§§ 1.1156–1.1166 [Redesignated as §§ 1.1158–1.1168]

28. Sections 1.1156 through 1.1166 are redesignated as new sections 1.1158 through 1.1168.

29. A new § 1.1156 is added to subpart G, to read as follows:

§ 1.1156 Schedule of regulatory fees and filing locations for international and satellite services.

Services	Fee amount	Address
Radio Facilities:		
1. Space Stations (geo-stationary orbit).	$65,000	FCC, Satellite and Radiocommunication Div'n, P.O. Box 358835, Pittsburgh, PA 15251–5835.
2. Space Stations (low earth orbit).	90,000	FCC, Satellite and Radiocommunication Div'n, P.O. Box 358835, Pittsburgh, PA 15251–5835.
3. International Public Fixed	110	FCC, Satellite and Radiocommunication Div'n, P.O. Box 358835, Pittsburgh, PA 15251–5835.
Earth Stations:		
1. VSAT and Equivalent C-Band antennas (per 100 antennas).	6	FCC, Satellite and Radiocommunication Div'n, P.O. Box 358835, Pittsburgh, PA 15251–5835.
2. Mobile Satellite Earth Stations (per 100 antennas).	6	FCC, Satellite and Radiocommunication Div'n, P.O. Box 358835, Pittsburgh, PA 15251–5835.
3. Less than Nine Meters (per 100 antennas).	6	FCC, Satellite and Radiocommunication Div'n, P.O. Box 358835, Pittsburgh, PA 15251–5835.
4. Nine Meters or More:.		
a. Transmit/Receive and Transmit Only (per meter).	85	FCC, Satellite and Radiocommunication Div'n, P.O. Box 358835, Pittsburgh, PA 15251–5835.
b. Receive Only (per meter).	55	FCC, Satellite and Radiocommunication Div'n, P.O. Box 358835, Pittsburgh, PA 15251–5835.
Carriers:		
1. International Circuits (per 100 active 64 KB circuits or equivalent).	220	FCC, IB Telecommunications Div'n, P.O. Box 358835, Pittsburgh, PA 15251–5835.
International (HF) Broadcast	200	FCC, Planning and Negotiations Div'n, P.O. Box 358835, Pittsburgh, PA 15251–5835.

§ 1.1157 [Reserved]

30. Section 1.1157 is reserved.

PART 25—SATELLITE COMMUNICATIONS

31. Section 25.110 is amended by revising paragraph (b) to read as follows:

§ 25.110 Filing of applications, fees, and number of copies.

* * * * *

(b) Applications for satellite radio station authorizations governed by this part and requiring a fee shall be mailed or hand-delivered to the location specified in part 1, subpart G of this chapter. All other applications shall be submitted to the Secretary, 1919 M Street NW, Washington, DC 20554, and addressed to the attention of Chief, Satellite and Spectrum Management Division.

* * * * *

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

32. Section 43.61 is amended by revising paragraph (d) to read as follows:

§ 43.61 Reports of international telecommunications traffic.

* * * * *

(d) The information required under this section shall be furnished in conformance with the instructions and reporting requirements prepared under the direction of the Chief, Common Carrier Bureau, prepared and published as a manual, in consultation and coordination with the Chief, International Bureau.

§ 43.81 [Amended]

33. Section 43.81 is amended by removing the words ''Common Carrier Bureau'' from paragraph (b) and inserting in their place the words ''International Bureau''.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

34. Section 64.1001 is amended by removing the words ''Common Carrier Bureau'' from paragraph (l)(2), and replacing them with the words ''International Bureau''.

PART 73—RADIO BROADCAST SERVICES

35. Section 73.1650 is amended by revising the second-to-last sentence to read as follows:

§ 73.1650 International agreements.

* * * * *

* * * The documents listed in this paragraph are available for inspection in the office of the Chief, Planning and Negotiations Division, International Bureau, FCC, Washington, D.C. * * *

[FR Doc. 95–2065 Filed 1–26–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 24

[PP Docket No. 93–253; DA 95–19]

Implementation of Section 309(j) of the Communications Act—Competitive Bidding

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final regulations, which were published December 7, 1994 (59 FR 63210). The regulations related to the broadband PCS auction rules.

EFFECTIVE DATE: February 6, 1995.

