

§ 90.169

47 CFR Ch. I (10–1–10 Edition)

no later than May 31st thereafter, a revised statement reflecting the change(s).

NOTE: Commercial mobile radio service licensees having sixteen (16) or more full-time employees that do not have a current EEO statement on file with the Commission as of January 2, 1995, must file the statement required by this paragraph no later than May 31, 1995.

(c) *Report of complaints filed against licensees.* Each licensee, regardless of how many employees it has, shall submit an annual report to the Commission no later than May 31st of each year indicating whether any complaints regarding violations by the licensee or equal employment provisions of Federal, State, Territorial, or local law have been filed before anybody having competent jurisdiction.

(1) The report should state the parties involved, the date filing, the courts or agencies before which the matters have been heard, the appropriate file number (if any), and the respective disposition or current status of any such complaints.

(2) Any licensee who has filed such information with the EEOC may file a notification of such filing with the Commission in lieu of a report.

(d) *Complaints of violations of Equal Employment Programs.* Complaints alleging employment discrimination against a common carrier licensee are considered by the Commission in the following manner:

(1) If a complaint raising an issue of discrimination is received against a licensee who is within the jurisdiction of the EEOC, it is submitted to that agency. The Commission maintains a liaison with that agency that keeps the Commission informed of the disposition of complaints filed against common carrier licensees.

(2) Complaints alleging employment discrimination against a common carrier licensee who does not fall under the jurisdiction of the EEOC but is covered by appropriate enforceable State law, to which penalties apply, may be submitted by the Commission to the respective State agency.

(3) Complaints alleging employment discrimination against a common carrier licensee who does not fall under the jurisdiction of the EEOC or an ap-

propriate State law, are accorded appropriate treatment by the Commission.

(4) The Commission will consult with the EEOC on all matters relating to the evaluation and determination of compliance by the common carrier licensees with the principles of equal employment as set forth herein.

(5) Complaints indicating a general pattern of disregard of equal employment practices which are received against a licensee that is required to file an employment report to the Commission under § 1.815(a) of this chapter are investigated by the Commission.

(e) *Commission records.* A copy of every annual employment report, equal employment opportunity program statement, reports on complaints regarding violation of equal employment provisions of Federal, State, Territorial, or local law, and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the licensee and the Commission pertaining to the reports after they have been filed and all documents incorporated therein by reference, are open for public inspection at the offices of the Commission.

(f) *Licensee records.* Each licensee required to file annual employment reports (pursuant to § 1.815(a) of this chapter), equal employment opportunity program statements, and annual reports on complaints regarding violations of equal employment provisions of Federal, State, Territorial, or local law shall maintain for public inspection a file containing a copy of each such report and copies of all exhibits, letters, and other documents filed as part thereto, all correspondence between the licensee and the Commission pertaining to the reports after they have been filed and all documents incorporated therein by reference. The documents must be retained for a period of two (2) years.

**§ 90.169 Construction prior to grant of application.**

Applicants may construct facilities prior to grant of their applications, subject to the provisions of this section, but must not operate such facilities until the Commission grants an

authorization. If the conditions stated in this section are not met, applicants must not begin to construct facilities.

(a) *When applicants may begin construction.* An applicant may begin construction of a facility thirty-five (35) days after the date of the Public Notice listing the application for that facility as acceptable for filing.

(b) *Notification to stop.* If the Commission for any reason determines that construction should not be started or should be stopped while an application is pending, and so notifies the applicant, orally (followed by written confirmation) or in writing, the applicant must not begin construction or, if construction has begun, must stop construction immediately.

(c) *Assumption of risk.* Applicants that begin construction pursuant to this section before receiving an authorization do so at their own risk and have no recourse against the United States for any losses resulting from:

- (1) Applications that are not granted;
- (2) Errors or delays in issuing Public Notices;
- (3) Having to alter, relocate, or dismantle the facility; or
- (4) Incurring whatever costs may be necessary to bring the facility into compliance with applicable laws, or Commission rules and orders.

(d) *Conditions.* Except as indicated, all pre-grant construction is subject to the following conditions:

- (1) The application is not mutually exclusive with any other application;
- (2) No petitions to deny the application have been filed;
- (3) The application does not include a request for a waiver of one or more Commission rules;
- (4) For any construction or alteration that would exceed the requirements of §17.7 of this chapter, the licensee has notified the appropriate Regional Office of the Federal Aviation Administration (FAA Form 7460-1), filed a request for antenna height clearance and obstruction marking and lighting specifications (FCC Form 854) with the Commission;
- (5) The applicant has indicated in the application that the proposed facility would not have a significant environmental effect, in accordance with

§§1.1301 through 1.1319 of this chapter; and,

(6) Under applicable international agreements and rules in this part, individual coordination of the proposed channel assignment(s) with a foreign administration is not required.

### Subpart H—Policies Governing the Assignment of Frequencies

#### § 90.171 Scope.

This subpart contains detailed information concerning the policies under which the Commission assigns frequencies for the use of licensees under this part, frequency coordination procedures, and procedures under which licensees may cooperatively share radio facilities.

#### § 90.173 Policies governing the assignment of frequencies.

(a) Except as indicated in paragraph (j) of this section, the frequencies which ordinarily may be assigned to stations in the services governed by this part are listed in subparts B, C and F of this part. Except as otherwise specifically provided in this part, frequencies assigned to land mobile stations are available on a shared basis only and will not be assigned for the exclusive use of any licensee.

(b) All applicants and licensees shall cooperate in the selection and use of frequencies in order to reduce interference and make the most effective use of the authorized facilities. Licensees of stations suffering or causing harmful interference are expected to cooperate and resolve this problem by mutually satisfactory arrangements. If the licensees are unable to do so, the Commission may impose restrictions including specifying the transmitter power, antenna height, or area or hours of operation of the stations concerned. Further the use of any frequency at a given geographical location may be denied when, in the judgment of the Commission, its use in that location is not in the public interest; the use of any frequency may be restricted as to specified geographical areas, maximum power, or such other operating conditions, contained in this part or in the station authorization.