionable services.

(h) The Commission may offer designated entities a combination of the available preferences or additional preferences.

(i) Designated entities must describe on their long-form applications how they satisfy the requirements for eligibility for designated entity status, and must list and summarize on their long-form applications all agreements that effect designated entity status, such as partnership agreements, shareholder agreements, management agreements and other agreements, including oral agreements, which establish that the designated entity will have both *de facto* and *de jure* control of the entity. Such information must be maintained at the licensees' facilities or by their designated agents for the term of the license in order to enable the Commission to audit designated entity eligibility on an ongoing basis.

(j) The Commission may, on a service-specific basis, permit consortia, each member of which individually meets the eligibility requirements, to qualify for any designated entity provisions.

(k) The Commission may, on a service-specific basis, permit publicly-traded companies that are owned by members of minority groups or women to qualify for any designated entity provisions.

(l) Audits.

(1) Applicants and licensees claiming eligibility under this section shall be subject to audits by the Commission, using in-house and contract resources. Selection for audit may be random, on information, or on the basis of other factors.

(2) Consent to such audits is part of the certification included in the short-form application (FCC Form 175). Such consent shall include consent to the audit of the applicant's or licensee's books, documents and other material (including accounting procedures and practices) regardless of form or type, sufficient to confirm that such applicant's or licensee's representations are, and remain, accurate. Such consent shall include inspection at all reasonable times of the facilities, or parts thereof, engaged in providing and transacting business, or keeping records regarding FCC-licensed service and shall also include consent to the interview of principals, employees, customers and suppliers of the applicant or licensee.

(m) Gross revenues. Gross revenues shall mean all income received by an entity, whether earned or passive, before any deductions are made for costs of doing business (*e.g.*, cost of goods sold), as evidenced by audited financial statements for the relevant number of most recently completed calendar years or, if audited financial statements were not prepared on a calendar-year basis, for the most recently completed fiscal years preceding the filing of the applicant's short-form (FCC Form 175). If an entity was not in existence for all or part of the relevant period, gross revenues shall be evidenced by the audited financial statements of the entity's predecessor-in-interest or, if there is no identifiable predecessor-in-interest, unaudited financial statements certified by the applicant as accurate. When an applicant does not otherwise use audited financial statements, its gross revenues may be certified by its chief financial officer or its equivalent and must be prepared in accordance with Generally Accepted Accounting Principles.

Sec. 1.2111 Assignment or transfer of control: unjust enrichment.

(a) Reporting requirement. An applicant seeking approval for a transfer of control or assignment (otherwise permitted under the Commission's Rules) of a license within three

years of receiving a new license through a competitive bidding procedure must, together with its application for transfer of control or assignment, file with the Commission's statement indicating that its license was obtained through competitive bidding. Such applicant must also file with the Commission the associated contracts for sale, option agreements, management agreements, or other documents disclosing the local consideration that the applicant would receive in return for the transfer or assignment of its license. This information should include not only a monetary purchase price, but also any future, contingent, in-kind, or other consideration (e.g., management or consulting contracts either with or without an option to purchase; below market financing).

(b) Unjust enrichment payment: set-aside. As specified in this paragraph an applicant seeking approval for a transfer of control or assignment (otherwise permitted under the Commission's Rules) of a license acquired by the transferor or assignor pursuant to a set-aside for eligible designated entities under Section 1.2110(c), or who proposes to take any other action relating to ownership or control that will result in loss of status as an eligible designated entity, must seek Commission approval and may be required to make an unjust enrichment payment (Payment) to the Commission by cashier's check or wire transfer before consent will be granted. The Payment will be based upon a schedule that will take account of the term of the license, any applicable construction benchmarks, and the estimated value of the set-aside benefit, which will be calculated as the difference between the amount paid by the designated entity for the license and the value of comparable non-set-aside license in the free market at the time of the auction. The Commission will establish the amount of the Payment and the burden will be on the applicants to disprove this amount. No payment will be required if:

(1) The license is transferred or assigned more than five years after its initial issuance, unless otherwise specified; or

(2) The proposed transferee or assignee is an eligible designated entity under Section 1.2110(c) or the service-specific competitive bidding rules of the particular service, and so certifies.

(c) Unjust enrichment payment: installment financing.

(1) If a licensee that utilizes installment financing under this section seeks to assign or transfer control of its license to an entity not meeting the eligibility standards for installment payments, the licensee must make full payment of the remaining unpaid principal and any unpaid interest accrued through the date of assignment or transfer as a condition of approval.

(2) If a licensee that utilizes installment financing under this section seeks to make any change in ownership structure that would result in the licensee losing eligibility for installment payments, the licensee shall first seek Commission approval and must make full payment of the remaining unpaid principal and any unpaid interest accrued through the date of such change as a condition of approval. A licensee's (or other attributable entity's) increased gross revenues or increased total assets due to nonattributable equity investments, debt financing, revenue from operations or other investments, business development or expanded service shall not be considered to result in the licensee losing eligibility for installment payments.

(3) If a licensee seeks to make any change in ownership that would result in the licensee qualifying for a less favorable installment plan under this section, the licensee shall seek Commission approval and must adjust its payment plan to reflect its new eligibility status. A licensee may not switch its payment plan to a more favorable plan.

(d) Unjust enrichment payment: bidding credits. (1) A licensee that utilizes a bidding credit, and that during the initial term seeks to assign or transfer control of a license to an entity that does not meet the eligibility criteria for a bidding credit, will be required to reimburse the U.S. Government for the amount of the bidding credit, plus interest based on the rate for ten year U.S. Treasury obligations applicable on the date the license was granted, as a condition of Commission approval of the assignment or transfer. If, within the initial term of the license, a licensee that utilizes a bidding credit seeks to assign or transfer control of a license to an entity that is eligible for a lower bidding credit, the difference between the bidding credit obtained by the assigning party and the bidding credit for which the acquiring party would qualify, plus interest based on the rate for ten year U.S. Treasury obligations applicable on the date the license is granted, must be paid to the U.S. Government as a condition of Commission approval of the assignment or transfer. If, within the initial term of the license, a licensee that utilizes a bidding credit seeks to make any ownership change that would result in the licensee losing eligibility for a bidding credit (or qualifying for a lower bidding credit), the amount of the bidding credit (or the difference between the bidding credit originally obtained and the bidding credit for which the restructured licensee would qualify), plus interest based on the rate for ten year U.S. Treasury obligations applicable on the date the license is granted, must be paid to the U.S. Government as a condition of Commission approval of the assignment or transfer.

(2) Payment schedule.

(i) The amount of payments made pursuant to paragraph (d)(1) of this section will be reduced over time as follows:

(A) A transfer in the first two years of the license term will result in a forfeiture of 100 percent of the value of the bidding credit (or in the case of very small businesses transferring to small businesses, 100 percent of the difference between the bidding credit received by the former and the bidding credit for which the latter is eligible);

(B) A transfer in year 3 of the license term will result in a forfeiture of 75 percent of the value of the bidding credit;

(C) A transfer in year 4 of the license term will result in a forfeiture of 50 percent of the value of the bidding credit;

(D) A transfer in year 5 of the license term will result in a forfeiture of 25 percent of the value of the bidding credit; and

(E) for a transfer in year 6 or thereafter, there will be no payment.

(ii) These payments will have to be paid to the United States Treasury as a condition of approval of the assignment, transfer, or ownership change.

(e) Unjust enrichment: partitioning and disaggregation.

(1) Installment payments. Licensees making installment payments, that partition their licenses or disaggregate their spectrum to entities not meeting the eligibility standards for installment payments, will be subject to the provisions concerning unjust enrichment as set forth in this section.

(2) Bidding credits. Licensees that received a bidding credit that partition their licenses or disaggregate their spectrum to entities not meeting the eligibility standards for such a bidding credit, will be subject to the provisions concerning unjust enrichment as set forth in this section.

(3) Apportioning unjust enrichment payments. Unjust enrichment payments for partitioned license areas shall be calculated based upon the ratio of the population of the

partitioned license area to the overall population of the license area and by utilizing the most recent census data. Unjust enrichment payments for disaggregated spectrum shall be calculated based upon the ratio of the amount of spectrum disaggregated to the amount of spectrum held by the licensee.

Sec. 1.2112 Ownership disclosure requirements for short- and long-form applications.

(a) Each application for a license or authorization or for consent to assign or transfer control of a license or authorization shall disclose fully the real party or parties in interest and must include in an exhibit the following information:

(1) A list of any FCC-regulated business 10 percent or more of whose stock, warrants, options or debt securities are owned by the applicant or an officer, director, attributable stockholder or key management personnel of the applicant. This list must include a description of each such business' principal business and a description of each such business' relationship to the applicant;

(2) A list of any party holding a 10 percent or greater interest in the applicant, including the specific amount of the interest;

(3) A list of any party holding a 10 percent or greater interest in any entity holding or applying for any FCC-regulated business in which a 10 percent or more interest is held by another party which holds a 10 percent or more interest in the applicant (*e.g.*, If company A owns 10 percent of Company B (the applicant) and 10 percent of Company C then Companies A and C must be listed on Company B's application);

(4) A list of the names, addresses, and citizenship of any party holding 10 percent or more of each class of stock, warrants, options or debt securities together with the amount and percentage held;

(5) A list of the names, addresses, and citizenship of all controlling interests of the applicants, as set forth in Section 1.2110;

(6) In the case of a general partnership, the name, address and citizenship of each partner, and the share or interest participation in the partnership;

(7) In the case of a limited partnership, the name, address and citizenship of each limited partner whose interest in the applicant is equal to or greater than 10 percent (as calculated according to the percentage of equity paid in and the percentage of distribution of profits and losses);

(8) In the case of a limited liability corporation, the name, address and citizenship of each of its members; and

(9) A list of all parties holding indirect ownership interests in the applicant, as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain, that equals 10 percent or more of the applicant, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated and reported as if it were a 100 percent interest.

