

Federal Communications Commission

§ 1.1212

the public file or record of the proceeding written *ex parte* presentations and memoranda reflecting oral *ex parte* presentations. The Secretary shall issue a public notice listing any written *ex parte* presentations or written summaries of oral *ex parte* presentations received by his or her office relating to any permit-but-disclose proceeding. Such public notices should generally be released at least twice per week.

NOTE 2 TO PARAGRAPH (b): Interested persons should be aware that some *ex parte* filings, for example, those not filed in accordance with the requirements of this paragraph (b), might not be placed on the referenced public notice. All *ex parte* presentations and memoranda filed under this section will be available for public inspection in the public file or record of the proceeding, and parties wishing to ensure awareness of all filings should review the public file or record.

NOTE 3 TO PARAGRAPH (b): As a matter of convenience, the Secretary may also list on the referenced public notices materials, even if not *ex parte* presentations, that are filed after the close of the reply comment period or, if the matter is on reconsideration, the reconsideration reply comment period.

[62 FR 15856, Apr. 3, 1997, as amended at 63 FR 24126, May 1, 1998; 64 FR 68948, Dec. 9, 1999; 66 FR 3501, Jan. 16, 2001]

RESTRICTED PROCEEDINGS

§ 1.1208 Restricted proceedings.

Unless otherwise provided by the Commission or its staff pursuant to § 1.1200(a) of this section, *ex parte* presentations (other than *ex parte* presentations exempt under § 1.1204(a) of this section) to or from Commission decision-making personnel are prohibited in all proceedings not listed as exempt in § 1.1204(b) or permit-but-disclose in § 1.1206(a) of this section until the proceeding is no longer subject to administrative reconsideration or review or judicial review. Proceedings in which *ex parte* presentations are prohibited, referred to as “restricted” proceedings, include, but are not limited to, all proceedings that have been designated for hearing, proceedings involving amendments to the broadcast table of allotments, applications for authority under Title III of the Communications Act, and all waiver proceedings (except for those directly associated with tariff filings).

NOTE 1 TO § 1.1208: In a restricted proceeding involving only one “party,” as defined in § 1.1202(d), the party and the Commission may freely make presentations to each other because there is no other party to be served or with a right to have an opportunity to be present. See § 1.1202(b). Therefore, to determine whether presentations are permissible in a restricted proceeding without service or notice and an opportunity for other parties to be present the definition of a “party” should be consulted.

Examples: After the filing of an uncontested application or waiver request, the applicant or other filer would be the sole party to the proceeding. The filer would have no other party to serve with or give notice of any presentations to the Commission, and such presentations would therefore not be “*ex parte* presentations” as defined by § 1.1202(b) and would not be prohibited. On the other hand, in the example given, because the filer is a party, a third person who wished to make a presentation to the Commission concerning the application or waiver request would have to serve or notice the filer. Further, once the proceeding involved additional “parties” as defined by § 1.1202(d) (e.g., an opponent of the filer who served the opposition on the filer), the filer and other parties would have to serve or notice all other parties.

NOTE 2 TO § 1.1208: Consistent with § 1.1200(a), the Commission or its staff may determine that a restricted proceeding not designated for hearing involves primarily issues of broadly applicable policy rather than the rights and responsibilities of specific parties and specify that the proceeding will be conducted in accordance with the provisions of § 1.1206 governing permit-but-disclose proceedings.

[62 FR 15857, Apr. 3, 1997, as amended at 64 FR 68948, Dec. 9, 1999]

PROHIBITION ON SOLICITATION OF PRESENTATIONS

§ 1.1210 Prohibition on solicitation of presentations.

No person shall solicit or encourage others to make any improper presentation under the provisions of this section.

[64 FR 68949, Dec. 9, 1999]

PROCEDURES FOR HANDLING OF PROHIBITED EX PARTE PRESENTATIONS

§ 1.1212 Procedures for handling of prohibited *ex parte* presentations.

(a) Commission personnel who believe that an oral presentation which is being made to them or is about to be