

## § 73.7005

will be granted. If the Commission determines that the points originally claimed were higher than permitted, but that there is no substantial and material question of fact of applicant qualifications, it will compare the revised point tally of the tentative selectee to the other mutually exclusive applicants and, either grant the original application or announce a new tentative selectee, as appropriate. If an applicant is found unqualified, the application shall be denied, and the applicant(s) with the next highest point tally named as the new tentative selectee.

### § 73.7005 Holding period.

(a) *Assignments/Transfers.* NCE stations awarded by use of the point system in § 73.7003 shall be subject to a holding period. From the grant of the construction permit and continuing until the facility has achieved four years of on-air operations, an applicant proposing to assign or transfer the construction permit/license to another party will be required to demonstrate the following two factors: that the proposed buyer would qualify for the same number of or greater points as the assignor or transferor originally received; and that consideration received and/or promised does not exceed the assignor's or transferor's legitimate and prudent expenses. For purposes of this section, legitimate and prudent expenses are those expenses reasonably incurred by the assignor or transferor in obtaining and constructing the station (e.g. expenses in preparing an application, in obtaining and installing broadcast equipment to be assigned or transferred, etc.). Costs incurred in operating the station are not recoverable (e.g., rent, salaries, utilities, music licensing fees, etc.). Any successive applicants proposing to assign or transfer the construction permit/license prior to the end of the aforementioned holding period will be required to make the same demonstrations.

(b) *Technical.* In accordance with the provisions of § 73.7002, an NCE applicant receiving a decisive preference for fair distribution of service is required to construct and operate technical facilities substantially as proposed, and can not downgrade service to the area on

## 47 CFR Ch. I (10–1–12 Edition)

which the preference is based for a period of four years of on-air operations.

(c) The holding period in this section does not apply to construction permits that are awarded on a non-comparative basis, such as those awarded to non-mutually exclusive applicants or through settlement.

### Subpart L—Incorporated Standards

SOURCE: 76 FR 62642, Oct. 11, 2011, unless otherwise noted.

### § 73.8000 Incorporation by reference.

(a) The materials listed in this section are incorporated by reference in this part. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the FEDERAL REGISTER. The materials are available for inspection at the Federal Communications Commission (FCC), 445 12th St., SW., Reference Information Center, Room CY-A257, Washington, DC 20554 and at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(b) The following materials are available from Advanced Television Systems Committee (ATSC), 1750 K Street, NW., Suite 1200, Washington, DC 20006, or at the ATSC Web site: <http://www.atsc.org/standards.html>.

(1) ATSC A/52: "ATSC Standard Digital Audio Compression (AC-3)," 1995, IBR approved for § 73.682.

(2) ATSC A/53 Parts 1-4 and 6: 2007 "ATSC Digital Television Standard," (January 3, 2007) and ATSC A/53 Part 5: 2010 "ATSC Digital Television Standard: Part 5—AC-3 Audio System Characteristic," (July 6, 2010), as listed below:

(i) A/53, Part 1:2007, "Digital Television System" (January 3, 2007), IBR approved for § 73.682.

(ii) A/53, Part 2:2007, “RF/Transmission System Characteristics” (January 3, 2007), IBR approved for §73.682.

(iii) A/53, Part 3:2007, “Service Multiplex and Transport Subsystem Characteristics” (January 3, 2007), IBR approved for §73.682.

(iv) A/53, Part 4:2007, “MPEG–2 Video System Characteristics” (January 3, 2007), IBR approved for §73.682, except for §6.1.2 of A/53 Part 4: 2007, and the phrase “see Table 6.2” in section 6.1.1 Table 6.1 and section 6.1.3 Table 6.3.

(v) A/53, Part 5: 2010, “AC–3 Audio System Characteristics” (July 6, 2010), IBR approved for §73.682.

(vi) A/53, Part 6:2007, “Enhanced AC–3 Audio System Characteristics” (January 3, 2007), IBR approved for §73.682.

(3) [Reserved]

(4) ATSC A/65C: “ATSC Program and System Information Protocol for Terrestrial Broadcast and Cable, Revision C With Amendment No. 1 dated May 9, 2006,” (January 2, 2006), IBR approved for §§73.682.

(c) [Reserved]

(d) The following materials are available at the FCC, 445 12th St., SW., Reference Information Center, Room CY–A257, Washington, DC 20554, or at the FCC’s Office of Engineering and Technology (OET) Web site: <http://www.fcc.gov/oet/info/documents/bulletins/>.

(1) OET Bulletin No. 69: “Longley-Rice Methodology for Evaluating TV Coverage and Interference” (February 6, 2004), IBR approved for §73.616.

(2) [Reserved]

[76 FR 62642, Oct. 11, 2011, as amended at 76 FR 55604, Sept. 8, 2011]

EFFECTIVE DATE NOTE: At 77 FR 40299, July 9, 2012, §73.8000 was amended by revising paragraph (b) introductory text and adding paragraph (b)(5), effective Dec. 13, 2012. For the convenience of the user, the added and revised text is set forth as follows:

**§ 73.8000 Incorporation by reference.**

\* \* \* \* \*

(b) The following materials are available from Advanced Television Systems Committee (ATSC), 1776 K Street NW., 8th Floor, Washington, DC 20006; or at the ATSC Web site: <http://www.atsc.org/standards.html>.

\* \* \* \* \*

(5) ATSC A/85:2011 “ATSC Recommended Practice: Techniques for Establishing and Maintaining Audio Loudness for Digital Television,” (July 25, 2011) (“ATSC A/85 RP”), IBR approved for §73.682.

