

company, trust, corporation, or other entity which owns or controls, directly or indirectly, or is under direct or indirect common control with, any such carrier.

(b) *Authorized carrier.* The term “authorized carrier” means a communications common carrier which is authorized by the Federal Communications Commission under the Communications Act of 1934, as amended, to provide services by means of communications satellites.

(c) *Communication-satellite earth station.* (1) The terms “communications satellite corporation” or “corporation” as used in this part mean the corporation created pursuant to the provisions of Title III of the Communications Satellite Act of 1962.

(2) The corporation shall be deemed to be a common carrier within the meaning of section 3(10) of the Communications Act of 1934, as amended.

(d) *Communication-satellite earth station complex.* The term communication-satellite earth station complex includes transmitters, receivers, and communications antennas at the earth station site together with the interconnecting terrestrial facilities (cables, lines, or microwave facilities) and modulating and demodulating equipment necessary for processing of traffic received from the terrestrial distribution system(s) prior to transmission via satellite and of traffic received from the satellite prior to transfer of channels of communication to terrestrial distribution system(s).

(e) *Communication-satellite earth station complex functions.* The communication-satellite earth station complex interconnects with terminal equipment of common carriers or authorized entities at the interface; accepts traffic from such entities at the interface, processes for transmission via satellite and performs the transmission function; receives traffic from a satellite or satellites, processes it in a form necessary to deliver channels of communication to terrestrial common carriers or such other authorized entities and delivers the processed traffic to such entities at the interface.

(f) *Interface.* The point of interconnection between two distinct but adjacent communications systems hav-

ing different functions. The interface in the communication-satellite service is that point where communications terminal equipment of the terrestrial common carriers or other authorized entities interconnects with the terminal equipment of the communication-satellite earth station complex. The interface in the communication-satellite service shall be located at the earth station site, or if this is impracticable, as close thereto as possible.

(g) *Emergency call center (ECC).* A facility that subscribers of satellite commercial mobile radio services call when in need of emergency assistance by dialing “911” on their mobile satellite earth terminal.

[28 FR 13037, Dec. 5, 1963, as amended at 31 FR 3289, Mar. 2, 1966; 68 FR 63997, Nov. 12, 2003; 69 FR 6582, Feb. 11, 2004]

§ 25.104 Preemption of local zoning of earth stations.

(a) Any state or local zoning, land-use, building, or similar regulation that materially limits transmission or reception by satellite earth station antennas, or imposes more than minimal costs on users of such antennas, is preempted unless the promulgating authority can demonstrate that such regulation is reasonable, except that non-federal regulation of radio frequency emissions is not preempted by this section. For purposes of this paragraph (a), reasonable means that the local regulation:

(1) Has a clearly defined health, safety, or aesthetic objective that is stated in the text of the regulation itself; and

(2) Furthers the stated health, safety or aesthetic objective without unnecessarily burdening the federal interests in ensuring access to satellite services and in promoting fair and effective competition among competing communications service providers.

(b)(1) Any state or local zoning, land-use, building, or similar regulation that affects the installation, maintenance, or use of a satellite earth station antenna that is two meters or less in diameter and is located or proposed to be located in any area where commercial or industrial uses are generally permitted by non-federal land-use regulation shall be presumed unreasonable and is therefore preempted subject to

paragraph (b)(2) of this section. No civil, criminal, administrative, or other legal action of any kind shall be taken to enforce any regulation covered by this presumption unless the promulgating authority has obtained a waiver from the Commission pursuant to paragraph (e) of this section, or a final declaration from the Commission or a court of competent jurisdiction that the presumption has been rebutted pursuant to paragraph (b)(2) of this section.

(2) Any presumption arising from paragraph (b)(1) of this section may be rebutted upon a showing that the regulation in question:

(i) Is necessary to accomplish a clearly defined health or safety objective that is stated in the text of the regulation itself;

(ii) Is no more burdensome to satellite users than is necessary to achieve the health or safety objective; and

(iii) Is specifically applicable on its face to antennas of the class described in paragraph (b)(1) of this section.

(c) Any person aggrieved by the application or potential application of a state or local zoning or other regulation in violation of paragraph (a) of this section may, after exhausting all nonfederal administrative remedies, file a petition with the Commission requesting a declaration that the state or local regulation in question is preempted by this section. Nonfederal administrative remedies, which do not include judicial appeals of administrative determinations, shall be deemed exhausted when:

(1) The petitioner's application for a permit or other authorization required by the state or local authority has been denied and any administrative appeal and variance procedure has been exhausted;

(2) The petitioner's application for a permit or other authorization required by the state or local authority has been on file for ninety days without final action;

(3) The petitioner has received a permit or other authorization required by the state or local authority that is conditioned upon the petitioner's expenditure of a sum of money, including costs required to screen, pole-mount, or oth-

erwise specially install the antenna, greater than the aggregate purchase or total lease cost of the equipment as normally installed; or

(4) A state or local authority has notified the petitioner of impending civil or criminal action in a court of law and there are no more nonfederal administrative steps to be taken.

(d) Procedures regarding filing of petitions requesting declaratory rulings and other related pleadings will be set forth in subsequent Public Notices. All allegations of fact contained in petitions and related pleadings must be supported by affidavit of a person or persons with personal knowledge thereof.

(e) Any state or local authority that wishes to maintain and enforce zoning or other regulations inconsistent with this section may apply to the Commission for a full or partial waiver of this section. Such waivers may be granted by the Commission in its sole discretion, upon a showing by the applicant that local concerns of a highly specialized or unusual nature create a necessity for regulation inconsistent with this section. No application for waiver shall be considered unless it specifically sets forth the particular regulation for which waiver is sought. Waivers granted in accordance with this section shall not apply to later-enacted or amended regulations by the local authority unless the Commission expressly orders otherwise.

(f) A satellite earth station antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter or is located in Alaska is covered by the regulations in § 1.4000 of this chapter.

[61 FR 10898, Mar. 18, 1996, as amended at 61 FR 46562, Sept. 4, 1996]

EFFECTIVE DATE NOTE: At 61 FR 46562, Sept. 4, 1996, § 25.104 was amended by revising paragraph (b)(1) and adding paragraph (f). These paragraphs contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.