FOR FURTHER INFORMATION CONTACT: Sue McNeil (202) 418–0620.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections set forth rules which are designed to ensure that small businesses, rural telephone companies and businesses owned by

minorities and women have the opportunity to compete for and obtain licenses for broadband personal communications services (broadband PCS) and to attract the investment capital needed to have meaningful involvement in building and managing this nation's broadband PCS infrastructure.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication on December 7, 1994 of the final regulations, which were the subject of PP Docket No. 93–253, is corrected as follows:

1. Paragraph 64 of the text on page 63221, col. 1 is corrected to read as follows:

64. Specifically, we will retain the 25 percent minimum equity requirement for the control group, but we will require only 15 percent (*i.e.*, 60 percent of the control group's 25 percent equity holdings) to be held by qualifying, controlling principals in the control group (*i.e.*, minorities, women or small/entrepreneurial business principals).[35] For example, if the applicant seeks minority or women-owned status, the 15 percent equity, as well as 50.1 percent of the voting stock of the control group and all of its general partnership interests, must be owned by control group members who are minorities and/or women. If the applicant seeks small business status, 15 percent of the equity, as well as 50.1 percent of the control group's voting stock and all of its general partnership interests, must be held by control group members who, in the aggregate, qualify as a small business.[35a] With regard to establishing control of the applicant by qualified investors, where the control group is composed of both qualifying and nonqualifying members, the qualifying members in the control group must have 50.1 percent of the voting stock and all general partnership interests within the control group, and maintain *de facto* control of the control group. The control group, in turn, must hold 50.1 percent of the voting stock and all general partnership interests of the PCS applicant. Thus, qualifying members of the control group will have *de jure* and *de facto* control of both the control group and, indirectly, the applicant. The composition of the principals of the control group and their legal and active control of the applicant determines whether the applicant qualifies for bidding credits, installment payments and reduced upfront payments. The 15 percent minimum equity amount may be held in the form of options, provided these options are exercisable at any time, solely at the holder's discretion, and at an exercise price equal to or less than the current market valuation of the underlying shares at the time of short-form filing. The remaining 10 percent (*i.e.*, 40 percent of the control group's minimum equity holdings) may be held in the form of either stock options or shares, and we will allow certain investors that are not minorities, women, small businesses, or entrepreneurs to hold interests in such shares or options. Specifically, we will allow the 10 percent portion to be held in the form of shares or options by qualifying investors or by any of the following entities which may not comply with the entrepreneurs' block requirements (*e.g.* investors who are not minorities or women or investors, and/or their affiliates, that exceed the entrepreneurs' block or small business size thresholds): (1) individuals who are members of an applicant's management team; (2) existing investors of businesses in the control group that were operating and earning revenues for two years prior to December 31, 1994; or (3) noncontrolling institutional investors.[35b]

2. Paragraph 65 of the text on page 63221, col. 2 is corrected to read as follows:

65. As discussed *supra* at paragraph 59, the Commission also adopted an alternative to the 25 percent minimum equity requirement for minority and women-owned businesses, which permits a single investor to hold as much as 49.9 percent of its equity, provided the control group holds at least 50.1 percent. Several petitioners have expressed similar concerns with respect to the need to revise the 50.1 percent requirement.[35c] Therefore, in tandem with, and for the same reasons as, the modifications to the 25 percent equity requirement, we make similar modifications to the rules governing the 50.1 percent minimum equity requirement. Accordingly, where a minority or women-owned business uses the 50.1 percent minimum equity option, we will require only 30 percent of the total equity to be held by the principals of the control group that are minorities or women. The 30 percent may be held in the form of options, provided these options are exercisable at any time, solely at the holder's discretion, and at an exercise price equal to or less than the current market valuation of the underlying shares at the time of short-form filing. The remaining 20.1 percent may be made up of shares and/or options held by investors that are not women or minorities under similar criteria described in paragraph 64 above. That is, the 20.1 percent portion of the control group's equity may be held in the form of shares or stock options by qualifying investors or by any of the following entities which may not comply with the entrepreneurs' block requirements (*e.g.* investors who are not minorities or women or investors, and/or their affiliates, that exceed the entrepreneurs' block or small business size thresholds): (1) individuals who are members of an applicant's management team; (2) existing investors of businesses in the control group that were operating and earning revenues for two years prior to December 31, 1994; or (3) noncontrolling institutional investors.[36]

[35] *See* Media Communications Partners *ex parte* comments, filed Oct. 11, 1994, at 7–8.