(b) In addition to the information required under paragraph (a) of this section, each applicant for a license or authorization claiming status as a small business shall, as an exhibit to its long-form application:

(1) Disclose separately and in the aggregate the gross revenues, computed in accordance with Section 1.2110, for each of the following: the applicant and its affiliates, the applicant's attributable investors, affiliates of its attributable investors, and, if a consortium of small businesses, the members comprising the consortium;

(2) List and summarize all agreements or instruments (with appropriate references to specific provisions in the text of such agreements and instruments) that support the applicant's eligibility as a small business under the applicable designated entity provisions, including the establishment of *de facto* and *de jure* control; such agreements and instruments include articles or incorporation and bylaws, shareholder agreements, voting or other trust agreements, franchise agreements, and any other relevant agreements (including letters of intent), oral or written; and

(3) List and summarize any investor protection agreements, including rights of first refusal, supermajority clauses, options, veto rights, and rights to hire and fire employees and to appoint members to boards of directors or management committees.

Sec. 1.2113 Construction prior to grant of application.

Subject to the provisions of this section, applicants for licenses awarded by competitive bidding may construct facilities to provide service prior to grant of their applications, but must not operate such facilities until the FCC grants an authorization. If the conditions stated in this section are not met, applicants must not begin to construct facilities for licenses subject to competitive bidding.

(a) When applicants may begin construction. An applicant may begin construction of a facility upon release of the Public Notice listing the post-auction long-form application for that facility as acceptable for filing.

(b) Notification to stop. If the FCC for any reason determines that construction should not be started or should be stopped while an application is pending, and so notifies the applicant, orally (followed by written confirmation) or in writing, the applicant must not begin construction or, if construction has begun, must stop construction immediately.

(c) Assumption of risk. Applicants that begin construction pursuant to this section before receiving an authorization do so at their own risk and have no recourse against the United States for any losses resulting from:

- (1) Applications that are not granted;
- (2) Errors or delays in issuing public notices;
- (3) Having to alter, relocate or dismantle the facility; or,
- (4) Incurring whatever costs may be necessary to bring the facility into compliance with applicable laws, or FCC rules and orders.

(d) Conditions. Except as indicated, all pre-grant construction is subject to the following conditions:

- (1) The application does not include a request for a waiver of one or more FCC rules;
- (2) For any construction or alteration that would exceed the requirements of Section 17.7 of this chapter, the licensee has notified the appropriate Regional Office of the Federal Aviation Administration (FAA Form 7460-I), filed a request for antenna height clearance and

obstruction marking and lighting specifications (FCC Form 854) with the FCC, PRB, Support Services Branch, Gettysburg, PA 17325;

(3) The applicant has indicated in the application that the proposed facility would not have a significant environmental effect, in accordance with Sections 1.1301 through 1.1319;

(4) Under applicable international agreements and rules in this part, individual coordination of the proposed channel assignment(s) with a foreign administration is not required; and

(5) Any service-specific restrictions not listed herein.

PART 80--STATIONS IN THE MARITIME SERVICES

SUBPART A--GENERAL INFORMATION

Sec. 80.5 Definitions.

Alaska--public fixed station. A fixed station in Alaska which is open to public correspondence and is licensed by the Commission for radio communication with Alaska-Private fixed stations on paired channels.

Alaska--private fixed station. A fixed station in Alaska which is licensed by the Commission for radio communication within Alaska and with associated ship stations, on single frequency channels.

Alaska-private fixed stations are also eligible to communicate with Alaska-public fixed stations on paired channels.

Associated ship unit. A portable VHF transmitter for use in the vicinity of the ship station with which it is associated.

Automated maritime telecommunications system (AMTS). An automatic, integrated and interconnected maritime communications system.

Automated mutual-assistance vessel rescue system (AMVER). An international system, operated by the U.S. Coast Guard, which provides aid to the development and coordination of search and rescue (SAR) efforts. Data is made available to recognized SAR agencies or vessels of any nation for reasons related to marine safety.

Bridge-to-bridge station. A radio station located on a ship's navigational bridge or main control station operating on a specified frequency which is used only for navigational communications, in the 156-162 MHz band.

Cargo ship safety radio certificate. A certificate issued after a ship passes an inspection of the required radiotelegraph, radiotelephone or GMDSS radio installation. Issuance of this certificate indicates that the vessel complies with the Communications Act and the Safety Convention.

Cargo ship safety radiotelegraphy certificate. A certificate issued after a ship passes an inspection of a radiotelegraph installation. Issuance of this certificate indicates that the vessel complies with the Communications Act and the Safety Convention.

Cargo ship safety radiotelephony certificate. A certificate issued after a ship passes an inspection of a radiotelephone installation. Issuance of this certificate indicates that the vessel complies with the Communications Act and the Safety Convention.

Categories of ships. (1) When referenced in Part II of Title III of the Communications Act or the radio provisions of the Safety Convention, a ship is a "passenger ship" if it carries or is licensed or certificated to carry more than twelve passengers. A "cargo ship" is any ship not a passenger ship.

(2) A "commercial transport vessel" is any ship which is used primarily in commerce (i) for transporting persons or goods to or from any harbor(s) or port(s) or between places within a harbor or port area, or (ii) in connection with the construction, change in construction, servicing, maintenance, repair, loading, unloading, movement, piloting, or salvaging of any other ship or vessel.

(3) The term "passenger carrying vessel", when used in reference to Part III, Title III of the Communications Act of the Great Lakes Radio Agreement, means any ship transporting more than six passengers for hire.

(4) Power-driven vessel. Any ship propelled by machinery.

(5) Towing vessel. Any commercial ship engaged in towing another ship astern, alongside or by pushing ahead.

(6) Compulsory ship. Any ship which is required to be equipped with radiotelecommunication equipment in order to comply with the radio or radio-navigation provisions of a treaty or statute to which the vessel is subject.

(7) Voluntary ship. Any ship which is not required by treaty or statute to be equipped with radiotelecommunication equipment.

Coast station. A land station in the maritime mobile service.

Commercial communications. Communications between coast stations and ship stations aboard commercial transport vessels, or between ship stations aboard commercial transport vessels, which relate directly to the purposes for which the ship is used including the piloting of vessels, movements of vessels, obtaining vessel supplies, and scheduling of repairs.

Day. (1) Where the word "day" is applied to the use of a specific frequency assignment or to a specific authorized transmitter power, its use means transmission on the frequency assignment or with the authorized transmitter power during that period of time included between one hour after local sunrise and one hour before local sunset. (2) Where the word "day" occurs in reference to watch requirements, or to equipment testing, its use means the calendar day, from midnight to midnight, local time.

Digital selective calling (DSC). A synchronous system developed by the International Radio Consultative Committee (CCIR), used to establish contact with a station or group of stations automatically by means of radio. The operational and technical characteristics of this system are contained in CCIR Recommendation 493.

Direction finder (radio compass). Apparatus capable of receiving radio signals and taking bearings on these signals from which the true bearing and direction of the point of origin may be determined.

Distress signal. The distress signal is an internationally recognized radiotelegraph or radiotelephone transmission which indicates that a ship, aircraft, or other vehicle is threatened by grave and imminent danger and requests immediate assistance.

(1) In radiotelegraphy, the international distress signal consists of the group "three dots, three dashes, three dots", transmitted as a single signal in which the dashes are emphasized so as to be distinguished clearly from the dots. (2) In radiotelephony, the international distress signal consists of the enunciation of the word "Mayday", pronounced as the French expression "m'aider". In case of distress, transmission of this particular signal is intended to ensure recognition of a radiotelephone distress call by stations of any nationality.

Distress traffic. All messages relative to the immediate assistance required by a ship, aircraft, or other vehicle in distress.

Emergency position indicating radiobeacon (EPIRB) station. A station in the maritime mobile service the emissions of which are intended to facilitate search and rescue operations.

Environmental communications. Broadcasts of information about the environmental conditions in which vessels operate, i.e., weather, sea conditions, time signals adequate for practical navigation, notices to mariners, and hazards to navigation.

Fleet radio station license. An authorization issued by the Commission for two or more ships having a common owner or operator.

Global maritime distress and safety system (GMDSS). An International Maritime Organization (IMO) worldwide coordinated maritime distress system designed to provide the rapid transfer of distress messages from vessels in distress to units best suited for giving or coordinating assistance. The system includes standardized equipment and operational procedures, unique identifiers for each station, and the integrated use of frequency bands and radio systems to ensure the transmission and reception of distress and safety calls and messages at short, medium and long ranges.

Great Lakes. This term, used in this part in reference to the Great Lakes Radio Agreement, means all of Lakes Ontario, Erie, Huron (including Georgian Bay), Michigan, Superior, their connecting and tributary waters and the St. Lawrence River as far east as the lower exit of the St. Lambert Lock as Montreal in the Province of Quebec, Canada, but does not include any connecting and tributary waters other than: the St. Marys River, the St. Clair River, Lake St. Clair, the Detroit River and the Welland Canal.

Harbor or port. Any place to which ships may resort for shelter, or to load or unload passengers or

goods, or to obtain fuel, water, or supplies. This term applies to such places whether proclaimed public or not and whether natural or artificial.

Inland waters. This term, as used in reference to waters of the United States, its territories and possessions, means waters that lie landward of the boundary lines of inland waters as contained in 33 CFR Part 82, as well as waters within its land territory, such as rivers and lakes, over which the United States exercises sovereignty.

Marine utility station. A station in the maritime mobile service consisting of one or more handheld radiotelephone units licensed under a single authorization. Each unit is capable of operation while being hand-carried by an individual. The station operates under the rules applicable to ship stations when the unit is aboard a vessel, and under the rules applicable to private coast stations when the unit is on land.

Maritime control communications. Communications between private coast and ship stations or between ship stations licensed to a state or local governmental entity, which relate directly to the control of boating activities or assistance to ships.

Maritime mobile repeater station. A land station at a fixed location established for the automatic retransmission of signals to extend the range of communication of ship and coast stations.

Maritime mobile-satellite service. A mobile-satellite service in which mobile earth stations are located on board ships. Survival craft stations and EPIRB stations may also participate in this service.

Maritime mobile service. A mobile service between coast stations and ship stations, or between ship stations, or between associated on-board communication stations. Survival craft stations and EPIRB stations also participate in this service.

Maritime mobile service identities. An international system for the identification of radio stations in the maritime mobile service. The system is comprised of a series of nine digits which are transmitted over the radio path to uniquely identify ship stations, ship earth stations, coast stations, coast earth stations and groups of stations.

Maritime radiodetermination service. A maritime radiocommunication service for determining the position, velocity, and/or other characteristics of an object, or the obtaining of information relating to these parameters, by the propagation properties of radio waves.

