

## § 1.407

## 47 CFR Ch. I (10–1–05 Edition)

after the filing of such a statement. Such a reply shall be accompanied by proof of service upon the party or parties filing the statement or statements to which the reply is directed on or prior to the date of filing in conformity with § 1.47 and shall conform in other aspects with the requirements of §§ 1.49, 1.52, and 1.419(b).

(c) No additional pleadings may be filed unless specifically requested by the Commission or authorized by it.

(d) The Commission may act on a petition for rule making at any time after the deadline for the filing of replies to statements in support of or in opposition to the petition. Statements in support of or in opposition to a petition for rule making, and replies thereto, shall not be filed after Commission action.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[28 FR 12413, Nov. 22, 1963, as amended at 28 FR 14503, Dec. 31, 1963; 45 FR 42621, June 25, 1980; 46 FR 60404, Dec. 9, 1981]

### § 1.407 Action on petitions.

If the Commission determines that the petition discloses sufficient reasons in support of the action requested to justify the institution of a rulemaking proceeding, and notice and public procedure thereon are required or deemed desirable by the Commission, an appropriate notice of proposed rule making will be issued. In those cases where notice and public procedure thereon are not required, the Commission may issue a final order amending the rules. In all other cases the petition for rule making will be denied and the petitioner will be notified of the Commission's action with the grounds therefor.

#### RULEMAKING PROCEEDINGS

### § 1.411 Commencement of rulemaking proceedings.

Rulemaking proceedings are commenced by the Commission, either on its own motion or on the basis of a petition for rulemaking. See §§ 1.401–1.407.

### § 1.412 Notice of proposed rulemaking.

(a) Except as provided in paragraphs (b) and (c) of this section, prior notice of proposed rulemaking will be given.

(1) Notice is ordinarily given by publication of a "Notice of Proposed Rule Making" in the FEDERAL REGISTER. A summary of the full decision adopted by the Commission constitutes a "Notice of Proposed Rulemaking" for purposes of FEDERAL REGISTER publication.

(2) If all persons subject to the proposed rules are named, the proposal may (in lieu of publication) be personally served upon those persons.

(3) If all persons subject to the proposed rules are named and have actual notice of the proposal as a matter of law, further prior notice of proposed rulemaking is not required.

(b) Rule changes (including adoption, amendment, or repeal of a rule or rules) relating to the following matters will ordinarily be adopted without prior notice:

(1) Any military, naval, or foreign affairs function of the United States.

(2) Any matter relating to Commission management or personnel or to public property, loans, grants, benefits, or contracts.

(3) Interpretative rules.

(4) General statements of policy.

(5) Rules of Commission organization, procedure, or practice.

(c) Rule changes may in addition be adopted without prior notice in any situation in which the Commission for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. The finding of good cause and a statement of the basis for that finding are in such situations published with the rule changes.

(d) In addition to the notice provisions of paragraph (a) of this section, the Commission, before prescribing any requirements as to accounts, records, or memoranda to be kept by carriers, will notify the appropriate State agencies having jurisdiction over any carrier involved of the proposed requirements.

[28 FR 12432, Nov. 22, 1963, as amended at 51 FR 7445, Mar. 4, 1986]

### § 1.413 Content of notice.

A notice of the proposed issuance, amendment, or repeal of a rule will include the following:

**Federal Communications Commission**

**§ 1.419**

(a) A statement of the time, nature and place of any public rulemaking proceeding to be held.

(b) Reference to the authority under which the issuance, amendment or repeal of a rule is proposed.

(c) Either the terms or substance of the proposed rule or a description of the subjects and issues involved.

(d) The docket number assigned to the proceeding.

(e) A statement of the time for filing comments and replies thereto.

**§ 1.415 Comments and replies.**

(a) After notice of proposed rulemaking is issued, the Commission will 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
<hr/>	
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
<hr/>	
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
<hr/>	
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