[35a] For instance, if a pre-existing company wants to qualify as a small business control group, its gross revenues and total assets will be added to the gross revenues and assets of each of its controlling shareholders and to those of all affiliates. The resulting sum must be under $40 million in gross revenues and $500 million in total assets. The gross revenues and total assets of the company's pre-existing, noncontrolling shareholders will be ignored, however.

[35b] *See* note 162 *infra* (explaining definition of institutional investors).

[35c] *See, e.g.*, BET Petition at 16; Columbia PCS Petition at 2–3; Omnipoint Petition at 9.

[36] For our purposes, we define institutional investors in a manner that is similar to the definition that is used by the Commission in the attribution rules applied to assess compliance with the broadcast multiple ownership rules. We modify that definition slightly, however, to fit this service. Specifically, we expect that investment companies will be important sources of capital formation for designated entities. Accordingly, we adopt a definition that specifically includes venture capital firms and other smaller investment companies that may not be included in the definition of investment companies found in 15 U.S.C. 80a–3 (which is cited in our broadcast rules at 47 CFR Sec. 73.3555 Note 2(c)). Specifically, we define an *institutional investor* as an insurance company, a bank holding stock in trust accounts through its trust department, or an investment company as defined under 15 U.S.C. 80a–3(a). We include in the definition any entity that would otherwise meet the definition of investment company under 15 U.S.C. 80a–3(a), but is excluded by the exemptions set forth in 15 U.S.C. 80A–3(b) and (c) and we do so without regard to whether the entity is an issue of securities. However, if the investment company is owned, in whole or in part, by other entities, the investment company, other entities and *affiliates* of other entities, taken as a whole, must be primarily engaged in the business of investing, reinvesting or trading in securities or in distributing or providing investment management services for securities, *See* Section 24.720(h).

§ 24.709 [Corrected]

3. Section 24.709(b)(5)(i) (B) and (C) on page 63233, col. 2 are corrected to read as follows:

* * * * *

(b) * * *

(5) * * *

(i) * * *

(B) Such *qualifying investors* must hold 50.1 percent of the voting stock and all general partnership interests within the control group, and must have *de facto* control of the control group and of the applicant;

(C) The remaining 10 percent of the applicant's (or licensee's) total equity may be owned by *qualifying investors*, either unconditionally or in the form of stock options not subject to the restrictions of paragraph (b)(5)(i)(A) of this section, or by any of the following entities, which may not comply with § 24.720(n)(1):

(*1*) *Institutional investors*, either unconditionally or in the form of stock options;

(*2*) Noncontrolling *existing investors* in any *preexisting entity* that is a member of the *control group*, either unconditionally or in the form of stock options; or

(*3*) Individuals that are members of the applicant's (or licenses's) management, either unconditionally or in the form of stock options.

* * * * *

§ 24.709 [Corrected]

4. Section 24. 709(b)(6)(i) (B) and (C), on page 63233, col. 3 are corrected to read as follows:

* * * * *

(b) * * *

(6) * * *

(i) * * *

(B) Such *qualifying minority and/or women investors* must hold 50.1 percent of the voting stock and all general partnership interests within the control group and must have *de facto* control of the control group and of the applicant;

(C) The remaining 20.1 percent of the applicant's (or licensee's) total equity may be owned by *qualifying investors*, either unconditionally or in the form of stock options not subject to the restrictions of paragraph (b)(5)(i)(A) of this section, or by any of the following entities, which may not comply with § 24.720(n)(1):

(*1*) *Institutional investors*, either unconditionally or in the form of stock options;

(*2*) Noncontrolling *existing investors* in any *preexisting entity* that is a member of the *control group*, either unconditionally or in the form of stock options; or

(*3*) Individuals that are members of the applicant's (or licensee's) management, either unconditionally or in the form of stock options.

* * * * *

§ 24.711 [Corrected]

5. Sections 24.711(b)(1) and 24.711(b)(2), on page 63235, col. 2 are corrected to read as follows:

* * * * *

(b) * * *

(1) For an eligible licensee with *gross revenues* exceeding $75 million (calculated in accordance with § 24.709 (a)(2) and (b)) in each of the two preceding years (calculated in accordance with § 24.720(f)), interest shall be imposed based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted, plus 3.5 percent; payments shall include both principal and interest amortized over the term of the license.