Maritime support station. A station on land used in support of the maritime services to train personnel and to demonstrate, test and maintain equipment.

Navigable waters. This term, as used in reference to waters of the United States, its territories and possessions, means the waters shoreward of the baseline of its territorial sea and internal waters as contained in 33 CFR 2.05-25.

Navigational communications. Safety communications pertaining to the maneuvering of vessels or the directing of vessel movements. Such communications are primarily for the exchange of information between ship stations and secondarily between ship stations and coast stations.

Noncommercial communications. Communication between coast stations and ship stations other than commercial transport ships, or between ship stations aboard other than commercial transport ships which pertain to the needs of the ship.

Non-selectable transponder. A transponder whose coded response is displayed on any conventional radar operating in the appropriate band.

On-board communication station. A low-powered mobile station in the maritime mobile service intended for use for internal communications on board a ship, or between a ship and its lifeboats and liferafts during lifeboat drills or operations, or for communication within a group of vessels being towed or pushed, as well as for line handling and mooring instructions.

On-board repeater. A radio station that receives and automatically retransmits signals between on-board communication stations.

Open sea. The water area of the open coast seaward of the ordinary low water mark, or seaward of inland waters.

Operational fixed station. A fixed station, not open to public correspondence, operated by entities that

provide their own radiocommunication facilities in the private land mobile, maritime or aviation services.

Passenger ship safety certificate. A certificate issued by the Commandant of the Coast Guard after inspection of a passenger ship which complies with the requirements of the Safety Convention.

Pilot. Pilot means a Federal pilot required by 46 U.S.C. 764, a state pilot required under the authority of 46 U.S.C. 211, or a registered pilot required by 46 U.S.C. 216.

Port operations communications. Communications in or near a port, in locks or in waterways between coast stations and ship stations or between ship stations, which relate to the operational handling, movement and safety of ships and in emergency to the safety of persons.

Portable ship station. A ship station which includes a single transmitter intended for use upon two or more ships.

Private coast station. A coast station, not open to public correspondence, which serves the operational, maritime control and business needs of ships.

Public coast station. A coast station that offers radio communication common carrier services to ship radio stations.

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

Radar beacon (RACON). A receiver-transmitter which, when triggered by a radar, automatically returns a distinctive signal which can appear on the display of the triggering radar, providing range, bearing and identification information.

Radioprinter operations. Communications by means of a direct printing radiotelegraphy system using any alphanumeric code, within specified bandwidth limitations, which is authorized for use between private coast stations and their associated ship stations on vessels of less than 1600 gross tons.

Safety communication. The transmission or reception of distress, alarm, urgency, or safety signals, or any communication preceded by one of these signals, or any form of radiocommunication which, if delayed in transmission or reception, may adversely affect the safety of life or property.

Safety signal. (1) The safety signal is the international radiotelegraph or radiotelephone signal which indicates that the station sending this signal is preparing to transmit a message concerning the safety of navigation or giving important meteorological warnings. (2) In radiotelegraphy, the international safety signals consists of three repetitions of the group "TTT", sent before the call, with the letters of each group and the successive groups clearly separated from each other. (3) In radiotelephony, the international safety signal consists of three oral repetitions of "Security", pronounced as the French word "Securite", sent before the call.

Selectable transponder. A transponder whose coded response may be inhibited or displayed on a radar on demand by the operator of that radar.

Selective calling. A means of calling in which signals are transmitted in accordance with a prearranged code to operate a particular automatic attention device at the station whose attention is sought.

Ship earth station. A mobile earth station in the maritime mobile-satellite service located on board ship.

Ship or vessel. "Ship" or "vessel" includes every description of watercraft or other artificial contrivance, except aircraft, capable of being used as a means of transportation on water whether or not it is actually afloat.

Ship radio station license. An authorization issued by the Commission to operate a radio station onboard a vessel.

Ship station. A mobile station in the maritime mobile service located on-board a vessel which is not permanently moored, other than a survival craft station.

Station. One or more transmitters or a combination of transmitters and receivers, including the accessory equipment, necessary at one location for carrying on radiocommunication services.

Survival craft station. A mobile station in the maritime or aeronautical mobile service intended solely for survival purposes and located on any lifeboat, liferaft or other survival equipment.

Underway. A vessel is underway when it is not at anchor, made fast to the shore or aground. Urgency signal. (1) The urgency signal is the international radiotelegraph or radiotelephone signal which indicates that the calling station has a very urgent message to transmit concerning the safety of a ship, aircraft, or other vehicle, or of some person on board or within sight. (2) In radiotelegraphy, the international urgency signal consists of threerepetitions of the group "XXX", sent before the call, with the letters of each group and the successive groups clearly separated from each other. (3) In radiotelephony, the international urgency signal consists of three oral repetitions of the group of words "PAN PAN", each word of the group pronounced as the French word "PANNE" and sent before the call.

Vessel traffic service (VTS). A U.S. Coast Guard traffic control service for ships in designated water areas to prevent collisions, groundings and environmental harm.

Watch. The act of listening on a designated frequency.

SUBPART B--APPLICATIONS AND LICENSES

Sec. 80.11 Scope.

This subpart contains the procedures and requirements for the filing of applications for licenses to operate radio facilities in the maritime services. Part 1 of the Commission's rules contains the general rules of practice and procedure applicable to proceedings before the FCC.

Sec. 80.13 Station license required.

- (a) Except as noted in paragraph (c) of this section, stations in the maritime service must be licensed by the FCC either individually or by fleet.
- (b) One ship station license will be granted for operation of all maritime services transmitting equipment on board a vessel. Radiotelegraph and narrow-band directing-printing equipment will not be authorized, however, unless specifically requested by the applicant.
- (c) A ship station is licensed by rule and does not need an individual license issued by the FCC if the ship station is not subject to the radioequipment carriage requirements any statute, treaty or agreement to which the United States is signatory, the ship station does not travel to foreign ports, and the ship station does not make international communications. A ship station licensed by rule is authorized to transmit radio signals using a marine radio operating in the 156-162 MHz band, any type of EPIRB, and any type of radar installation. All other transmissions must be authorized under a ship station license. Even though an individual license is not required, a ship station licensed by rule must be operated in accordance with all applicable operating requirements, procedures, and technical specifications found in this part.

Sec. 80.15 Eligibility for station license.

- (a) General. A station license cannot be granted to or held by a foreign government or its representative.
- (b) Public coast stations and Alaska-public fixed stations. A station license for a public coast station or an Alaska-public fixed station cannot be granted to or held by:
 - (1) Any alien or the representative of any alien;
 - (2) Any foreign government or its representative;
 - (3) Any corporation organized under the laws of any foreign government;
 - (4) Any corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or its representative, or by a corporation

organized under the laws of a foreign country; or

(5) Any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or its representatives, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

(c) Private coast and marine utility stations. The supplemental eligibility requirements for private coast and marine utility stations are contained in Sec. 80.501(a).

(d) Ship stations. A ship station license may only be granted to:

- (1) The owner or operator of the vessel;
- (2) A subsidiary communications corporation of the owner or operator of the vessel;
- (3) A State or local government subdivision; or
- (4) Any agency of the U.S. Government subject to section 301 of the Communications Act.

(e) EPIRB stations. (1) New class C EPIRB stations will not be authorized after February 1, 1995. Class C EPIRB stations installed and licensed before February 1, 1995, will be authorized until February 1, 1999:

(i) For use on board vessels operating within 32 kilometers (approximately 20 miles) of shore and in the Great Lakes, or

(ii) On passenger and cargo vessels with survival craft as required or recommended by the U.S. Coast Guard.

(2) Class A or B EPIRB stations will be authorized for use on board the following types of vessels:

- (i) Vessels authorized to carry survival craft; or
- (ii) Vessels expected to travel in waters beyond the range of marine VHF distress coverage which is generally considered to be more than 32 kilometers (approximately 20 miles) offshore; or
- (iii) Vessels required to be fitted with EPIRB's to comply with U.S. Coast Guard regulations.

(3) A 406.025 MHz EPIRBs may be used by any ship required by U.S. Coast Guard regulations to carry an EPIRB or by any ship that is equipped with a VHF ship radio station.

Sec. 80.17 Administrative classes of stations.

(a) Stations in the Maritime Mobile Service are licensed according to class of station as follows:

- (1) Public coast stations.
- (2) Private coast stations.
- (3) Maritime support stations.
- (4) Ship stations. The ship station license may include authority to operate other radio station classes aboard ship such as; radionavigation, on-board, satellite, EPIRB, radiotelephone, radiotelegraph and survival craft.

(5) Marine utility stations.

(b) Stations on land in the Maritime Radiodetermination Service are licensed according to class of station as follows:

- (1) Shore radiolocation stations.
- (2) Shore radionavigation stations.

(c) Fixed stations in the Fixed Service associated with the maritime services are licensed as follows:

- (1) Operational fixed stations.
- (2) Alaska-public fixed stations.
- (3) Alaska-private fixed stations.

Sec. 80.19 Standard forms to be used.

The following table indicates the correct standard form or other means to be used when submitting an application. Forms may be obtained from the Commission at Gettysburg, PA 17325, Washington, DC 20554 or any of its District Offices.

Class of station(s)	Application for	Use
Ship	New license	FCC Form 506.
	Renewal of license without modification	FCC Form 405-B.
	Renewal of license with modification	FCC Form 506.
	Modification of license	FCC Form 506.
	Temporary operating authority in conjunction with application for a new license or modification of license	FCC Form 506-A.
	Exemption	FCC Form 820.
	Special temporary authority	Letter/Telegram.
	Transfer of control of corporation	FCC Form 703.
Public coast	New license	FCC Form 503.
Private coast	Modification of license	FCC Form 503.
Operational fixed	Renewal of license with modification	FCC Form 503.
Shore radionavigation	Assignment of authorization	FCC Forms 1046 and 503.
Shore radiolocation	Transfer of Control of Corporation	FCC Form 703.
Maritime support	Renewal of license without modification	FCC Form 452-R.
Alaska-public fixed	Special temporary authority	Letter/Telegram.
Alaska-private fixed		
Marine utility		

Sec. 80.21 Supplemental information required.