\* \* \* \* \*

**ALPHABETICAL INDEX—PART 73**

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE**

[Policies of FCC are indicated (\*)]

A	
Acceptability of broadcast transmitters	73.1660
Access, Prime time (TV)	73.658
Action on applications	73.3591–73.3605
Adjacent channel and co-channel stations, Minimum mileage, separation between—	
FM	73.207
NCE-FM	73.507
Administrative changes in authorizations—	
FM	73.212
TV	73.615
Advertising—	
Refusal to sell	73.4005 (*)
Sponsorship identification	73.1212
<i>See also “Commercial” listings.</i>	
Affiliation agreements and network program practices; territorial exclusivity in non-network program arrangements (TV).	73.658
Affiliation agreements, Networks/stations	
AM	73.132, 73.3613, 73.4154 (*)
FM	73.232, 73.3613, 73.4154 (*)
TV	73.658, 73.3613
Agreement, United States-Mexico FM broadcast, Channel assignments under (NCE-FM).	73.504
Agreements, International broadcasting.	73.1650
Alarm and monitoring points, Automatic transmission system—	
AM	73.146
FM	73.346
NCE-FM	73.546
Allocation, Engineering standards of (AM).	73.182
Allocation, Field strength measurements in; establishment of effective field at one mile (AM).	73.186
Allotments, Table of (FM)	73.202
AM antenna systems	73.45
AM broadcast channels, Classes of	73.21, 73.23, 73.25, 73.26, 73.27, 73.29
AM definitions	73.14
AM directional antenna field measurements.	73.61
AM: Scope of subpart	73.1
AM stereophonic broadcasting	73.128
AM transmission system emission limitations.	73.44
AM transmission system fencing requirements.	73.49
Amendments—	

**Pt. 73, Index**

**47 CFR Ch. I (10–1–12 Edition)**

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued**

[Policies of FCC are indicated (\*)]

Major/minor: Renewal, assignment, transfer.	73.3578
Matter of right .....	73.3522
Procedures .....	73.3513
Ammeters, antenna and common point, Remote reading (AM).	73.57
Announcements required—	
Designation of application for hearing.	73.3594
Donor .....	73.503, 73.621, 73.1212
Filing of broadcast applications.	73.3580
Sponsorship .....	73.1212
Station I.D .....	73.1201
Antenna base fences, (AM) .....	73.49
Antenna, directional, Field measurements (AM).	73.61
Antenna, directional, Field strength measurements to establish performance of (AM).	73.151
Antenna height and Power requirements—	
FM .....	73.211
NCE-FM .....	73.511
TV .....	73.614
Antenna heights, Minimum, or field strength requirements (AM).	73.189
Antenna monitors (AM) .....	73.69
Antenna monitors, Requirements for authorization of (AM).	73.53
Antenna monitors, Sampling system for (AM).	73.68
Antenna resistance and reactance; measurements (AM).	73.54
Antenna site, Use of common—	
FM .....	73.239
TV .....	73.635
Antenna testing during daytime (AM) ..	73.157
Antenna structure, marking and lighting.	73.1213
Antenna system tolerances, Directional (AM).	73.62
Antenna system; Transmitter location (TV).	73.685
Antenna systems—	
AM .....	73.45
FM .....	73.316
NCE-FM .....	73.510
TV .....	73.685
Antenna systems, Directional (AM) .....	73.150
Antennas, Auxiliary .....	73.1675
Antennas, Emergency .....	73.1680
Application and report forms .....	73.3500
Applications—	
Acceptance .....	73.3564
Agreements for Conflict removal.	73.3525
AM station processing .....	73.3571
Amendment of .....	73.3522
AM and FM construction permits, incomplete or defective.	73.4015 (*)
Amendments, renewal and assignment or transfer of control.	73.3578
Assign or transfer unbuilt facility.	73.3535
Assignment, Involuntary .....	73.3540
Assignment, Voluntary .....	73.3540
Call signs .....	73.3550

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued**

[Policies of FCC are indicated (\*)]

Conflicting .....	73.3518
Conflicts: other North American countries.	73.3570
Commission action required ..	73.3561
Commission action not required.	73.3562
Construction period .....	73.3598
Construction permit extension	73.3534
Construction permit forfeiture	73.3599
Contingent applications .....	73.3517
Content .....	73.3514
Copies, number of; when to file.	73.3512
Defective .....	73.3566
Designation for hearing .....	73.3593
Designation for hearing, public notice.	73.3594
Dismissal .....	73.3568
Emergency authorization .....	73.3542
Existing station changes .....	73.3538
Facilities specifications .....	73.3516
Filing location; number of copies.	73.3512
FM, FM translator processing	73.3573
FM stations, Commercial .....	73.4017 (*)
Forfeiture, construction permit	73.3599
Formal; informal .....	73.3511
Grant, Conditional .....	73.3592
Grants without hearing .....	73.3591
Hearing designation .....	73.3593
Hearing status retention .....	73.3605
Inconsistent .....	73.3518
Informal; Formal .....	73.3511
International station processing.	73.3574
License .....	73.3536
Modification and simultaneous renewal of license.	73.3601
Modify authorized-unbuilt facility.	73.3535
Modified station license .....	73.3544
Multiple .....	73.3520
Mutually exclusive applications for LPTV and TV translator and booster stations.	73.3521
Objections, informal, Filing of	73.3587
Operation during repair of defective, required equipment.	73.3549
Petitions to deny .....	73.3584
Program delivery to foreign stations.	73.3545
Public notice, Designation for hearing.	73.3594
Public notice of filing .....	73.3580
Renewal .....	73.3539
Renewal and simultaneous modification of license.	73.3601
Repetitious .....	73.3519
Replacement of construction permit.	73.3534
Rounding of nominal power on (AM).	73.31
Signing of .....	73.3513
Special service authorizations	73.3543
Specification of facilities .....	73.3516
Temporary authorization .....	73.3542
Transfer and assignment procedures.	73.3597
Transfer of control, Involuntary.	73.3541

**Federal Communications Commission**

**Pt. 73, Index**

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued**

[Policies of FCC are indicated (\*)]

