

Federal Communications Commission

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afford interested persons an opportunity to participate in the rulemaking proceeding through submission of written data, views, or arguments, with or without opportunity to present the same orally in any manner.

(b) A reasonable time will be provided for submission of comments in support of or in opposition to proposed rules, and the time provided will be specified in the notice of proposed rulemaking.

(c) A reasonable time will be provided for filing comments in reply to the original comments, and the time provided will be specified in the notice of proposed rulemaking.

(d) No additional comments may be filed unless specifically requested or authorized by the Commission.

NOTE: In some (but not all) rulemaking proceedings, interested persons may also communicate with the Commission and its staff on an *ex parte* basis, provided certain procedures are followed. See §§1.420 and 1.1200 *et seq.* See also ___ FCC 2d ___ (1980) (*i.e.*, this order).

(e) For time limits for filing motions for extension of time for filing responses to petitions for rulemaking, replies to such responses, comments filed in response to notices of proposed rulemaking, replies to such comments, see §1.46(b).

[28 FR 12432, Nov. 22, 1963, as amended at 42 FR 28888, June 6, 1977; 45 FR 45591, July 7, 1980; 52 FR 37460, Oct. 7, 1987]

§ 1.419 Form of comments and replies; number of copies.

(a) Comments, replies, and other documents filed in a rulemaking proceeding shall conform to the requirements of §1.49.

(b) An original and 4 copies of all comments, briefs and other documents filed in a rulemaking proceeding shall be furnished the Commission. The distribution of such copies shall be as follows:

Secretary (original and 1)	2
Bureau	2
Reference Information Center	1
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Total	5

Participants filing the required 5 copies who also wish each Commissioner to have a personal copy of the comments may file an additional 5 copies.

The distribution of such copies shall be as follows:

Commissioners	5
Secretary	2
Bureau	2
Reference Information Center	1
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Total	10

However, members of the general public who wish to express their interest by participating informally in a rulemaking proceeding may do so by submitting an original and one copy of their comments, without regard to form, provided only that the Docket Number is specified in the heading. Informal comments filed after close of the reply comment period, or, if on reconsideration, the reconsideration reply comment period, should be labeled "ex parte" pursuant to section 1.1206(a) of this chapter. Letters submitted to Commissioners or Commission staff will be treated in the same way as informal comments, as set forth above. Also such informal participants who wish the responsible members of the staff and the Commissioners to have personal copies may file an additional 7 copies. The distribution of such copies shall be as follows:

Commissioners	5
Secretary	2
Bureau	2
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Total	9

(c) Any person desiring to file identical documents in more than one docketed rulemaking proceeding shall furnish the Commission two additional copies of any such document for each additional docket. This requirement does not apply if the proceedings have been consolidated.

(d) Participants that file comments and replies in electronic form need only submit one copy of those comments, so long as the submission conforms to any procedural or filing requirements established for formal electronic comments.

(e) Comments and replies and other documents filed in electronic form by a party represented by an attorney shall include the name and mailing address of at least one attorney of record. Parties not represented by an attorney that file comments and replies and other documents in electronic form

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shall provide their name and mailing address.

[28 FR 12432, Nov. 22, 1963, as amended at 41 FR 50399, Nov. 16, 1976; 50 FR 26567, June 27, 1985; 54 FR 29037, July 11, 1989; 63 FR 24125, May 1, 1998; 63 FR 56091, Oct. 21, 1998; 67 FR 13223, Mar. 21, 2002]

§ 1.420 Additional procedures in proceedings for amendment of the FM or TV Tables of Allotments, or for amendment of certain FM assignments.

(a) Comments filed in proceedings for amendment of the FM Table of Allotments (§ 73.202 of this chapter) or the Television Table of Allotments (§ 73.606 of this chapter) which are initiated on a petition for rule making shall be served on petitioner by the person who files the comments.

(b) Reply comments filed in proceedings for amendment of the FM or Television Tables of Allotments shall be served on the person(s) who filed the comments to which the reply is directed.

(c) Such comments and reply comments shall be accompanied by a certificate of service.

(d) Counterproposals shall be advanced in initial comments only and will not be considered if they are advanced in reply comments.

(e) An original and 4 copies of all petitions for rulemaking, comments, reply comments, and other pleadings shall be filed with the Commission.

(f) Petitions for reconsideration and responsive pleadings shall be served on parties to the proceeding and on any licensee or permittee whose authorization may be modified to specify operation on a different channel, and shall be accompanied by a certificate of service.

(g) The Commission may modify the license or permit of a UHF TV station to a VHF channel in the same community in the course of the rule making proceeding to amend § 73.606(b), or it may modify the license or permit of an FM station to another class of channel through notice and comment procedures, if any of the following conditions are met:

(1) There is no other timely filed expression of interest, or

(2) If another interest in the proposed channel is timely filed, an additional

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equivalent class of channel is also allotted, assigned or available for application.

NOTE TO PARAGRAPH (g): In certain situations, a licensee or permittee may seek an adjacent, intermediate frequency or co-channel upgrade by application. See § 73.203(b) of this chapter.

(h) Where licensees (or permittees) of television broadcast stations jointly petition to amend § 73.606(b) and to exchange channels, and where one of the licensees (or permittees) operates on a commercial channel while the other operates on a reserved noncommercial educational channel within the same band, and the stations serve substantially the same market, then the Commission may amend § 73.606(b) and modify the licenses (or permits) of the petitioners to specify operation on the appropriate channels upon a finding that such action will promote the public interest, convenience, and necessity.

NOTE 1 TO PARAGRAPH (h): Licensees and permittees operating Class A FM stations who seek to upgrade their facilities to Class B1, B, C3, C2, C1, or C on Channel 221, and whose proposed 1 mV/m signal contours would overlap the Grade B contour of a television station operating on Channel 6 must meet a particularly heavy burden by demonstrating that grants of their upgrade requests are in the public interest. In this regard, the Commission will examine the record in rule making proceedings to determine the availability of existing and potential non-commercial education service.

(i) In the course of the rule making proceeding to amend § 73.202(b) or § 73.606(b), the Commission may modify the license or permit of an FM or television broadcast station to specify a new community of license where the amended allotment would be mutually exclusive with the licensee's or permittee's present assignment.

(j) Whenever an expression of interest in applying for, constructing, and operating a station has been filed in a proceeding to amend the FM or TV Table of Allotments, and the filing party seeks to dismiss or withdraw the expression of interest, either unilaterally or in exchange for financial consideration, that party must file with the Commission a request for approval of the dismissal or withdrawal, a copy of any written agreement related to the