Applications for radio stations to be located within designated radio protection areas, radio stations with a proposed antenna structure which will require antenna markings, a new public coast stations proposing operations in the 156-162 MHz band and new ship stations on vessels not located in the United States must contain supplementary information as indicated in this section. Other supplemental information may be required by other rule sections of this part concerning particular maritime services.

(a) To minimize harmful interference at the National Radio Astronomy Observatory site at Green Bank, Pocahontas County, W.Va., and at the Naval Radio Research Observatory site at Sugar Grove, Pendleton County, W.Va., an applicant for a new station authorization (other than mobile or temporary fixed), or for modification of an existing license to change the frequency, power, antenna location, height or directivity within the area bounded by 39 deg.15'N. on the north, 78 deg.30'W. on the east, 37 deg.30'N. on the south and 80 deg.30'W. on the west, must, at the time of filing such application with the Commission, notify the Director, National Radio Astronomy Observatory, Attn: Interference Office, Post Office Box No. 2, Green Bank, W. Va. 24944, in writing, of the geographical coordinates

of the antenna, antenna height, antenna directivity if any, proposed frequency, type of emission, and power. The application must show the date notification was made to the Observatory. The Commission will allow twenty (20) days after receipt of the notification for comments or objections. If a timely objection is received, the Commission will consider the comments or objections and act appropriately.

(b) Protection for Federal Communications Commission monitoring stations:

(1) Geographical coordinates of FCC facilities which require protection are listed in Sec. 0.121(c) of this chapter. Applications for stations (except mobile stations) which will be located within 80 km (50 miles) of the referenced coordinates are examined to determine extent of possible interference. A clause protecting the monitoring station may be added to the station license.

(2) Prospective applicants of stations for which the calculated value of expected field strength exceeds 10 mV/m (-65.8 dBW/m²) at the referenced coordinates, should consult with the FCC to determine if any protection is necessary. Write:

Chief, Compliance and Information Bureau
Federal Communications Commission
Washington, DC 20554

(c) Each application for a new public coast station operating on frequencies in the band 156-162 MHz must include as supplementary information a chart, with supporting data, showing the service area contour computed in accordance with Subpart P of this part.

(d) Each application for a new public coast station operating on frequencies in the band 156-162 MHz to be located within the coordination boundaries of "Arrangement "A" of the Canada/U.S.A. Frequency Coordination Agreement above 30 MHz", must comply with the provisions of the "Canada/U.S.A. Channeling Agreement for VHF Maritime, Public Correspondence" as contained in Sec. 80.57.

(e) An application for a new station on a vessel not located in the United States must include:

(1) A statement that the vessel is not documented or otherwise registered by any foreign authority; and

(2) A statement that the foreign authorities where the vessel is located will not or cannot license the vessel radio equipment, or that they do not object to the licensing of the equipment by the United States.

(f) Any applicant for a new permanent base or fixed station to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of a station on these islands and would increase the likelihood of the authorized facility causing interference, shall notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the technical parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information electronically should e-mail to: prcz@naic.edu

(1) The notification to the Interference Office, Arecibo Observatory shall be made prior to, or simultaneously with, the filing of the application with the Commission. The notification shall state the geographical coordinates of the antenna (NAD-83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. Generally, submission of the information in the technical portion of the FCC license application is adequate notification. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Arecibo Observatory.

(2) After receipt of such applications, the Commission will allow a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo

Observatory and to file either an amendment to the application or a modification application, as appropriate. If the Commission determines that an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, its application may be granted.

(3) The provisions of this paragraph do not apply to operations that transmit on frequencies above 15 GHz.

Sec. 80.23 Filing of applications.

Rules about the filing of applications for radio station licenses are contained in this section. Applications requiring fees as set forth in Part 1, Subpart G of this Chapter must be filed with the Federal Communications Commission in accordance with Sec. 1.1102 of the Rules.

(a) Each application must specify an address in the United States to be used by the Commission in serving documents or directing correspondence to the licensee.

(b) An original of each application must be filed.

(c) One application for two or more new maritime utility stations may be submitted when the applicant and proposed area of operation for each station is the same.

(d) One application for transfer of control may be submitted for two or more stations subject to this part when the individual stations are clearly identified and the following elements are the same for all existing or requested station authorizations involved:

(1) Applicant;

(2) Specific details of basic request.

Sec. 80.25 License term.

(a) Licenses for ship stations in the maritime services will normally be issued for a term of ten years from the date of original issuance, major modification, or renewal. Licensees may apply for renewal of the station license up to ninety (90) days after the date the license expires.

(b) Licenses other than ship stations in the maritime services will normally be issued for a term of five years from the date of original issuance, major modification, or renewal, except that licenses for VHF public coast stations will normally be issued for a term of ten years from the date of original issuance, major modification, or renewal. Licenses, other than Public Coast and Alaska Public Fixed stations, may be renewed up to ninety (90) days after the date the license expires.

(c) Licenses for stations engaged in developmental operation will be issued for a period not to exceed one year from date of grant.

Sec. 80.29 Changes during license term.

(a) The following table indicates the required action for changes made during the license term:

Type of change	Required action
Mailing address	Written notice to the Commission.
Name of licensee (without change in ownership, control or corporate structure)	Written notice to the Commission.
Transfer of control of a corporation	Comply with Sec. 1.924 of this chapter.
Assignment of a radio station license	Comply with Sec. 1.924 of this chapter.

Name of the vessel	Written notice to the Commission.
Addition of transmitting equipment which operates on a frequency or frequency band not authorized on present license	Application for modification of license.
Addition or replacement of transmitting equipment on a frequency or frequency band authorized on present license	None (provided the equipment is properly authorized and the emission characteristics remain the same).
Increased number of mobiles (AMTS)	Written notice to Commission

(b) Written notices must be sent to the Federal Communications Commission, Gettysburg, Pennsylvania 17325.

Sec. 80.31 Cancellation of license.

When a station subject to this part which is not a communication commoncarrier permanently discontinues operation, the licensee must return the station license to the Commission's office at P.O. Box 1040, Gettysburg, Pennsylvania 17325, for cancellation. Communication common carrier stations subject to this part must comply with the discontinuance of service provisions of Part 63 of this chapter.

Sec. 80.39 Authorized station location.

This section describes the circumstances under which a coast station location is classified as permanent or temporary unspecified.

(a) Permanent. Whenever a station is to transmit from a single location, the station location is "permanent" and the location must be shown on the application.

(b) Temporary unspecified. Whenever a station is to transmit from unspecified locations within a prescribed geographical area, the station location is "temporary unspecified" and the proposed geographical operating area must be shown on the application.

Sec. 80.41 Control points and dispatch points.

This section applies to coast or fixed stations at permanent locations.

(a) Applicants must provide the address or location of the control point where station records will be kept.

(b) When the address or location of a control point where station records are kept is to be changed, the licensee must request a modification of the station license.

(c) Control points not collocated with station records and dispatch points may be installed and used without obtaining any authorization from the Commission.

Sec. 80.43 Equipment acceptable for licensing.

Transmitters listed in Sec. 80.203 must be authorized for a particular use by the Commission based upon technical requirements contained in Subparts E and F of this part.

Sec. 80.45 Frequencies.

When an application is submitted on FCC Form 503, the applicant must propose frequencies to be

used by the station. The applicant must ensure that frequencies requested are consistent with the applicant's eligibility, the proposed class of station operation and the frequencies available for assignment as contained in Subpart H of this part.

Sec. 80.47 Operation during emergency.

A station may be used for emergency communications when normal communication facilities are disrupted. The Commission may order the discontinuance of any such emergency communication service.

Sec. 80.49 Construction and regional service requirements.

(a) Public coast stations. (1) Each VHF public coast station geographic area licensee must make a showing of substantial service within its region or service area (subpart P) within five years of the initial license grant, and again within ten years of the initial license grant, or the authorization becomes invalid and must be returned to the Commission for cancellation.

"Substantial" service is defined as service which is sound, favorable, and substantially above a level of mediocre service which just might minimally warrant renewal. For site-based VHF public coast station licensees, when a new license has been issued or additional operating frequencies have been authorized, if the station or frequencies authorized have not been placed in operation within twelve months from the date of the grant, the authorization becomes invalid and must be returned to the Commission for cancellation.

(2) For LF, MF, HF, and AMTS band public coast station licensees, when a new license has been issued or additional operating frequencies have been authorized, if the station or frequencies authorized have not been placed in operation within eight months from the date of the grant, the authorization becomes invalid and must be returned to the Commission for cancellation.

(b) Public fixed stations. When a new license has been issued or additional operating frequencies have been authorized, if the station or frequencies authorized have not been placed in operation within twelve months from the date of the grant, the authorization becomes invalid and must be returned to the Commission for cancellation.

Sec. 80.57 Canada/U.S.A. channeling arrangement for VHF maritime public correspondence.

(a) Canada/U.S.A. arrangement. Pursuant to arrangements between the United States and Canada, assignment of VHF frequencies in the band 156-162 MHz to public coast stations in certain areas of Washington state, the Great Lakes and the east coast of the United States must be made in accordance with the provisions of this section.

(b) Definitions. On the west coast, specific terms are defined as follows:

(1) Inland Waters Public Correspondence Sector. A distinct geographical area in which one primary and one supplementary channel is allotted. A number of local channels may also be authorized.

(2) Coastal Waters Public Correspondence Sector. A distinct geographical area in which one primary and one supplementary channel is allotted. Local channels may also be authorized.

(3) Inland Waters. Inland waters of western Washington and British Columbia bounded by 47 degrees latitude on the south, the Canada/U.S.A. Coordination Zone Line B on the north, and to the west by 124 degrees 40 minutes longitude at the west entrance to the Strait of Juan de Fuca.

(4) Coastal Waters. Waters along the Pacific Coast of Washington state and Vancouver Island within the Canada/U.S.A. Coordination Zone.

(5) Inland Waters Primary Channel. A channel intended to cover the greater portion of an Inland Waters Public Correspondence Sector. It may provide some coverage to an adjacent sector but must

not provide coverage beyond the adjacent sector. Harmful interference beyond the adjacent sector must not occur. Only one primary channel will be authorized in any sector.

(6) Inland Waters Supplementary Channel. A channel intended to improve coverage within a sector or to relieve traffic congestion on the primary channel. It may provide some coverage of an adjacent sector but must not provide coverage beyond the adjacent sector. Harmful interference beyond the adjacent sector must not occur. Only one supplementary channel will be authorized in any sector.

