



# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION  
1919 M STREET N.W.  
WASHINGTON, DC 20554

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News media Information 202/418-0500 Recorded listing of releases and texts 202/418-2222.

Report No. SPB-41

April 17, 1996

## **Procedures for Filing Petitions for Declaratory Relief of Local Zoning Regulations and for Waivers of Section 25.104**

### **Petitions for Declaratory Rulings:**

On March 11, 1996, the Commission released a Report and Order and Further Notice of Proposed Rulemaking (RO&FNPRM) revising our rule regarding preemption of local zoning regulations of satellite earth stations, IB Docket No. 95-59, FCC 96-78 (released March 11, 1996). The preemption rule allows for any person "aggrieved by the application or potential application of a state or local zoning or other regulation in violation of paragraph (a)" of Section 25.104 of the Commission's rules to file a petition requesting a declaration that the state or local regulation in question is preempted by Section 25.104. Petitioners must show that they have exhausted local administrative remedies pursuant to Section 25.104(c), 47 C.F.R. § 25.104(c). All allegations of fact contained in petitions and related pleadings must be supported by affidavit pursuant to Section 25.104(d), 47 C.F.R. § 25.104(d).

In addition to demonstrating exhaustion of administrative remedies, petitioners must show that a copy of the petition, a copy of this Public Notice (Report No. SPB-41), and a copy of the Commission's March 11 RO&FNPRM have been served on the appropriate local officials concurrent with its filing at the Commission. For administrative purposes, a number will be assigned to each petition filed and should be used whenever possible in corresponding with the Commission on the given petition. The numbers will be designated as File No. ###-SAT-DRZ-YY, where ### is the next sequential number in the Satellite Policy Branch Database and the YY is the fiscal year in which the petition is filed (e.g., 120-SAT-DRZ-95). A Public Notice will be issued when petitions are filed. The Commission will send a copy of such notices -- via certified mail, return receipt requested -- to the parties.

Oppositions to preemption petitions must be filed within 30 days after the receipt of the Public Notice that a petition has been filed and replies must be filed within 15 days after the time for filing oppositions has expired. Additional pleadings may be filed only if specifically requested or authorized by the Commission.

Approved by OMB  
3060-0707  
expires 10/31/99

**Petitions for waivers:**

Section 25.104(e), 47 C.F.R. § 25.104(e), sets forth a waiver procedure for any any state or local authority to petition the Commission for a full or partial waiver of Section 25.104 in order to maintain and enforce zoning or other regulations inconsistent with this section. Petitions for waiver must specifically set forth the particular regulation for which waiver is sought and may be granted by the Commission upon a showing of local concerns of a highly specialized or unusual nature.

For administrative purposes, a number will be assigned to each request for waiver filed and should be used whenever possible in corresponding with the Commission on the given request. The numbers will be designated as File No. ###-SAT-WAIVZ-YY, where ### is the next sequential number in the Satellite Policy Branch Database and the YY is the fiscal year in which the petition is filed (e.g., 155-SAT-WAIVZ-95). A Public Notice will be issued when petitions for waiver are filed.

Oppositions to waiver requests must be filed within 30 days after release of a Public Notice that a waiver has been filed and replies must be filed within 15 days after the time for filing oppositions has expired. Additional pleadings may be filed only if specifically requested or authorized by the Commission.

An original and two copies of all petitions, waivers and pleadings should be addressed to the Secretary, Federal Communications Commission, 1919 M St. N.W., Washington, D.C. 20554, Attention: Satellite Policy Branch, International Bureau. Copies of the petitions or waivers and related pleadings will be available for public inspection in the International Reference Center, 2000 M St., N.W., Room 102, Washington D.C. 20554, during its normal operating hours. Copies are available for purchase from ITS, Inc. 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, (202) 857-3800.

For further information, contact Rosalee Chiara at (202) 418-0754.

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3060-0707  
expires 10/31/99