Transfer of control, Voluntary	73.3540
Transfer or assign unbuilt facility.	73.3535
TV, LPTV, translator and TV booster processing.	73.3572
Unbuilt facilities: modify, assign or transfer.	73.3535
Use of former main antenna as auxiliary.	73.3534
Waiver procedure	73.3603
Applications for broadcast facilities, showing required (AM).	73.37
Assignment, FM Increasing availability of.	73.4107 (*)
Assignment of stations to channels (AM).	73.28
Assignment policies and procedures, FM.	73.4104 (*)
Assignments, Table of—	
FM	73.202
NCE-FM	73.501
TV	73.606
Assignments, Channel, under the United States-Mexico—FM Broadcast Agreement (NCE-FM).	73.504
ATS-Automatic transmission system	73.1500
Attacks, Personal	73.1920
Aural and visual TV transmitters, Operation of.	73.653
Aural baseband subcarriers, TV	73.665
Authorization of antenna monitors, Requirements for.	73.53
Authorization, Administrative changes in—	
FM	73.212
TV	73.615
Authorizations, Experimental	73.1510
Authorizations, Remote Control	73.1400
Authorizations, Special Field test	73.1515
Authorizations, Special temporary (STA).	73.1635
Automatic transmission system (ATS)	73.1500
Auxiliary antennas	73.1675
Auxiliary transmitters	73.1670
Availability of channels—	
FM	73.203
TV	73.607
Availability to FCC of station logs and records.	73.1226
<b>B</b>	
Barter agreements	73.4045 (*)
Baseband subcarriers, Aural, TV	73.665
Blanketing interference—	
AM	73.88
FM	73.318
Broadcast channels and stations, Classes of (AM).	73.21, 73.22, 73.25, 73.26, 73.27, 73.29
Broadcast day (definition)	73.1700
Broadcast facilities authorizations; showing required (AM).	73.24
Broadcast facilities, showing required for applications (AM).	73.37
Broadcast of FAA communications	73.4102 (*)
Broadcast of lottery information	73.1211
Broadcast of taped, filmed or recorded material.	73.1208
Broadcast of telephone conversation	73.1206
Broadcast transmitters, Acceptability of	73.1660
Broadcasting agreements, International.	73.1650

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued**

[Policies of FCC are indicated (\*)]

Broadcasting emergency information	73.1250
Broadcasting, Stereophonic—	
FM	73.297
NCE-FM	73.596
Broadcasts by candidates for public office.	73.1940
<b>C</b>	
Call letters—requests and assignments.	73.3550
Candidates for public office, Broadcast by.	73.1940
Carrier frequency departure tolerances	73.1545
Carrier frequency measurements	73.1540
Certification of financial qualifications	73.4099 (*)
Changes in authorizations, Administrative—	
FM	73.212
TV	73.615
Channel assignments under the United States-Mexico Broadcast Agreement (NCE-FM).	73.504
Channels and stations, Classes of AM Broadcast.	73.21, 73.22, 73.25, 73.26, 73.27, 73.29
Channel 6 Protection (NCE-FM)	73.525
Channels, Assignment of stations to (AM).	73.28
Channels available for assignment (NCE-FM).	73.501
Channels, Availability of—	
FM	73.203
TV	73.607
Channels, Classes of Educational, and stations operating thereon.	73.506
Channels, FM broadcast, Numerical designation of.	73.201
Channels, Restriction on use of (FM)	73.220
Channels, TV, Numerical designation of.	73.603
Channels, unreserved, Noncommercial educational broadcast stations, operating on (NCE-FM).	73.513
Character evaluation of broadcast applicants.	73.4280 (*)
Charts, Engineering—	
AM	73.190
FM	73.333
TV	73.699
Charts, Groundwave field strength (AM).	73.184
Chief operators	73.1870
Children's TV programs	73.4050 (*)
Cigarette advertising	73.4055 (*)
Citizen agreements	73.4060 (*)
Classes of AM broadcast channels and stations.	73.21, 73.22, 73.25, 73.26, 73.27, 73.29
Classes of noncommercial educational FM Stations and channels.	73.506
Classes of stations; power and antenna height requirements.	73.211
Classified ads	73.1212
Co-channel and adjacent channel stations, Minimum separation—	
FM	73.207
NCE-FM	73.507
Combination advertising rates; joint sales practices.	73.4065 (*)
Commercials Loud	73.4075 (*)

**Pt. 73, Index**

**47 CFR Ch. I (10–1–12 Edition)**

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued**

[Policies of FCC are indicated (\*)]  
*See Also "Advertising" listings.*

Common antenna site, use of—  
 FM ..... 73.239  
 TV ..... 73.635

Common point, and antenna ammitters, Remote reading (AM). 73.57

Communications services, Subsidiary—  
 FM ..... 73.295  
 NCE-FM ..... 73.593  
 TV ..... 73.667

Comparative broadcast hearings—specialized formats(\*). 73.4082

Computation of interfering signal (AM) 73.185

Computations, Reference points and distance—  
 FM ..... 73.208  
 TV ..... 73.611

Construction Near or Installation On an AM Tower. 73.1692

Construction period ..... 73.3598

Construction permit, forfeited ..... 73.3599

Contests, License-Conducted ..... 73.1216

Contours, Field strength—  
 FM ..... 73.311  
 TV ..... 73.683

Contracts, Filing of ..... 73.3613

Coverage, Prediction of—  
 FM ..... 73.313  
 TV ..... 73.684

Cross reference to rules in other Parts 73.1010

**D**

Day, Broadcast (definition) ..... 73.1700

Daylight Savings time ..... 73.1209

Daytime (definition) ..... 73.1720

Daytime radiation, Limitation on (AM) 73.187

Definitions, Subscription TV ..... 73.641

Definitions, Technical—  
 AM ..... 73.14  
 FM ..... 73.310  
 TV ..... 73.681

Deny, Petitions to ..... 73.3584

Determining operating power—  
 AM ..... 73.51  
 FM ..... 73.267  
 NCE-FM ..... 73.567  
 TV ..... 73.663