(7) Inland Waters Local Channel. A channel designed to provide local coverage of certain bays, inlets and ports where coverage by primary or supplementary channels is poor or where heavy traffic loading warrants. A local channel must not cause harmful interference to any primary or supplementary channels. Coverage must be confined to the designated sector.

(8) Coastal Waters Primary Channel. Same as (5) except for technical characteristics.

(9) Coastal Waters Supplementary Channel. Same as (6) except for technical characteristics.

(10) Coastal Waters Local Channel. Same as (7) except for technical characteristics.

(c) Technical characteristics. On the west coast, technical characteristics of public correspondence stations will be as follows:

(1) Inland Waters Primary and Supplementary Channels. The effective radiated power (ERP) must not exceed 60 watts. Antenna height must not exceed 152 meters (500 feet) above mean sea level (AMSL) with the exceptions noted in paragraph (d)(5) of this section.

(2) Inland Waters Local Channel. ERP must not exceed 8 watts with an antenna height of no more than 15 meters (50 feet) AMSL or the ERP must not exceed 2 watts with an antenna height of no more than 30 meters (100 feet) AMSL.

(3) Coastal Waters Primary and Supplementary Channels. ERP must not exceed 125 watts with no antenna restrictions.

(4) Coastal Waters Local Channel. ERP must not exceed 10 watts with a maximum antenna height of 76 meters (250 feet) AMSL.

(5) Harmful interference will be determined and resolved using the definition and procedures of the ITU Radio Regulations.

(6) To keep the ERP and antenna elevations at a minimum and to limit coverage to the desired areas, an informal application may be filed for special temporary authority in accordance with Secs. 1.41 and 1.925 to conduct a field survey to obtain necessary data for informal application. Such data may accompany the application and be used in lieu of theoretical calculations as required in Subpart P of this part. The Seattle FCC District Office must be notified in advance of scheduled tests.

(d) Canada/U.S.A. channeling arrangement for West Coast VHF maritime mobile public correspondence. (1) The provisions of the Canada/U.S. channeling arrangement apply to waters of the State of Washington and of the Province of British Columbia within the coordination boundaries of "Arrangement A" of the Canada/U.S.A. Frequency Coordination Agreement above 30 MHz. In addition, all inland waters as far south as Olympia are to be included. A map of these waters is contained in paragraph (d)(6) of this section, Figure 1.

(2) The channeling arrangement applies to the following VHF public correspondence channels: Channels 24, 84, 25, 85, 26, 86, 27, 87 and 28.

(3) Public correspondence stations may be established by either country in accordance with the provisions of the arrangements. However, there must be an exchange of information prior to the establishment of new stations or a change in technical parameters of existing stations. Any channel except that used as primary or supplementary channel in a given sector is available for use as a local channel in that sector. Local channels are not protected from interference caused by primary or supplementary channels in adjacent sectors if these stations are in compliance with this section.

(4) Preliminary local Canadian/U.S. coordination is required for all applications at variance with this section. This coordination will be in accordance with the provisions of Arrangement "A" of the Canada/U.S. Frequency Coordination Agreement over 30 MHz. Stations at variance with the arrangement are not protected from interference and must not cause interference to existing or future

stations which are in accordance with the agreement.

(5) Stations in existence at the time of the arrangement must have complied with the provisions of the arrangement within 12 months after it became effective with the following exceptions:

(i) Public coast (VHF) stations:

- KOH627 Tacoma, Washington
- KOH630 Seattle, Washington
- WXY956 Camano, Washington
- VAI2 Mount Parke, British Columbia
- VAS5 Watts Point, British Columbia
- XLK672 Bowen Island, British Columbia

(ii) These stations employing frequencies assigned at the time of the arrangement may be maintained with existing antenna heights in excess of 152 meters (500 feet) unless harmful interference to existing stations is identified and reported directly to the Federal Communications Commission or through the Public Correspondence Committee of the North Pacific Marine Radio Council.

(6) The agreed channeling arrangements for the west coast are as follows:

Public correspondence sector	Primary channel	Supplementary channel
British Columbia (Coastal Waters):		
Tofino	24	26
Barkley Sound	27	87
British Columbia (Inland Waters)		
Juan de Fuca West (Canada)	26	24
Juan de Fuca East (Canada)	86	84
Gulf Islands	27	/1/
Strait of Georgia South	26	86
Howe Sound	24	84
Strait of Georgia North	26	87
Campbell River	28	85
Washington (Coastal Waters):		
Cape Johnson	26	85
Point Grenville	28	25
Washington (Inland Waters):		
Juan de Fuca West (U.S.A.)	28	/1/
Juan de Fuca East (U.S.A.)	25	/1/
San Juan Islands	28	85
Puget Sound North	24	87
Puget Sound Hood Canal	26	25
Lower Puget Sound	28	85

/1/ Supplementary channel not available.

[...Illustration appears here...]

(Map showing above areas)

(e) Canada/U.S.A. VHF channeling arrangement on the Great Lakes and the St. Lawrence Seaway.

Channels on the Great Lakes and the St. Lawrence Seaway will be assigned as follows:

(1) The provisions of the arrangement apply to the waters of the Great Lakes and the St. Lawrence Seaway within the coordination boundaries of "Arrangement A" of the Canada/U.S.A. Frequency Coordination Agreement above 30 MHz.

(2) The arrangement applies to the following public correspondence channels: Channels 24, 84, 25, 85, 26, 86, 27, 87, 28, and 88.

(3) Canada and the U.S.A. use the following channeling arrangement:

(i) Canadian channels: 24, 85, 27, 88 (Note 1).

(ii) U.S.A. channels: 84, 25, 86, 87, 28 (Note 2).

(iii) Shared channels: 26 (Note 3).

Notes:

1. Also assignable to U.S. Stations within the frequency coordination zone following successful coordination with Canada.

2. Also assignable to Canadian station within the frequency coordination zone following successful coordination with the United States.

3. Changes to existing assignments and new assignments within the frequency coordination zone of either country are subject to prior coordination with the other Administration.

(f) Canada/U.S.A. channeling arrangement for East Coast VHF maritime mobilepublic correspondence. For purposes of this section, channels on the east coast will be assigned as follows:

(1) The provisions of the arrangement apply to the Canadian and U.S.A. east coast waters including the St. Lawrence Seaway within the coordination boundaries of "Arrangement A" of the Canada/U.S.A. Frequency Coordination Agreement above 30 MHz.

(2) The arrangement applies to the following public correspondence channels: Channels 24, 84, 25, 85, 26, 86, 27, 87, 28, and 88.

(3) Canada and the U.S.A. use the following channeling arrangement :

(i) Canadian channels: 24, 85, 27, 88 (Note 1).

(ii) U.S.A. channels: 84, 25, 86, 87, 28 (Note 2).

(iii) Shared channel: 26 (Note 3).

Notes:

1. Also assignable to U.S. stations within the frequency coordination zone following successful coordination with Canada.

2. Also assignable to Canadian stations within the frequency coordination zone following successful coordination with the United States.

3. Changes to existing assignments and new assignments within the frequency coordination zone of either country are subject to prior coordination with the other Administration.

SUBPART C--OPERATING REQUIREMENTS AND PROCEDURES

Sec. 80.60 Partitioned licenses and disaggregated spectrum.

(a) Eligibility. VHF Public Coast Station Area (VPC) licensees, see Sec. 80.371(c)(1)(ii) of this part, may partition their geographic service area or disaggregate their spectrum pursuant to the procedures set forth in this section. Parties seeking approval for partitioning and disaggregation shall request an authorization for partial assignment pursuant to Sec. 1.924 of this chapter.

(b) Technical standards. (1) Partitioning. In the case of partitioning, all requests for authorization for partial assignment of a license must include, as an attachment, a description of the partitioned

service area. The partitioned service area shall be defined by coordinate points at every 3 degrees along the partitioned service area unless an FCC-recognized service area is utilized (e.g., Metropolitan Service Area, Rural Service Area, or Economic Area) or county lines are used. The geographic coordinates must be specified in degrees, minutes, and seconds to the nearest second of latitude and longitude, and must be based upon the 1983 North American Datum (NAD83). In a case where an FCC-recognized service area or county lines are utilized, applicants need only list the specific area(s) (through use of FCC designations or county names) that constitute the partitioned area.

(2) Disaggregation. Spectrum may be disaggregated in any amount, provided acquired spectrum is disaggregated according to frequency pairs.

(3) Combined partitioning and disaggregation. The Commission will consider requests for partial assignment of licenses that propose combinations of partitioning and disaggregation.

(c) License term. The license term for a partitioned license area and for disaggregated spectrum shall be the remainder of the original licensee's term as provided for in Sec. 80.25 of this part.

(d) Construction Requirements. (1) Partitioning. Partial assignors and assignees for license partitioning have two options to meet construction requirements. Under the first option, the partitioner and partitionee would each certify that they will independently satisfy the substantial service requirement for their respective partitioned areas. If either licensee failed to meet its substantial service showing requirement, only the non-performing licensee's renewal application would be subject to dismissal. Under the second option, the partitioner certifies that it has met or will meet the substantial service requirement for the entire market. If the partitioner fails to meet the substantial service standard, however, only its renewal application would be subject to forfeiture at renewal.

(2) Disaggregation. Partial assignors and assignees for license disaggregation have two options to meet construction requirements. Under the first option, the disaggregator and disaggregatee would certify that they each will share responsibility for meeting the substantial service requirement for the geographic service area. If parties choose this option and either party fails to do so, both licenses would be subject to forfeiture at renewal. The second option would allow the parties to agree that either the disaggregator or the disaggregatee would be responsible for meeting the substantial service requirement for the geographic service area. If parties choose this option, and the party responsible for meeting the construction requirement fails to do so, only the license of the nonperforming party would be subject to forfeiture at renewal.

Sec. 80.61 Commission inspection of stations.

All stations and required station records must be made available for inspection by authorized representatives of the Commission.

Sec. 80.63 Maintenance of transmitter power.

(a) The power of each radio transmitter must not be more than that necessary to carry on the service for which the station is licensed.

(b) Except for transmitters using single sideband and independent sideband emissions, each radio transmitter rated by the manufacturer for carrier power in excess of 100 watts must contain the instruments necessary to determine the transmitter power during its operation.