(2) For an eligible licensee with *gross revenues* not exceeding $75 million (calculated in accordance with § 24.709 (a)(2) and (b)) in each of the two preceding years, interest shall be imposed based on the rate of ten-year U.S. Treasury obligations applicable on the date the license is granted, plus 2.5 percent; payments shall include interest only for the first year and payments of interest and principal amortized over the remaining nine years of the license term.

* * * * * *

§ 24.712 [Corrected]

6. Sections 24.712(d)(1) and 24.712(d)(2), on page 63235. col. 3, and page 63236, col. 1, are corrected to read as follows:

* * * * * *

(d) * * *

(1) If during the term of the initial license grant (*see* § 24.15), a licensee that utilize a bidding credit under this section seeks to assign or transfer control of its license to an entity not meeting the eligibility standards for bidding credits or seeks to make any other change in ownership that would result in the licensee no longer qualifying for bidding credits under this section, the licensee must seek Commission approval and reimburse the government for the amount of the bidding credit as a condition of the approval of such assignment, transfer or other ownership change.

(2) If during the term of the initial license grant (*see* § 24.15), a licensee that utilizes a bidding credit under this section seeks to assign or transfer control of its license to an entity meeting the eligibility standards for lower bidding credits or seeks to make any other change in ownership that would result in the licensee qualifying for a lower bidding credit under this section, the licensee must seek Commission approval and reimburse the government for the difference between the amount of the bidding credit obtained by the licensee and the bidding credit for which the assignee, transferee or licensee is eligible under this section as a condition of the approval of such assignment, transfer or other ownership change.

§ 24.720 [Corrected]

7. Section 24.720 (f) and (h), on page 63236, col. 2 and col. 3, are corrected to read as follows:

* * * * *

(f) *Gross Revenues. Gross revenues* shall mean all income received by an entity, whether earned or passive, before any deductions are made for costs of doing business (*e.g.* cost of goods sold), as evidenced by audited financial statements for the relevant number of calendar years preceding January 1, 1994, or, if audited, financial statements were not prepared on a calendar-year basis, for the most recently completed fiscal years preceding the filing of the applicant's short-form application (Form 175). For short-form applications filed after December 31, 1995, gross revenues shall be evidenced by audited financial statements for the preceding relevant number of calendar or fiscal years. If an entity was not in existence for all or part of the relevant period, gross revenues shall be evidenced by the audited financial statements of the entity's predecessor-in-interest or, if there is no identifiable predecessor-in-interest, unaudited financial statements certified by the applicant as accurate.

* * * * *

(h) *Institutional Investor.* An *institutional investor* is an insurance company, a bank holding stock in trust accounts through its trust department, or an investment company as defined in 15 U.S.C. 80a–3(a), including within such definition any entity that would otherwise meet the definition of investment company under 15 U.S.C. 80a–3(a) but is excluded by the exemptions set forth in 15 U.S.C. 80a–3 (b) and (c), without regard to whether such entity is an issuer of securities; provided that, if such investment company is owned, in whole or in part, by other entities, such investment company, such other entities and the *affiliates* of such other entities, taken as a whole, must be primarily engaged in the business of investing, reinvesting or trading in securities or in distributing or

providing investment management services for securities.

* * * * *

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–1948 Filed 1–26–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 90–01; Notice 5]

RIN 2127–AF32

Federal Motor Vehicle Safety Standards; School Bus Pedestrian Safety Devices

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice adopts as final the amendments made by an interim final rule to the flash rate requirement for stop signal arm lamps in Standard No. 131, School Bus Pedestrian Safety Devices. The interim final rule, which responded to a petition for rulemaking submitted by Blue Bird Bus Company, removed design restrictive language that had the effect of prohibiting strobe lamps on stop signal arms.

DATES: *Effective Date:* January 27, 1995.

Petitions for reconsideration: Any petition for reconsideration of this rule must be received by the agency not later than February 27, 1995.

ADDRESSES: Petitions for reconsideration should refer to Docket No. 90–01; Notice 5 and be submitted to the following: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Hott, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202) 366–0247.