Direct broadcast satellites ..... 73.4091 (\*)

Directional antenna field measurements (AM). 73.61

Directional antenna system tolerances (AM). 73.62

Directional antennas, Field strength measurements to establish performance of (AM). 73.151

Directional antenna data, Modification of (AM). 73.152

Directional antenna monitoring points (AM). 73.158

Directional antenna systems (AM) ..... 73.150

Discontinuance of operation ..... 73.1750

Distance and Reference points, computations of—  
 FM ..... 73.208  
 TV ..... 73.611

Distance separations, Minimum, between stations—  
 FM ..... 73.207  
 NCE-FM ..... 73.507

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued**

[Policies of FCC are indicated (\*)]

TV ..... 73.610

Distress sales and tax certificates, Minority ownership. 73.4140\*

Doctrine, Fairness ..... 73.1910

Dolbey encoder ..... 73.4094 (\*)

Donor announcements (NCE-FM) ..... 73.503

Double billing ..... 73.1205

Drug lyrics ..... 73.4095 (\*)

Dual-language broadcasting in Puerto Rico, TV/FM. 73.1210

**E**

EAS (Emergency Alert System) ..... 11.1–11.62

EAS signal test-automated systems .... 73.4097(\*)

Editorials, Political ..... 73.1930

Educational, Noncommercial FM stations on unreserved channels (NCE-FM). 73.513

Educational stations, Noncommercial (TV). 73.621

Effective field at one kilometer, Establishment of (AM). 73.186

Emergency antennas ..... 73.1680

Emergency Broadcast System (EBS) .. 73.901–73.962

Emergency Alert System (EAS) ..... 11.1–11.62

Emission limitations, AM transmission system. 73.44

Employment opportunities, Equal ..... 73.2080

Employment report ..... 73.3612

Engineering charts—  
 AM ..... 73.190  
 FM ..... 73.333  
 TV ..... 73.699

Engineering standards of allocation (AM). 73.182

Engineering, Standards of good practice NCR-FM. 73.508

Equal employment opportunities ..... 73.2080

Equipment performance measurements. 73.1590

Equipment tests ..... 73.1610

Establishment of effective field at one kilometer (AM). 73.186

Evaluation of broadcast applicant character. 73.4280 (\*)

Exclusivity, Territorial (Network)—  
 AM ..... 73.132  
 FM ..... 73.232  
 TV ..... 73.658

Experimental authorizations ..... 73.1510

Experimental period, Operating during the (AM). 73.72

Extension meters ..... 73.1550

**F**

FAA communications, Broadcast of .... 73.4102 (\*)

Facilities, Automatic transmission system—  
 AM ..... 73.142  
 FM ..... 73.342  
 NCE-FM ..... 73.542

Facilities authorizations; Broadcast, showing required (AM). 73.24

Fairness Doctrine ..... 73.1910

FCC Policies ..... 73.4000 (\*)

FCC, Station inspections by ..... 73.1225

Fencing requirements, AM transmission system. 73.49

Fencing requirements, AM stations .... 73.49

Field measurements, AM directional antenna. 73.61

**Federal Communications Commission**

**Pt. 73, Index**

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued**

[Policies of FCC are indicated (\*)]

Field strength charts, Groundwave (AM). 73.184

Field strength contours—  
 FM ..... 73.311  
 TV ..... 73.683

Field strength measurements: establishment of effective field. 73.186

Field strength measurements—  
 FM ..... 73.314  
 TV ..... 73.686

Field strength measurements in support of applications or evidence at hearing (AM). 73.153

Field strength measurements to establish performance of directional antennas (AM). 73.151

Field strength requirements or, Minimum antenna heights (AM). 73.189

Field test authorizations, Special ..... 73.1515

File, Political ..... 73.1940

File, Public ..... 73.3526–73.3527

Filing of applications ..... 73.3511–73.3550

Filing of contracts ..... 73.3613

Filmed, taped, or recorded material; Broadcast of. 73.1208

Financial qualifications—  
 AM and FM ..... 73.4100 (\*)  
 TV ..... 73.4101 (\*)  
 Financial qualifications, Certification of. 73.4099(\*)  
 FM assignments, increasing availability. 73.4107(\*)

Foreign broadcast stations—Permits to furnish programs. 73.3545

Forfeitures ..... 1.80

Format changes of stations ..... 73.4110 (\*)

Forms, Application and report ..... 73.3500

FM and AM programming, Duplication of. 73.242

FM assignment policies and procedures. 73.4104 (\*)

FM broadcast channels, Numerical designation of. 73.201

FM multiplex subcarriers, Use of ..... 73.293

FM multiplex subcarriers transmission technical standards. 73.319

FM subsidiary communications services.  
 Communication services ..... 73.295  
 FM transmitter site map submissions .. 73.4108

FM/TV dual-language broadcasting in Puerto Rico. 73.1210

Frequency measurement, Carrier ..... 73.1540

Frequency departure tolerances, Carrier. 73.1545

**G**

General operating requirements (Subscription TV). 73.643

General requirements for type approval of modulation monitors (TV). 73.692

General requirements relating to logs 73.1800

Grants—  
 Conditional ..... 73.3592  
 Without hearing ..... 73.3591

Groundwave field strength charts (AM) 73.184

Groundwave signals (AM) ..... 73.183

**H**

Hard Look Deficiencies and Amendments (as modified) (FM). 73.3522(a)(6)

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued**

[Policies of FCC are indicated (\*)]

Hearings, Designation of applications for. 73.3593

Hours, Specified ..... 73.1730

**I**

Identification, Sponsorship; list retention, related requirements. 73.1212

Identification, Station ..... 73.1201

Indicating instruments (requirements for)—  
 AM ..... 73.58  
 FM ..... 73.258  
 NCE-FM ..... 73.558  
 TV ..... 73.688