Sec. 80.67 General facilities requirements for coast stations.

(a) All coast stations licensed to transmit in the band 156-162 MHz must be able to transmit and receive on 156.800 MHz and at least one working frequency in the band.

(b) All coast stations that operate telephony on frequencies in the 1605- 3500 kHz band must be

able to transmit and receive using J3E emission on the frequency 2182 kHz and at least one working frequency in the band. In addition, each such public coast station must transmit and receive H3E emission on the frequency 2182 kHz.

Sec. 80.68 Facilities requirements for public coast stations using telegraphy.

Public coast station using telegraphy must be provided with the following facilities.

(a) Stations having a frequency assignment below 150 kHz must:

- (1) Transmit A1A emission on at least one working frequency within the band 100-150 kHz;
- (2) Receive A1A emission on all radio channels authorized for transmission by mobile stations operating in the maritime mobile service for telegraphy within the band 100-150 kHz.

(b) Stations having a frequency assignment within the 405-525 kHz band must transmit and receive on 500 kHz and at least one working frequency in the band.

(c) Stations having frequency assignments above 4000 kHz must be equipped to receive on each of their assigned frequencies and all ship station radiotelegraphy frequencies in the same sub-band as the assigned frequency of the coast station. See Subpart H of this part for the list of frequencies.

Sec. 80.69 Facilities requirement for public coast stations using telephony.

Public coast stations using telephony must be provided with the following facilities.

(a) When the station is authorized to use frequencies in the 1605-3500 kHz band, equipment meeting the requirements of Sec. 80.67(b) must be installed at each transmitting location.

(b) The transmitter power on the frequency 2182 kHz must not exceed 50 watts carrier power for normal operation. During distress, urgency and safety traffic, operation at maximum power is permitted.

Sec. 80.70 Special provisions relative to coast station VHF facilities.

(a) Coast stations which transmit on the same radio channel above 150 MHz must minimize interference by reducing radiated power, by decreasing antenna height or by installing directional antennas. Coast stations at locations separated by less than 241 kilometers (150 miles) which transmit on the same radio channel above 150 MHz must also consider a time-sharing arrangement. The Commission may order station changes if agreement cannot be reached between the involved licensees.

(b) Coast stations which transmit on a radio channel above 150 MHz and are located within interference range of any station within Canada or Mexico must minimize interference to the involved foreign station(s), and must notify the Commission of any station changes.

(c) A VHF (156-162 MHz) public coast station licensee initially authorized on any of the channels listed in the table in Sec. 80.371(c)(1)(i) of this part may transfer or assign its channel(s) to another entity. If the proposed transferee or assignee is the geographic area licensee for the geographic area to which the channel is allocated, such transfer or assignment will be deemed to be in the public interest. However, such presumption will be rebuttable.

Sec. 80.71 Operating controls for stations on land.

Each coast station, Alaska-public fixed station and Alaska-private fixed station must provide operating controls in accordance with the following:

(a) Each station using telegraphy or telephony must be capable of changeover from transmission to reception and vice versa within two seconds excluding a change in operating radio channel.

(b) During its hours of service, each station must be capable of:

(1) Commencing operation within one minute after the need to do so occurs;
(2) Discontinuing all emission within five seconds after emission is no longer desired. The emission of an unattended station in an automated multistation system at which restoration to standby is automatic on conclusion of a call must be discontinued within three seconds of the disconnect signal or, if a disconnect signal is not received, within twenty seconds after reception of the final carrier transmission from a ship station.

(c) Each station using a multichannel installation for telegraphy must be capable of changing from one telegraphy channel to any other telegraphy channel within the same sub-band below 525 kHz within five seconds. This requirement need not be met by equipment intended for use only in emergencies and not used for normal communication.

(d) Every coast station using a multi-channel installation for radiotelephony must be capable of changing from one telephony channel to another telephony channel within:

- (1) Five seconds within the frequency band 1605-3500 kHz; or
- (2) Three seconds within the band 156-162 MHz. This requirement also applies to marine utility stations.

Sec. 80.72 Antenna requirements for coast stations.

All emissions of a coast station a marine-utility station operated on shore using telephony within the frequency band 30-200 MHz must be vertically polarized.

Sec. 80.74 Public coast station facilities for a telephony busy signal.

A "busy" signal, when used by a public coast station in accordance with the provisions of Sec. 80.111(d), must consist of the transmission of a single audio frequency regularly interrupted, as follows:

- (a) Audio frequency: Not less than 100 nor more than 1100 Hertz, provided the frequency used for this purpose will not cause auto alarms or selective-ringing devices to be operated.
- (b) Rate of interruption: 60 times per minute +/- 10%.
- (c) Duration of each interruption: 0.5 second +/- 10%.

Sec. 80.76 Requirements for land station control points.

Each coast or fixed station subject to this part must have the following facilities:

(a) Except for marine utility stations, a visual indication of antenna current; or a pilot lamp, meter or equivalent device which provides continuous visual indication whenever the transmitter control circuits have been actuated.

(b) Capability to aurally monitor all transmissions originating at dispatch points and to disconnect the dispatch points from the transmitter or to terminate the operation of the transmitter.

(c) Facilities which will permit the responsible operator to turn the carrier of the radio transmitter on and off at will.

Sec. 80.86 International regulations applicable.

In addition to being regulated by these rules, the use and operation of stations subject to this part are governed by the Radio Regulations and the radio provisions of all other international agreements in force to which the United States is a party.

Sec. 80.87 Cooperative use of frequency assignments.

Each radio channel is available for use on a shared basis only and is not available for the exclusive use of any one station or station licensee. Station licensees must cooperate in the use of their respective frequency assignments in order to minimize interference and obtain the most effective use of the authorized radio channels.

Sec. 80.88 Secrecy of communication.

The station licensee, the master of the ship, the responsible radio operators and any person who may have knowledge of the radio communications transmitted or received by a fixed, land, or mobile station subject to this part, or of any radiocommunication service of such station, must observe the secrecy requirements of the Communications Act and the Radio Regulations. See sections 501, 502, and 705 of the Communications Act and Article 23 of the Radio Regulations.

Sec. 80.89 Unauthorized transmissions.

Stations must not:

- (a) Engage in superfluous radiocommunication.
- (b) Use telephony on 243 MHz.
- (c) Use selective calling on 2182 kHz or 156.800 MHz.
- (d) When using telephony, transmit signals or communications not addressed to a particular station or stations. This provision does not apply to the transmission of distress, alarm, urgency, or safety signals or messages, or to test transmissions.
- (e) When using telegraphy, transmit signals or communications not addressed to a particular station or stations, unless the transmission is preceded by CQ or CP or by distress, alarm, urgency, safety signals, or test transmissions.
- (f) Transmit while on board vessels located on land unless authorized under a public coast station license. Vessels in the following situations are not considered to be on land for the purposes of this paragraph:
 - (1) Vessels which are aground due to a distress situation;
 - (2) Vessels in drydock undergoing repairs; and
 - (3) State or local government vessels which are involved in search and rescue operations including related training exercises.
- (g) Transmit on frequencies or frequency bands not authorized on the current station license.

Sec. 80.90 Suspension of transmission.

Transmission must be suspended immediately upon detection of a transmitter malfunction and must remain suspended until the malfunction is corrected, except for transmission concerning the immediate safety of life or property, in which case transmission must be suspended as soon as the emergency is terminated.

Sec. 80.91 Order of priority of communications.

- (a) The order of priority of radiotelegraph communications is as follows:
 - (1) Distress calls including the international distress signal for radiotelegraphy, the international radiotelegraph alarm signal, the international radiotelephone alarm signal, distress messages and distress traffic.
 - (2) Communications preceded by the international radiotelegraph urgency signal.
 - (3) Communications preceded by the international radiotelegraph safety signal.
 - (4) Communications relative to radio direction-finding bearings.

(5) Communications relative to the navigation and safe movement of aircraft.
(6) Communications relative to the navigation, movements, and needs of ships, including weather observation messages destined for an official meteorological service.

(7) Government communications for which priority right has been claimed.

(8) Service communications relating to the working of the radiocommunication service or to communications previously transmitted.

(9) All other communications.

(b) The order of priority of radiotelephone communications is as follows:

(1) Distress calls including the international distress signal for radiotelephony, the international radiotelephone alarm signal, distress messages and distress traffic.

(2) Communications preceded by the international radiotelephone urgency signal, or known to the station operator to consist of one or more urgent messages concerning the safety of a person, aircraft or other mobile unit.

(3) Communications preceded by the international radiotelephone safety signal, or known to the station operator to consist of one or more messages concerning the safety of navigation or important meteorological warnings.

(4) Communications known by the station operator to consist of one or more messages relative to the navigation, movements and needs of ships, including weather observation messages destined for an official meteorological service.

(5) Government communications for which priority right has been claimed.

(6) All other communications.

Sec. 80.92 Prevention of interference.

(a) The station operator must determine that the frequency is not in use by monitoring the frequency before transmitting, except for transmission of signals of distress.

(b) When a radiocommunication causes interference to a communication which is already in progress, the interfering station must cease transmitting at the request of either party to the existing communication. As between nondistress traffic seeking to commence use of a frequency, the priority is established under Sec. 80.91.

(c) Except in cases of distress, communications between ship stations or between ship and aircraft stations must not interfere with public coast stations. The ship or aircraft stations which cause interference must stop transmitting or change frequency upon the first request of the affected coast station.

Sec. 80.93 Hours of service.

(a) All stations. All stations whose hours of service are not continuous must not suspend operation before having concluded all communication required in connection with a distress call or distress traffic.

(b) Public coast stations. (1) Each public coast station whose hours of service are not continuous must not suspend operation before having concluded all communication involving messages or calls originating in or destined to mobile stations within range and mobile stations which have indicated their presence.

(2) Unless otherwise authorized by the Commission upon adequate showing of need, each public coast station authorized to operate on frequencies in the 3000-23,000 kHz band must maintain continuous hours of service.

(c) Compulsory ship stations. Compulsory ship stations whose service is not continuous may not suspend operation before concluding all traffic originating in or destined for public coast stations situated within their range and mobile stations which have indicated their presence.

(d) Other than public coast or compulsory ship stations. The hours of service of stations other than public coast or compulsory ship stations are determined by the station licensee.

Sec. 80.94 Control by coast or Government station.