SUPPLEMENTARY INFORMATION:

I. Background

Federal motor vehicle safety standard (FMVSS) No. 131, School Bus Pedestrian Safety Devices, requires each new school bus to be equipped with a stop signal arm. A stop signal arm is an item of school bus equipment designed to alert motorists that a school bus is stopping or has stopped. The stop signal arm is patterned after a conventional ''STOP'' sign and attached to the exterior of the driver's side of a school bus. When the school bus stops, the stop signal arm automatically extends outward from the bus. The standard specifies requirements for the stop signal arm's appearance, size, conspicuity, operation and location. To enhance the conspicuity of a stop signal arm, Standard No. 131 specifies that the device must be either reflectorized or be illuminated with flashing lamps.

On February 22, 1994, Blue Bird Body Company (Blue Bird) petitioned the agency to amend the flash rate requirements in S6.2.2 of Standard No. 131 to allow the use of strobe lamps on stop signal arms. At the time, S6.2.2 stated:

> S6.2.2 *Flash Rate*. The lamps on each side of the stop signal arm, when operated at the manufacturer's design load, shall flash at a rate of 60 to 120 flashes per minute with a current ''on'' time of 30 to 75 percent. The total of the percent current ''on'' time for the two terminals shall be between 90 and 110.

Blue Bird argued that the requirement had the effect of prohibiting the use of strobe lamps. Citing previous agency notices, Blue Bird stated its belief that NHTSA had not intended, in issuing its stop signal arm requirements, to prohibit the use of strobe lamps on stop signal arms. For instance, it stated that, in the advance notice of proposed rulemaking (ANPRM), the agency had solicited comments about whether the agency should require strobe lamps.[1]

According to Blue Bird, its petition was precipitated by a letter that it received from NHTSA's Office of Vehicle Safety Compliance addressing an apparent non-compliance of school buses manufactured with stop signal arms equipped with strobe lamps. Blue Bird stated that the apparent non-compliance results from the fact that S6.2.2 sets forth restrictive design requirements based on the operating characteristics of incandescent lamps instead of more performance-oriented requirements based on visual effectiveness. The petitioner alleged that the requirement prevents the use of strobe lamps. Based on these allegations, Blue Bird stated that the apparent noncompliance results from a deficiency in the Standard and not a deficiency in its school buses. Blue Bird requested that the agency amend S6.2.2 to allow the use of strobe lamps, stating that this would be in the interests of safety and consistent with the Standard's intent.

Blue Bird also stated that four states (Alaska, New Mexico, Washington, and West Virginia) as well as some local school districts require stop signal arms to be equipped with strobe lamps. This consideration prompted Blue Bird to request that this rulemaking take effect immediately, claiming that the production and delivery of school buses with strobe lamp equipped stop signal arms needed to continue without disruption.

On May 24, 1994, NHTSA published an interim final rule that amended the flash rate requirements to remove design restrictive language that acted to prohibit strobe lamps (59 FR 26759). The agency explained that, in establishing the flash rate requirements, the agency intended to assure the conspicuity of stop signal arms and did not intend to prohibit manufacturers from installing strobe lamps on stop signal arms to provide such conspicuity. The requirements in effect prior to the interim final rule were based upon filament type lamps, which need an extended current-on-time of 90 to 110 percent of the total flash cycle for the two terminals. This time period is needed to allow this type of lamp to come to full brilliance. In contrast, strobe lamps come to full brilliance almost immediately and could not meet the current-on-time requirements for filament type lamps. The interim final rule resolved this problem by modifying the flash rate requirements to reflect changes made to the Society of Automotive Engineers (SAE's) Recommended Practice J1133, July 1989, School Bus Stop Arms, to allow the use of strobe lights on stop arms.

NHTSA received comments about the interim final rule from the National School Transportation Association (NSTA) and Specialty Manufacturing Company (Specialty) which manufactures stop signal arms. NSTA stated that the interim final rule should be made permanent.

Specialty also stated that the interim final rule should be made permanent, provided that the agency adopts an industry practice which treats a double flash strobe pattern to be a single flash cycle. It explained that both single and double flash strobe lamps are available, but that the secondary flash of a double strobe pattern will occur approximately 0.17 seconds after the initial flash. According to the commenter, the industry considers this double flash pattern to be a single flash since they occur in rapid succession.

NHTSA agrees with Specialty that multiple flash patterns that occur

[1] The agency notes that there was no ANPRM addressing stop signal arms. The discussion described by Blue Bird was contained in the NPRM (55 FR 3624, February 2, 1990).