Indicating instruments—specifications (meters). 73.1215

Information available on the Internet ... 73.3617

Information, Broadcasting emergency 73.1250

Input power, Antenna; how determined (AM). 73.51

Inspection of program logs, Public ..... 73.1850

Inspections, Station, by FCC ..... 73.1225

Inspections, Transmission system ..... 73.1580

Installation On or Construction Near an AM Tower. 73.1692

Instruments, Indicating (requirements for)—  
 AM ..... 73.58  
 FM ..... 73.258  
 NCE-FM ..... 73.558  
 TV ..... 73.688

Instruments, indicating—specifications (meters). 73.1215

Interference, Blanketing—  
 AM ..... 73.88  
 FM ..... 73.318

Interference, Protection from—  
 FM ..... 73.209  
 NCE-FM ..... 73.509  
 TV ..... 73.612

Interference to Astronomy, Research and Receiving installations, Notifications concerning. 73.1030

Interfering signal, Computation of (AM) 73.185

International Broadcast stations ..... 73.701–73.793

Definitions ..... 73.701

Assignment and use of frequencies. 73.702

Geographical zones and areas of reception. 73.703

Notification of filing of applications. 73.1030

Equipment tests ..... 73.712

Program tests ..... 73.713

Licensing requirements ..... 73.731

Authorizations ..... 73.732

Normal license period ..... 73.733

Operating power ..... 73.751

Antenna systems ..... 73.753

Frequency monitors ..... 73.754

Modulation monitors ..... 73.755

Transmission system requirements. 73.756

Auxiliary transmitters ..... 73.757

Alternate main transmitters .... 73.758

Modification of transmission systems. 73.759

Time of operation ..... 73.761

Station inspection ..... 73.1225

Station license and seasonal schedules, posting of. 73.1230

**Pt. 73, Index**

**47 CFR Ch. I (10–1–12 Edition)**

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued**

[Policies of FCC are indicated (\*)]

International broadcast station operator requirements.	73.764
Determining operating power	73.765
Modulation and bandwidth .....	73.766
Frequency tolerance .....	73.1545
Antenna structure marking and lighting.	73.1213
Discontinuance of operation ..	73.1750
Logs .....	73.781
Retention of logs .....	73.782
Logs, by whom kept .....	73.1800
Log form .....	73.1800
Log corrections .....	73.1800
Station identification .....	73.787
Service; Commercial or sponsored programs.	73.788
Sponsorship identification .....	73.1212
Rebroadcasts .....	73.1207
Equal employment opportunities.	73.2080
International broadcasting agreements	73.1650
<b>L</b>	
Letters received from the public, Retention of.	73.1202
License period, Station .....	73.1020
Licensee-conducted contests .....	73.1216
Licenses, station and operator, Posting of.	73.1250
Licensing, Acceptability of broadcast transmitters for (TV).	73.640
Licensing by lottery or random selection.	1.1601–1.1623, 73.3572, 73.3584, 73.3597
Licensing policies (Subscription TV) ....	73.642
Licensing requirements and service (NCE-FM).	73.503
Lighting and marking, Antenna structure.	73.1213
Limitation on daytime radiation (AM) ...	73.187
Limited time .....	73.1725
Lists retention; Sponsorship identification; related requirements.	73.1212
Location, Main studio .....	73.1125
Location of transmitter—	
FM .....	73.315
TV .....	73.685
Location, Station .....	73.1120
Location, Transmitter and antenna system (TV).	73.685
Logs—	
General requirements related to the station.	73.1800
Station .....	73.1820
Program .....	73.1810
Program, Public inspection of	73.1850
Retention of .....	73.1840
Logs and records, Availability to FCC	73.1226
Lottery or random selection licensing ..	1.1601–1.1623, 73.3572, 73.3584, 73.3597
Lottery information, Broadcast of .....	73.1211
<b>M</b>	
Main studio location .....	73.1125
Main transmitters .....	73.1665
Maintenance and tests, Operation for	73.1520
Marking and Lighting, Antenna structure.	73.1213
Measurements, Antenna resistance and reactance (AM).	73.54
Measurements, Carrier frequency .....	73.1540

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued**

[Policies of FCC are indicated (\*)]

Measurements, Equipment performance.	73.1590
Measurements, Field strength, for establishment of effective field at one mile. (AM).	73.186
Measurements, Field strength in support of applications or evidence at hearings (AM).	73.153
Measurements, Field strength—	
FM .....	73.314
TV .....	73.686
Measurements, Field strength, to establish performance of directional antennas (AM).	73.151
Measurements, Equipment performance.	73.1590
Meters, Extension .....	73.1550
Meters—specifications .....	73.1215
Mexican/U.S. Agreement .....	73.3570
Mexico—U.S. FM Broadcast Agreement, Channel Assignment under (NCE-FM).	73.504
Minimum antenna heights or field strength requirements (AM).	73.189
Minimum filing requirement (FM) .....	73.3564(a)
Minimum operating schedule .....	73.1740
Minimum separations between stations—	
FM .....	73.207
NCE-FM .....	73.507
TV .....	73.610
Minimum separation, Stations at spacings below (FM).	73.213
Minority ownership; tax certificates and distress sales.	73.4140 (*)
Misrepresentation in advertising billings.	73.1205
Mode and Operating power tolerances	73.1560
Modification of directional antenna data (AM).	73.152
Modification of facilities, Operation during.	73.1615
Modification of transmission systems ..	73.1690
Modulation levels, AM, FM, and TV aural.	73.1570
Modulation monitoring equipment, Visual.	73.691
Monitoring and alarm points, Automatic transmission system—	
AM .....	73.146
FM .....	73.346
NCE-FM .....	73.546
Monitoring equipment, Visual modulation.	73.691
Monitoring point locations .....	73.158
Monitors, Antenna (AM) .....	73.69
Monitors, antenna, Requirements for authorization of (AM).	73.53
Monitors, antenna, Sampling system for (AM).	73.68
Multiple ownership .....	73.3555
Multiplex subcarrier transmission technical standards, FM.	73.319
Multiplex subscribers, Use of—	
FM .....	73.293
TV .....	73.665
Multiplex subsidiary, Use of .....	73.667
Multiplex transmission, Use of (AM) ....	73.127