When communicating with a coast station or any Government station in the maritime mobile service, ship stations must comply with the instruction given by the coast station or Government station relative to the order and time of transmission, the choice of frequency, the suspension of communication and the permissible type of message traffic that may be transmitted. This provision does not apply in the event of distress.

Sec. 80.95 Message charges.

(a) Charges must not be made for service of:

- (1) Any public coast station unless tariffs for the service are on file with the Commission;
- (2) Any station other than a public coast station or an Alaska--public fixed station, except cooperatively shared stations covered by Sec. 80.503;
- (3) Distress calls and related traffic; and
- (4) Navigation hazard warnings preceded by the SAFETY signal.

(b) The licensee of each ship station is responsible for the payment of all charges accruing to any other station(s) or facilities for the handling or forwarding of messages or communications transmitted by that station.

(c) In order to be included in the ITU List of Coast Stations public coast stations must recognize international Accounting Authority Identification Codes (AAIC) for purposes of billing and accounts settlement in accordance with Article 66 of the Radio Regulations. Stations which elect not to recognize international AAIC's will be removed from the ITU List of Coast Stations.

Sec. 80.96 Maintenance tests.

Stations are authorized to engage in test transmissions necessary for maintenance of the station. Test transmissions must conform to appropriate test operating procedures.

Sec. 80.97 Radiotelegraph operating procedures.

This section applies to ships and coast stations authorized to transmit in the band 405-525 kHz.

(a) Except for the transmission of distress or urgency signals, all transmissions must cease within the band 485-515 kHz during each 500 kHz silence period.

(b) Stations transmitting telegraphy must use the service abbreviations ("Q" code) listed in Appendix 14 to the Radio Regulations.

(c) The call consists of:

(1) The call sign of the station called, not more than twice; the word "DE" and the call sign of the calling station, not more than twice; if useful, the frequency on which the called station should reply; and the letter "K".

(2) If the call is transmitted twice at an interval of not less than one minute, it must not be repeated until after an interval of three minutes.

(d) The reply to calls consists of: The call sign of the calling station, not more than twice; the word "DE"; and the call sign of the station called, once only.

Sec. 80.98 Radiotelegraph testing procedures.

(a) Stations authorized to use telegraphy may conduct tests on any assigned frequency. Emissions must not cause harmful interference. When radiation is necessary the radiotelegraph testing procedure described in this paragraph must be followed:

(1) The operator must not interfere with transmissions in progress.

(2) The operator must transmit "IE" (two dots, space, one dot) on the test frequency as a warning that test emissions are about to be made. When the frequency of the test emission is within the frequency band 405-525 kHz, a watch must be maintained on 500 kHz throughout the test period.

(3) If any station transmits "AS" (wait), testing must be suspended. When transmission of "IE" is resumed and no response is heard, the test may proceed.

(4) Test signals composed of a series of "VVV" having a duration of not more than ten seconds, followed by the call sign of the testing station will be transmitted. The call sign must be sent clearly at a speed of approximately 10 words per minute. This test transmission must not be repeated until a period of at least one minute has elapsed. On 500 kHz in a region of heavy traffic, at least five minutes must elapse before the test transmission is repeated.

(b) When testing is conducted on 500 kHz, no tests will be conducted during the 500 kHz silence periods. Care must be exercised not to so prolong and space the dash portion of the "VVV" series as to form the alarm signal.

(c) When testing is conducted on any frequency in the band 8362-8366 kHz, tests must not actuate any automatic alarm receiver.

Sec. 80.99 Radiotelegraph station identification.

This section applies to coast, ship and survival craft stations authorized to transmit in the band 405-525 kHz.

(a) The station transmitting radiotelegraph emissions must be identified by its call sign. The call sign must be transmitted with the telegraphy emission normally used by the station. The call sign must be transmitted at 20 minute intervals when transmission is sustained for more than 20 minutes. When a ship station is exchanging public correspondence communications, the identification may be deferred until completion of each communication with any other station.

(b) The requirements of this section do not apply to survival craft stations when transmitting distress signals automatically or when operating on 121.500 MHz for radiobeacon purposes.

(c) Emergency position indicating radiobeacon stations do not require identification.

Sec. 80.100 Morse code requirement.

The code employed for telegraphy must be the Morse code specified in the Telegraph Regulations annexed to the International Telecommunication Convention. Pertinent extracts from the Telegraph Regulations are contained in the "Manual for Use by the Maritime Mobile and Maritime Mobile-Satellite Services" published by the International Telecommunication Union.

Sec. 80.101 Radiotelephone testing procedures.

This section is applicable to all stations using telephony except where otherwise specified.

(a) Station licensees must not cause harmful interference. When radiation is necessary or unavoidable, the testing procedure described below must be followed:

(1) The operator must not interfere with transmissions in progress.

(2) The testing station's call sign, followed by the word "test", must be announced on the radio-channel being used for the test.

(3) If any station responds "wait", the test must be suspended for a minimum of 30 seconds, then repeat the call sign followed by the word "test" and listen again for a response. To continue the test,

the operator must use counts or phrases which do not conflict with normal operating signals, and must end with the station's call sign. Test signals must not exceed ten seconds, and must not be repeated until at least one minute has elapsed. On the frequency 2182 kHz or 156.800 MHz, the time between tests must be a minimum of five minutes.

(b) Testing of transmitters must be confined to single frequency channels on working frequencies. However, 2182 kHz and 156.800 MHz may be used to contact ship or coast stations as appropriate when signal reports are necessary. Short tests on 2182 kHz by vessels with DSB (A3) equipment for distress and safety purposes are permitted to evaluate the compatibility of that equipment with an A3J emission system. U. S. Coast Guard stations may be contacted on 2182 kHz or 156.800 MHz for test purposes only when tests are being conducted by Commission employees, when FCC-licensed technicians are conducting inspections on behalf of the Commission, when qualified technicians are installing or repairing radiotelephone equipment, or when qualified ship's personnel conduct an operational check requested by the U.S. Coast Guard. In these cases the test must be identified as "FCC" or "technical".

(c) Survival craft transmitter tests must not be made within actuating range of automatic alarm receivers. Survival craft transmitters must not be tested on the frequency 500 kHz during the silence periods.

Sec. 80.102 Radiotelephone station identification.

This section applies to all stations using telephony which are subject to this part.

(a) Except as provided in paragraphs (d) and (e) of this section, stations must give the call sign in English. Identification must be made:

(1) At the beginning and end of each communication with any other station.

(2) At 15 minute intervals when transmission is sustained for more than 15 minutes. When public correspondence is being exchanged with a ship or aircraft station, the identification may be deferred until the completion of the communications.

(b) Private coast stations located at drawbridges and transmitting on the navigation frequency 156.650 MHz may identify by use of the name of the bridge in lieu of the call sign.

(c) Ship stations transmitting on any authorized VHF bridge-to-bridge channel may be identified by the name of the ship in lieu of the call sign.

(d) Ship stations operating in a vessel traffic service system or on a waterway under the control of a U.S. Government agency or a foreign authority, when communicating with such an agency or authority may be identified by the name of the ship in lieu of the call sign, or as directed by the agency or foreign authority.

(e) VHF public coast station may identify by means of the approximate geographic location of the station or the area it serves when it is the only VHF public coast station serving the location or there will be no conflict with the identification of any other station.

Sec. 80.103 Digital selective calling (DSC) operating procedures.

(a) Operating procedures for the use of DSC equipment in the maritime mobile service are as contained in CCIR Recommendation 541 as modified by paragraph (c) of this section.

(b) When using DSC techniques, coast and ship stations must use nine digit maritime mobile service identities.

(c) DSC acknowledgement of DSC distress and safety calls must be made by designated coast stations and such acknowledgement must be in accordance with procedures contained in CCIR Recommendation 541. Nondesignated public and private coast stations must follow the guidance provided for ship stations in CCIR Recommendation 541 with respect to DSC "Acknowledgement of distress calls" and "Distress relays".

Sec. 80.104 Identification of radar transmissions not authorized.

This section applies to all maritime radar transmitters except radar beacon stations.
(a) Radar transmitters must not transmit station identification.

Sec. 80.105 General obligations of coast stations.

Each coast station or marine-utility station must acknowledge and receive all calls directed to it by ship or aircraft stations. Such stations are permitted to transmit safety communication to any ship or aircraft station. VHF (156-162 MHz) public coast stations may provide fixed or hybrid services on a co-primary basis with mobile operations.

Sec. 80.106 Intercommunication in the mobile service.

(a) Each public coast station must exchange radio communications with any ship or aircraft station at sea; and each station on shipboard or aircraft at sea must exchange radio communications with any other station on shipboard or aircraft at sea or with any public coast station.

(b) Each public coast station must acknowledge and receive all communications from mobile stations directed to it, transmit all communications delivered to it which are directed to mobile stations within range in accordance with their tariffs. Discrimination in service is prohibited.

Sec. 80.107 Service of private coast stations and marine-utility stations.

A private coast station or a marine-utility station is authorized to transmit messages necessary for the private business and operational needs of ships and the safety of aircraft.

Sec. 80.108 Transmission of traffic lists by coast stations.

(a) Each coast station is authorized to transmit lists of call signs in alphabetical order of all mobile stations for which they have traffic on hand. These traffic lists will be transmitted on the station's normal working frequencies at intervals of:

(1) In the case of telegraphy, at least two hours and not more than four hours during the working hours of the coast station.

(2) In the case of radiotelephony, at least one hour and not more than four hours during the working hours of the coast station.

(b) The announcement must be as brief as possible and must not be repeated more than twice. Coast stations may announce on a calling frequency that they are about to transmit call lists on a specific working frequency.

Sec. 80.109 Transmission to a plurality of mobile stations by a public coast station.

Group calls to vessels under the common control of a single entity and information for the general benefit of mariners including storm warnings, ordinary weather, hydrographic information and press materials may be transmitted by a public coast station simultaneously to a plurality of mobile stations.

Sec. 80.110 Inspection and maintenance of antenna structure markings and associated control equipment.

The owner of each antenna structure required to be painted and/or illuminated under the provisions

of Section 303(q) of the Communications Act of 1934, as amended, shall operate and maintain the antenna structure painting and lighting in accordance with part 17 of this chapter. In the event of default by the owner, each licensee or permittee shall be individually responsible for conforming to the requirements pertaining to antenna structure painting and lighting.

