

§ 318. Transmitting apparatus; operator's license

The actual operation of all transmitting apparatus in any radio station for which a station license is required by this chapter shall be carried on only by a person holding an operator's license issued hereunder, and no person shall operate any such apparatus in such station except under and in accordance with an operator's license issued to him by the Commission: *Provided, however,* That the Commission if it shall find that the public interest, convenience, or necessity will be served thereby may waive or modify the foregoing provisions of this section for the operation of any station except (1) stations for which licensed operators are required by international agreement, (2) stations for which licensed operators are required for safety purposes, and (3) stations operated as common carriers on frequencies below thirty thousand kilocycles: *Provided further,* That the Commission shall have power to make special regulations governing the granting of licenses for the use of automatic radio devices and for the operation of such devices.

(June 19, 1934, ch. 652, title III, §318, 48 Stat. 1089; Mar. 29, 1937, ch. 58, 50 Stat. 56; Pub. L. 86-609, §1, July 7, 1960, 74 Stat. 363; Pub. L. 94-335, July 1, 1976, 90 Stat. 794; Pub. L. 102-538, title II, §205, Oct. 27, 1992, 106 Stat. 3543; Pub. L. 103-414, title III, §303(d), Oct. 25, 1994, 108 Stat. 4296.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

1994—Pub. L. 103-414 made technical amendments to directory language of Pub. L. 102-538, §205(1). See 1992 Amendment note below.

1992—Pub. L. 102-538, §205(2), redesignated cl. (4) as (3).

Pub. L. 102-538, §205(1), as amended by Pub. L. 103-414, struck out cl. (3) which read as follows: "stations engaged in broadcasting (other than those engaged primarily in the function of rebroadcasting the signals of broadcast stations)."

1976—Pub. L. 94-335 substituted "engaged primarily in the function of rebroadcasting the signals of broadcast stations" for "engaged solely in the function of rebroadcasting the signals of television broadcast stations" in parenthetical provisions of cl. (3).

1960—Pub. L. 86-609 inserted "(other than those engaged solely in the function of rebroadcasting the signals of television broadcast stations)" after "engaged in broadcasting".

1937—Act Mar. 29, 1937, inserted provisos.

§ 319. Construction permits**(a) Requirements**

No license shall be issued under the authority of this chapter for the operation of any station unless a permit for its construction has been granted by the Commission. The application for a construction permit shall set forth such facts as the Commission by regulation may prescribe as to the citizenship, character, and the financial, technical, and other ability of the applicant to construct and operate the station, the

ownership and location of the proposed station and of the station or stations with which it is proposed to communicate, the frequencies desired to be used, the hours of the day or other periods of time during which it is proposed to operate the station, the purpose for which the station is to be used, the type of transmitting apparatus to be used, the power to be used, the date upon which the station is expected to be completed and in operation, and such other information as the Commission may require. Such application shall be signed by the applicant in any manner or form, including by electronic means, as the Commission may prescribe by regulation.

(b) Time limitation; forfeiture

Such permit for construction shall show specifically the earliest and latest dates between which the actual operation of such station is expected to begin, and shall provide that said permit will be automatically forfeited if the station is not ready for operation within the time specified or within such further time as the Commission may allow, unless prevented by causes not under the control of the grantee.

(c) Licenses for operation

Upon the completion of any station for the construction or continued construction of which a permit has been granted, and upon it being made to appear to the Commission that all the terms, conditions, and obligations set forth in the application and permit have been fully met, and that no cause or circumstance arising or first coming to the knowledge of the Commission since the granting of the permit would, in the judgment of the Commission, make the operation of such station against the public interest, the Commission shall issue a license to the lawful holder of said permit for the operation of said station. Said license shall conform generally to the terms of said permit. The provisions of section 309(a)-(g) of this title shall not apply with respect to any station license the issuance of which is provided for and governed by the provisions of this subsection.

(d) Government, amateur, or mobile station; waiver

A permit for construction shall not be required for Government stations, amateur stations, or mobile stations. A permit for construction shall not be required for public coast stations, privately owned fixed microwave stations, or stations licensed to common carriers, unless the Commission determines that the public interest, convenience, and necessity would be served by requiring such permits for any such stations. With respect to any broadcasting station, the Commission shall not have any authority to waive the requirement of a permit for construction, except that the Commission may by regulation determine that a permit shall not be required for minor changes in the facilities of authorized broadcast stations. With respect to any other station or class of stations, the Commission shall not waive the requirement for a construction permit unless the Commission determines that the public interest, convenience, and necessity would be served by such a waiver.

(June 19, 1934, ch. 652, title III, §319, 48 Stat. 1089; July 16, 1952, ch. 879, §13, 66 Stat. 718; Mar. 26,