**Federal Communications Commission**

**Pt. 73, Index**

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued**

[Policies of FCC are indicated (\*)]

**N**

NARBA (North American Regional Broadcasting Agreement).....	73.3570
Network, Affiliation agreements and program practices; territorial exclusivity in non-network program arrangements (TV).....	73.658
Network/AM and FM station affiliation agreements.....	73.4154 (*)
Network signals—adversely affecting affiliate service.....	73.4157 (*)
Network/station affiliation agreements—	
AM .....	73.132, 73.3613, 73.4154 (*)
FM .....	73.232, 73.3613, 73.4154 (*)
TV .....	73.658, 73.3613
Network syndication .....	73.658
(Network), Territorial exclusivity—	
AM .....	73.132
FM .....	73.232
TV .....	73.658
Nighttime service areas, Class II and III AM Stations; computation.....	73.4160 (*)
Nominal Power, Rounding of (AM) .....	73.31
Noncommercial educational channel assignments under the United States-Mexico FM Broadcast Agreement.....	73.504
Noncommercial educational FM stations and channels.....	73.506
Noncommercial educational FM stations operating on unreserved channels.....	73.513
Noncommercial educational stations (TV).....	73.621
Noncommercial nature—educational broadcast stations.....	73.4163 (*)
Notifications concerning interference to Radio Astronomy, Research and Receiving installations.....	73.1030
Numerical designation of FM broadcast channels.....	73.201
Numerical designation of TV channels .....	73.603

**O**

Objections (informal) to applications ....	73.3587
Obscene language .....	73.4165 (*)
Obscene lyrics .....	73.4170 (*)
Operating during the experimental period (AM).....	73.72
Operating on unreserved channels, Noncommercial educational broadcast stations (NCE-FM).....	73.513
Operating power, Determining—	
AM .....	73.51
FM .....	73.267
NCE-FM .....	73.567
TV .....	73.663
Operating power and mode tolerances .....	73.1560
Operating requirements, General (Subscription TV operations).....	73.643
Operating schedule, Minimum .....	73.1740
Operating schedule; time sharing (NCE-FM).....	73.561
Operation, Discontinuance of .....	73.1750
Operation during modification of facilities.....	73.1615
Operation for tests and maintenance ..	73.1520

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued**

[Policies of FCC are indicated (\*)]

Operation of TV aural and visual transmitters.....	73.653
Operation, Remote Control .....	73.1410
Operation, Time of .....	73.1705
Operation, Unauthorized .....	73.1745
Operator and station licenses, Posting of.....	73.1230
Operators, Chief .....	73.1870
Operators, Transmitter duty .....	73.1860
Overlap, Prohibited .....	73.509
Ownership, Multiple .....	73.3555
Ownership report .....	73.3615

**P**

Payment disclosure: Payola, plugola, kickbacks.....	73.4180 (*)
Performance measurements, Equipment.....	73.1590
Performance of directional antennas, Field strength measurements to establish (AM).....	73.151
Performance requirements, AM transmission systems.....	73.40
Permissible transmissions (FM) .....	73.277
Personal attacks .....	73.1920
Petitions to deny .....	73.3584
Plans, State-wide (NCE-FM) .....	73.502
Points, Reference, and distance computations (TV).....	73.611
Point-to-point emergency messages ...	73.1250
Policies, Licensing (TV) .....	73.642
Policies of FCC .....	73.4000 (*)
Political advertising by UHF translators .....	73.4195 (*)
Political advertising—sponsorship identification.....	73.1212
Political broadcasting and telecasting, The law of.....	73.4185 (*)
Political candidate authorization notice and sponsorship identification.....	73.4190 (*)
Political editorials .....	73.1930
Political file .....	73.1940
Portable test stations .....	73.1530
Posting of station and operator licenses.....	73.1230
Power and antenna height requirements—	
FM .....	73.211
NCE-FM .....	73.511
TV .....	73.614
Power and mode tolerances, Operating.....	73.1560
Power, nominal, Rounding of (AM) .....	73.31
Power, operating, determining—	
AM .....	73.51
FM .....	73.267
NCE-FM .....	73.567
TV .....	73.663
Prediction of coverage—	
FM .....	73.313
TV .....	73.684
Presunrise service authorization (PSRA) and Post sunset service authorization (PSSA).....	73.99
Prime time access (TV) .....	73.658
Procedure Manual: "The Public and Broadcasting".....	73.4210 (*)
Processing of applications .....	73.3561–73.3587
Program logs .....	73.1810
Program logs, Public inspection of .....	73.1850
Program matter: Supplier identification .....	73.4215 (*)



**Pt. 73, Index**

**47 CFR Ch. I (10–1–12 Edition)**

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued**

[Policies of FCC are indicated (\*)]

Program practices, network, and Affiliation agreements; territorial exclusivity in non-network program arrangements (TV). 73.658

Program tests ..... 73.1620

Prohibited overlap ..... 73.509

Proofs of performance, partial and skeleton, Field strength measurements (AM).