Sec. 80.111 Radiotelephone operating procedures for coast stations.

This section applies to all coast stations using telephony which are subject to this part.

(a) Limitations on calling. (1) Except when transmitting a general call to all stations for announcing or preceding the transmission of distress, urgency, or safety messages, a coast station must call the particular station(s) with which it intends to communicate.

(2) Coast stations must call ship stations by voice unless it is known that the particular ship station may be contacted by other means such as automatic actuation of a selective ringing or calling device.

(3) Coast stations may be authorized emission for selective calling on each working frequency.

(4) Calling a particular station must not continue for more than one minute in each instance. If the called station does not reply, that station must not again be called for two minutes. When a called station does not reply to a call sent three times at intervals of two minutes, the calling must cease for fifteen minutes. However, if harmful interference will not be caused to other communications in progress, the call may be repeated after three minutes.

(5) A coast station must not attempt to communicate with a ship station that has specifically called another coast station until it becomes evident that the called station does not answer, or that communication between the ship station and the called station cannot be carried on because of unsatisfactory operating conditions.

(6) Calls to establish communication must be initiated on an available common working frequency when such a frequency exists and it is known that the called ship maintains a simultaneous watch on the common working frequency and the appropriate calling frequency(ies).

(b) Time limitation on calling frequency. Transmissions by coast stations on 2182 kHz or 156.800 MHz must be minimized and any one exchange of communications must not exceed one minute in duration.

(c) Change to working frequency. After establishing communications with another station by call and reply on 2182 kHz or 156.800 MHz coast stations must change to an authorized working channel for the transmission of messages.

(d) Use of busy signal. A coast station, when communicating with a ship station which transmits to the coast station on a radio channel which is a different channel from that used by the coast station for transmission, may transmit a "busy" signal whenever transmission from the ship station is being received. The characteristics of the "busy" signal are contained in Sec. 80.74.

Sec. 80.121 Public coast stations using telegraphy.

(a) Narrow-band direct-printing (NB-DP) operating procedures. (1) When both terminals of the NB-DP circuit are satisfied that the circuit is in operable condition, the message preamble must be transmitted in the following format:

- (i) One carriage return and one line feed,
- (ii) Serial number or number of the message,
- (iii) The name of the office of origin,
- (iv) The number of words,
- (v) The date of handing in of the message,
- (vi) The time of handing in of the message, and
- (vii) Any service instructions. (See The ITU "Manual for Use by the Maritime Mobile and Maritime Mobile-Satellite Services".)

(2) Upon completion of transmission of the preamble, the address, text and signature must be transmitted as received from the sender.

(3) Upon completion of transmission of the signature the coast station must, following the signal "COL", routinely repeat all service indications in the address and for figures or mixed groups of letters, figures or signs in the address, text or signature.

(4) In telegrams of more than 50 words, routine repetition must be given at the end of each page.

(5) Paragraphs (a) (1) through (4) of this section need not be followed when a direct connection is employed.

(6) In calling ship stations by narrow-band direct-printing, the coast station must use the ship station selective calling number (5 digits) and its assigned coast station identification number (4 digits). Calls to ship stations must employ the following format: Ship station selective call number, repeated twice; "DE", sent once; and coast station identification number, repeated twice. When the ship station does not reply to a call sent three times at intervals of two minutes, the calling must cease and must not be renewed until after an interval of fifteen minutes.

(7) A public coast station authorized to use NB-DP frequencies between 4000 kHz and 27500 kHz may use class A1A emission on the "mark" frequency for station identification and for establishing communications with ship stations. The radio station license must reflect authority for this type of operation, and harmful interference must not be caused.

(b) Watch on ship calling frequencies. (1) Public coast stations using telegraphy must maintain a continuous watch during their working hours for calls from ship stations on frequencies in the same band(s) in which the coast station is licensed to operate. See Subpart H of this part. (2) Such station must employ receivers which are capable of being accurately set to any designated calling frequency in each band for which the receiver is intended to operate. The time required to set the receiver to a frequency must not exceed five seconds. The receiver must have a long term frequency stability of not more than 50 Hz and a minimum sensitivity of two microvolts across receiver input terminals of 50 ohms, or equivalent. The audio harmonic distortion must not exceed five percent at any rated output power.

(c) Radiotelegraph frequencies. Radiotelegraph frequencies available for assignment to public coast stations are contained in Subpart H of this part.

Sec. 80.122 Public coast stations using facsimile and data.

Facsimile operations are a form of telegraphy for the transmission and receipt of fixed images between authorized coast and ship stations. Facsimile and data techniques may be implemented in accordance with the following paragraphs.

(a) Supplemental Eligibility Requirements. Public coast stations are eligible to use facsimile and data techniques with ship stations.

(b) Assignment and use of frequencies. (1) Frequencies in the 2000-27500 kHz bands in part 2 of the Commission's rules as available for shared use by the maritime mobile service and other radio services are assignable to public coast stations for providing facsimile communications with ship stations. Additionally, frequencies in the 156-162 MHz band available for assignment to public coast stations for radiotelephone communications that are contained in subpart H of this part are also available for facsimile and data communications.

(2) Equipment used for facsimile and data operations is subject to the applicable provisions of subpart E of this part.

(3) The use of voice on frequencies authorized for facsimile operations in the bands 2000-27500 kHz listed in subpart H of this part is limited to setup and confirmation of receipt of facsimile transmissions.

Sec. 80.123 Service to stations on land.

Marine VHF public coast stations, including AMTS coast stations, may provide public correspondence service to stations on land in accordance with the following:

(a) The public coast station licensee must provide each associated land station with a letter, which shall be presented to authorized FCC representatives upon request, acknowledging that the land station may operate under the authority of the associated public coast station's license:

(b) Each public coast station serving stations on land must afford priority to marine-originating communications through any appropriate electrical or mechanical means.

(c) Land station identification shall consist of the associated public coast station's call sign, followed by a unique numeric or alphabetic unit identifier;

(d) Radio equipment used on land must be type accepted for use under part 22, part 80, or part 90 of this chapter. Such equipment must operate only on the public correspondence channels authorized for use by the associated public coast station;

(e) Transmitter power shall be in accordance with the limits set in Sec. 80.215 for ship stations and antenna height shall be limited to 6.1 meters (20 feet) above ground level;

(f) Land stations may only communicate with public coast stations and must remain within radio range of associated public coast stations; and,

(g) The land station must cease operation immediately upon written notice by the Commission to the associated public coast station that the land station is causing harmful interference to marine communications.

SUBPART D--OPERATOR REQUIREMENTS

Sec. 80.151 Classification of operator licenses and endorsements.

(a) Commercial radio operator licenses issued by the Commission are classified in accordance with the Radio Regulations of the International Telecommunication Union.

(b) The following licenses are issued by the Commission. International classification, if different from the license name, is given in parentheses. The licenses and their alphanumeric designator are listed in descending order.

(1) T-1. First Class Radiotelegraph Operator's Certificate.

(2) T-2. Second Class Radiotelegraph Operator's Certificate.

(3) G. General Radiotelephone Operator License (radiotelephone operator's general certificate).

(4) T-3. Third Class Radiotelegraph Operator's Certificate (radiotelegraph operator's special certificate).

(5) MP. Marine Radio Operator Permit (radiotelephone operator's restricted certificate).

(6) RP. Restricted Radiotelephone Operator Permit (radiotelephone operator's restricted certificate).

(c) The following license endorsements are affixed by the Commission to provide special authorizations or restrictions. Applicable licenses are given in parentheses.

(1) Ship Radar endorsement (First and Second Class Radiotelegraph Operator's Certificate, General Radiotelephone Operator License).

(2) Six Months Service endorsement (First and Second Class Radiotelegraph Operator's Certificate).

(3) Restrictive endorsements; relating to physical handicaps, English language or literacy waivers, or other matters (all licenses).

Sec. 80.153 Coast station operator requirements.

(a) Except as provided in Sec. 80.179, operation of a coast station transmitter must be performed by a person holding a commercial radio operator license of the required class, who is on duty at the control point of the station. The operator is responsible for the proper operation of the station.

(b) The minimum class of radio operator license required for operation of each specific

classification of station is set forth below:

Minimum Operator License

Public coast telegraph, all classes--T-2.

--Manual Morse under supervision of T1 or T2--T-3.

--NB-DP under supervision of T1 or T2--T-3, G or MP.

Coast telephone, all classes--None.

--Exceeding 250 watts carrier power or 1,500 watts peak envelope power--T-2 or G.

Except in Alaska regional and local area stations--T-3, G or MP.

--250 watts or less carrier power or 1,500 watts or less peak envelope power operating on frequencies below 30 MHz--T-3, G or MP.

Except in Alaska--None.

--250 watts or less carrier power operating on frequencies above 30 MHz-- None.

(c) Special Operating Conditions: (1) When a coast telephone station of any class is used to transmit manual telegraphy the telegraph key operator must hold a third-class or higher radiotelegraph operator's license.

(2) An operational fixed station associated with a coast station may be operated by the operator of the associated coast station.

Sec. 80.167 Limitations on operators.

The operator of maritime radio equipment other than T-1, T-2, or G licensees, must not:

(a) Make equipment adjustments which may affect transmitter operation;

(b) Operate any transmitter which requires more than the use of simple external switches or manual frequency selection or transmitters whose frequency stability is not maintained by the transmitter itself.

Sec. 80.169 Operators required to adjust transmitters or radar.

(a) All adjustments of radio transmitters in any radiotelephone station or coincident with the installation, servicing, or maintenance of such equipment which may affect the proper operation of the station, must be performed by or under the immediate supervision and responsibility of a person holding a first or second class radiotelegraph operator's certificate or a general radiotelephone operator license.

(b) Only persons holding a first or second class radiotelegraph operator certificate must perform such functions at radiotelegraph stations transmitting Morse code.

(c) Only persons holding an operator certificate containing a ship radar endorsement must perform such functions on radar equipment.

Sec. 80.175 Availability of operator licenses.

All operator licenses required by this subpart must be readily available for inspection.

Sec. 80.177 When operator license is not required.

(a) No radio operator authorization is required to operate:

(1) A shore radar, a shore radiolocation, maritime support or shore radionavigation station;

(2) A survival craft station or an emergency position indicating radio beacon;

(3) A ship radar station if: