

for filing replies shall be 5 days from the filing date for oppositions.

(d) If the Commission denies or dismisses all petitions to deny, if any are filed, and is otherwise satisfied that an applicant is qualified, the application 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 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—Digital Broadcast Television Redistribution Control

#### § 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 1-6: 2007 "ATSC Digital Television Standard," (January 3, 2007) 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 5:2007, “AC–3 Audio System Characteristics” (January 3, 2007), 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) ATSC A/65B: “ATSC Program and System Information Protocol for Terrestrial Broadcast and Cable,” (Revision B) March 18, 2003, and IBR approved for §§ 73.9000 and 73.9001.

(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 and 73.9000.

(c) The following materials are available for purchase from American National Standards Institute (ANSI), 25 West 43rd Street, 4th Floor, New York, NY 10036 or at the ANSI Web site: <http://www.webstore.ansi.org/ansidocstore/default.asp>.

(1) International Standard ISO/IEC 13818–1:2000(E); “Information Technology Generic Coding of Moving Pictures and Associated Audio Information: Systems,” 2000, IBR approved for § 73.9000.

(2) [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]

[73 FR 5684, Jan. 30, 2008]

### Subpart M—Digital Broadcast Television Redistribution Control

SOURCE: 68 FR 67603, Dec. 3, 2003, unless otherwise noted.

#### § 73.9000 Definitions.

(a) *Authorized digital output protection technology* means a technology approved pursuant to the procedures in § 73.9008.

(b) *Authorized recording method* means a recording method approved pursuant to the procedures in § 73.9008.

(c) *Bona fide reseller* means a party regularly engaged, or about to become regularly engaged, in the lawful commercial enterprise of selling, reselling, manufacturing, or assembling demodulators, or products incorporating demodulators, in compliance with this subpart.

(d) *Broadcast flag* means the redistribution control descriptor (`rc_descriptor()`) described in ATSC A/65B: “Standard: Program and System Information Protocol for Terrestrial Broadcast and Cable (Revision B),” (incorporated by reference, *see* § 73.8000).

(e) *Computer product* means a product that is designed for or permits the end user to install a wide variety of commercially available software applications thereon, such as a personal computer, handheld “Personal Digital Assistant” and the like, and further includes a subsystem of such a product, such as a graphics card.

(f) *Covered demodulator product* means a product that is required under §§ 73.9002(a)(1) or 73.9002(b)(1) to comply with the demodulator compliance requirements, and to be manufactured in accordance with the demodulator robustness requirements.

(g) *Demodulator* means a component, or set of components, that is designed to perform the function of 8–VSB, 16–VSB, 64–QAM or 256–QAM demodulation and thereby produce a data stream for the purpose of digital television reception.

(h) *Demodulator compliance requirements* means the requirements set out in §§ 73.9003 through 73.9006.

(i) *Demodulator robustness requirements* means the requirements set out in § 73.9007.