Protection from interference—

    FM ..... 73.209

    NCE-FM ..... 73.509

    TV ..... 73.612

Proxy statements and tender offers ..... 73.4266(\*)

Public inspection file ..... 73.3526–73.3527

Public inspection of program logs ..... 73.1850

Public office, Broadcasts by candidates for. 73.1940

Puerto Rico TV/FM, dual-language broadcasting in. 73.1210

**Q**

Quiet zone ..... 73.1030

**R**

Radiation characteristics, Vertical plane. 73.160

Radiation, daytime, Limitation on (AM) 73.187

Random selection or lottery licensing .. 1.1601–1.1623, 73.23572, 73.3584, 73.3597

Rebroadcasts ..... 73.1207

Recorded, taped or filmed material; Broadcast of. 73.1208

Recording telephone conversations ..... 73.1206

Records and logs, Availability to FCC 73.1226

Records, special technical ..... 73.1835

Reference, Cross, to rules in other Parts. 73.1010

Reference points and distance computations—

    FM ..... 73.208

    TV ..... 73.611

Reference to time ..... 73.1209

Remote control authorizations ..... 73.1400

Remote control operation ..... 73.1410

Remote reading antenna and common point ammeters (AM). 73.57

Renewal period ..... 73.1020

Report and application forms ..... 73.3500

Requirements, Equipment and technical system performance (TV). 73.644

Requirements for authorization of antenna monitors (AM). 73.53

Requirements, Subscription TV, operating. 73.643

Requirements, Power and antenna height—

    AM ..... 73.189

    FM ..... 73.211

    NCE-FM ..... 73.511

    TV ..... 73.614

Requirements, relating to logs, General. 73.1800

Requirements, Transmission system

    FM ..... 73.317

    TV ..... 73.687

Requirements, Transmission system performance (AM). 73.40

Responses and statements to Commission inquiries. 73.1015

Restrictions on use of channels (FM) .. 73.220

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued**

[Policies of FCC are indicated (\*)]

Retention of letters received from the public. 73.1202

Retention of logs ..... 73.1840

Rounding of nominal power (AM) ..... 73.31

(Rules common to all broadcast stations), Scope. 73.1001

Rules in other Parts, Cross reference to. 73.1010

**S**

Sampling systems for antenna monitors (AM). 73.68

Satellites, Direct broadcast ..... 73.4091 (\*)

SCA—

    FM ..... 73.293

    NCE-FM ..... 73.593

Schedule, Minimum operating ..... 73.1740

Schedule; Operating, time sharing (NCE-FM). 73.561

School closings ..... 73.1250

Scope of Subpart A (AM) ..... 73.1

Scope of Subpart E (TV) ..... 73.601

Scope of Subpart H (rules common to all broadcast stations). 73.1001

Separations (channel) (TV) ..... 73.610

Separations, Minimum mileage, between co-channel and adjacent channel stations—

    FM ..... 73.217

    NCE-FM ..... 73.507

Separations, Stations at spacings below minimum (FM). 73.213

Service and licensing requirements (NCE-FM). 73.503

Share time ..... 73.1715

Sharing time, Operating schedule (NCE-FM). 73.561

Short-spacing agreements: FM stations. 73.4235 (\*)

Showing required; Applications for broadcast facilities (AM). 73.37

Signal, Computation of interfering (AM) 73.185

Signal, Groundwave (AM) ..... 73.183

Site, common antenna, Use of—

    FM ..... 73.239

    TV ..... 73.635

Spacings, Stations below the minimum separations (FM). 73.213

Special antenna test authorizations (AM). 73.157

Special field test authorization ..... 73.1515

Special technical records ..... 73.1835

Special temporary authorizations (STA's). 73.1635

Specifications—Indicating instruments (meters). 73.1215

Specified hours ..... 73.1730

Sponsorship identification list retention; related requirements. 73.1212

Sponsorship identification rules, Applicability of. 73.4242 (\*)

STA's (Special temporary authorizations). 73.1635

Standard time ..... 73.1209

Standards, FM multiplex subcarrier, technical. 73.319

Standards of allocation, Engineering (AM). 73.182

Standards of good engineering practice—NCE-FM. 73.508

Standards, Stereophonic transmission (FM). 73.322

**Federal Communications Commission**

**Pt. 73, Index**

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued**

[Policies of FCC are indicated (\*)]

Standards, Transmission ..... 73.682

State-wide plans (NCE-FM) ..... 74.502

Statements and responses to Commission inquiries. 73.1015

Station and operator licenses, Posting of. 74.1230

Station identification ..... 73.1201

Station inspections by FCC ..... 73.1225

Station license period ..... 73.1020

Station location ..... 73.1120

Station log ..... 73.1820

Station, main studio location ..... 73.1125

Station transferring ..... 73.1150

Stations, Assignment of, to channels (AM). 73.28

Stations at spacings below the minimum separation (FM). 73.213

Stations, Noncommercial educational (TV). 73.621

Stations, Noncommercial educational FM, operating on unreserved channels. 73.513

Stereophonic sound broadcasting—

    AM ..... 73.128

    FM ..... 73.297

    NCE-FM ..... 73.597

    TV ..... 73.669

Stereophonic pilot subcarriers—monophonic programming. 73.4246 (\*)

Stereophonic sound transmission standards—

    AM ..... 73.128

    FM ..... 73.322

    TV ..... 73.682

Studio location, Main ..... 73.1125

Subcarrier multiplex, transmission standards—

    FM ..... 73.319

Subcarrier, multiplex, Use of—

    FM ..... 73.293

    TV ..... 73.665

Subliminal perception ..... 73.4250 (\*)

Subpart A, Scope of (AM) ..... 73.1

Subpart E, Scope of (TV) ..... 73.601

Subpart H, Scope of (rules common to all broadcast stations). 73.1001

(Subscription TV operations), Definitions. 73.641

Subsidiary Communications services—

    FM ..... 73.295

    NCE-FM ..... 73.595

    TV ..... 73.667

Subscription TV—

    Competing applications ..... 73.4247 (\*)

    Definitions ..... 73.641

    Licensing policies ..... 73.642

    Operating requirements ..... 73.643

    Transmission systems ..... 73.644

Syndication, network ..... 73.658

**T**

Table of assignments—

    FM ..... 73.202

    TV ..... 73.606

Tables (Distance-degree conversions and separations) (TV). 73.698

Taped, filmed, or recorded material; Broadcast of. 73.1208

Tax certificates and distress sales; Minority sales. 73.4140(\*)

Tax certificates: Issuance of ..... 73.4255 (\*)

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued**

[Policies of FCC are indicated (\*)]

Teaser announcements ..... 73.4260 (\*)

Technical definitions—

    AM ..... 73.14

    FM ..... 73.310

    TV ..... 73.681

Technical records, Special ..... 73.1835

(Technical standards), Definitions (TV) 73.681

Telecommunications service on vertical blanking interval. 73.646

Telephone conversations, Broadcast of 73.1206

Telephone conversation broadcasts (network and like sources). 73.4625 (\*)

Television channels, Numerical designation of. 73.603

Temporary authorizations, Special (STA's). 73.1635

Tender offers and proxy statements .... 73.4266(\*)

Territorial exclusivity in non-network program arrangements; Affiliation agreements and network program practices (TV). 73.658

Territorial exclusivity, (Network)—

    AM ..... 73.132

    FM ..... 73.232

    TV ..... 73.658

Test authorization, Special field ..... 73.1515

Test stations, Portable ..... 73.1530

Testing antenna during daytime (AM) 73.157

Tests and maintenance, Operation for 73.1520

Tests of equipment ..... 73.1610

Tests, Program ..... 73.1620

Time brokerage ..... 73.4627 (\*)

Time of operation ..... 73.1705

Time, Limited ..... 73.1725

Time, Reference to ..... 73.1209

Time, Share ..... 73.1715

Time Sharing, Operating schedule (NCE-FM). 73.561

Time, Unlimited ..... 73.1710

Tolerances, Carrier frequency departure. 73.1545

Tolerances, Directional antenna system (AM). 73.62

Tolerances, Operating power and mode. 73.1560

Tone clusters: Audio attention-getting devices. 73.4275 (\*)

Topographic data (FM) ..... 73.3120

Tower lighting and painting ..... 73.1213

Transferring a station ..... 73.1150

Transmission standards, Changes in .. 73.1695

Transmission standards (TV) ..... 73.682

Transmission system, Automatic (ATS) 73.1500

Transmission system emission limitations, (AM). 73.44

Transmission system inspections ..... 73.1580

Transmission system installation and safety requirements, AM. 73.49

Transmission system performance requirements (AM). 73.40

Transmission system requirements—

    FM ..... 73.317

    TV ..... 73.687

Transmission systems, Modification of 73.1690

Transmission systems, subscription TV 73.644

Transmissions, Permissible (FM) ..... 73.277

Transmitter duty operators ..... 73.1860

Transmitter, Location—

    FM ..... 73.315

    TV ..... 73.685

Transmitter location and antenna system (TV). 73.685

**Pt. 74**

**RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued**

[Policies of FCC are indicated (\*)]

Transmitters, Auxiliary .....	73.1670
Transmitters, broadcast, Acceptability of.	73.1660
Transmitters, Main .....	73.1665
Transmitters, TV, aural and visual, Operation of.	73.653
TV Channel 6 protection (NCE-FM) ....	73.525
TV colorburst during black/white programming.	73.4272 (*)
TV/FM dual-language broadcasting in Puerto Rico.	73.1210
Type approval of modulation monitors, General requirements (TV).	73.692
<b>U</b>	
Unauthorized operation .....	73.1745
U.S./Mexican Agreement .....	73.3570
USA-Mexico FM Broadcast Agreement, Channel assignments under (NCE-FM).	73.504
Unlimited time .....	73.1710
Unreserved channels, Noncommercial educational broadcast stations operating on (NCE-FM).	73.513
Use of channels, Restrictions on (FM)	73.220
Use of common antenna site—	
FM .....	73.239
TV .....	73.635
Use of multiplex subcarriers—	
FM .....	73.293
TV .....	73.665
Use of multiplex transmissions (AM) ...	73.127
<b>V</b>	
Vertical blanking interval, Telecommunication service on.	73.646
Vertical plane radiation characteristics	73.160
Visual and aural TV transmitters, Operation of.	73.653
Visual modulation monitoring equipment.	73.691
<b>W</b>	
Want ads .....	73.1212
<b>Z</b>	
Zone, Quiet .....	73.1030
Zones—	
FM .....	73.205
NCE-FM .....	73.505
TV .....	73.609

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**47 CFR Ch. I (10–1–12 Edition)**

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

**Subpart—General; Rules Applicable to All Services in Part 74**

Sec.	
74.1	Scope.
74.2	General definitions.
74.3	FCC inspections of stations.
74.5	Cross reference to rules in other parts.
74.6	Licensing of broadcast auxiliary and low power auxiliary stations.
74.12	Notification of filing of applications.
74.13	Equipment tests.
74.14	Service or program tests.
74.15	Station license period.
74.16	Temporary extension of station licenses.
74.18	Transmitter control and operation.
74.19	Special technical records.
74.21	Broadcasting emergency information.
74.22	Use of common antenna structure.
74.23	Interference jeopardizing safety of life or protection of property.
74.24	Short-term operation.
74.25	Temporary conditional operating authority.
74.28	Additional orders.
74.30	Antenna structure, marking and lighting.
74.32	Operation in the 17.7–17.8 GHz and 17.8–19.7 GHz bands.
74.34	Period of construction; certification of completion of construction.

**Subpart A—Experimental Broadcast Stations**

74.101	Experimental broadcast station.
74.102	Uses of experimental broadcast stations.
74.103	Frequency assignment.
74.112	Supplementary statement with application for construction permit.
74.113	Supplementary reports with application for renewal of license.
74.131	Licensing requirements, necessary showing.
74.132	Power limitations.
74.133	Emission authorized.
74.151	Equipment changes.

**TECHNICAL OPERATION AND OPERATORS**

74.161	Frequency tolerances.
74.162	Frequency monitors and measurements.
74.163	Time of operation.
74.165	Posting of station license.
74.181	Station records.
74.182	Program service and charges.
74.183	Station identification.
74.184	Rebroadcasts.