

THE FEDERAL COMMUNICATIONS COMMISSION AUTHORIZED TO
GRANT SPECIAL TEMPORARY AUTHORIZATIONS FOR 60 DAYS
FOR CERTAIN NONBROADCAST OPERATIONS

SEPTEMBER 13, 1963.—Ordered to be printed

Mr. PASTORE, from the Committee on Commerce, submitted the
following

REPORT

[To accompany S. 1005]

The Committee on Commerce, to whom was referred the bill (S. 1005) to amend paragraph (2)(G) of subsection 309(c) of the Communications Act of 1934, as amended (47 U.S.C. 309(c)(2)(G)), by granting the Federal Communications Commission additional authority to grant special temporary authorizations for 60 days for certain nonbroadcast operations, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

This bill would amend paragraph (2)(G) of subsection (c) of section 309 of the Communications Act so as to permit the Federal Communications Commission to grant special temporary authorizations (STA), for 60 days in those cases where the application for the special temporary authorization is filed pending the filing of an application for regular operation. This bill was introduced by Senator Warren G. Magnuson at the request of the FCC. On September 4, 1963, a hearing was held thereon at which the Chairman of the Federal Communications Commission, E. William Henry, testified in support thereof. No witness appeared in opposition to the bill.

Under the provisions of the Communications Act, applications filed with the Commission must be on file for 30 days before the Commission can act on them. In order to permit the Commission to authorize immediate operation or short-term operations where facts warrant such action, paragraph (2)(G) of subsection (c) of section 309 exempts those applications made for a special temporary authorization for nonbroadcast operations not to exceed 30 days where no application for regular operation is contemplated to be filed or pending the filing

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of an application for regular operation. The Commission has found the 30-day limitation on special temporary authorizations inadequate in those cases where the short-term operation involves a radio system for which an application for regular operation is filed later. When the application for regular operation is filed, the 30 days waiting period automatically takes effect and the Commission must, therefore, wait the 30 days before it can act on the application.

The Federal Communications Commission's proposal will not change the 30-day limitation on those special temporary authorizations in cases not contemplating a subsequent application for regular operation. It is in this area that the 30-day limitation is appropriately applied, since its purpose is to permit short-term radio operation in the non-broadcast field without the delay of a 30-day waiting period (as provided in subsec. 309(b)), after the issuance of public notice by the Commission of the acceptance for filing of such application.

In those cases where the short-term operation relates to a radio system for which an application for regular operation is filed later, however, this purpose is frustrated because the provisions of section 309(b) are applicable and a 30-day waiting period is required before the Commission can act on the application for regular operation. As a result, there is a hiatus between the expiration of the special temporary authorization and the Federal Communications Commission's grant of the application for regular operation during which the applicant is unlicensed and, as a consequence, he is unable to operate his radio. Moreover, it does not appear that the Federal Communications Commission has the authority to remedy this statutory defect by renewing the special temporary authorization until it can grant the application for regular operation.

The bill herein reported would permit the Commission to grant special temporary authorizations for 60 days in those cases where the application for the special temporary authorization is filed pending the filing of application for regular operation while leaving unchanged the 30-day limitation on those special temporary authorizations in cases not contemplating a subsequent application for regular operation. Thus, the hiatus which now exists in those cases where an application for regular operation is subsequently filed would be eliminated.

AGENCY COMMENTS

A letter from the Acting Chairman of the Federal Communications Commission requesting this legislation dated February 20, 1963, together with the Commission's explanatory statement; a letter from Mr. Edward A. McDermott, Office of the Director of the Executive Office of the President, Office of Emergency Planning, dated May 28, 1963; and a letter from the Comptroller General of the United States, General Accounting Office, dated March 11, 1963, are set forth below:

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., February 20, 1963.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: The Commission has adopted as a part of its legislative program for the 88th Congress a proposal to amend section 309(c)(2)(G) of the Communications Act of 1934 to

permit the Federal Communications Commission to grant special temporary authorizations for periods of 60 days in certain cases (47 U.S.C. 309(c)(2)(G)).

The Commission's draft bill to accomplish the foregoing objective was submitted to the Bureau of the Budget for its consideration. We have now been advised by that Bureau that from the standpoint of the administration's program there would be no objection to the presentation of the draft bill to the Congress for its consideration. Accordingly, there are enclosed six copies of our draft bill and explanatory statement on this subject.

The consideration by the Senate of the proposed amendment to the Communications Act of 1934 would be greatly appreciated. The Commission would be most happy to furnish any additional information that may be desired by the Senate or by the committee to which this proposal is referred.

Sincerely yours,

ROSEL H. HYDE, *Acting Chairman.*

EXPLANATION OF PROPOSED AMENDMENT TO THE COMMUNICATIONS ACT TO PERMIT THE FEDERAL COMMUNICATIONS COMMISSION TO GRANT SPECIAL TEMPORARY AUTHORIZATIONS FOR PERIODS OF 60 DAYS IN CERTAIN CASES (47 U.S.C. 309(c)(2)(G))

Paragraph (2)(G) of subsection (c) of section 309 of the Communications Act of 1934, as amended (47 U.S.C. 309(c)(2)(G)), now exempts from the public notice and 30-day waiting period requirements of subsection 309(b) those applications for "a special temporary authorization for nonbroadcast operation not to exceed 30 days where no application for regular operation is contemplated to be filed or pending the filing of an application for such regular operation, or * * *"

The Commission believes that this subsection should be amended to permit it to grant special temporary authorizations (STA) for 60 days in those cases where the application for the STA is filed pending the filing of an application for regular operation. We are not suggesting any changes in the 30-day limitation on those STA's in cases not contemplating a subsequent application for regular operation.

The purpose of paragraph (2)(G) of subsection 309(c) is to permit short-term radio operation in the nonbroadcast field without the delay of a 30-day waiting period (as provided in subsec. 309(b)) after the issuance of public notice by the Commission of the acceptance for filing of such application. The Commission has found that this purpose is frustrated by the 30-day limitation on STA's in those cases where the short-term operation relates to a radio system for which an application for regular operation is filed later. In those cases, the provisions of subsection 309(b) are applicable and a 30-day waiting period is required before the Commission can act on the application for regular operation. As a result, there is a hiatus between the expiration of the STA and the Commission's grant of the application for regular operation. During the period of the hiatus, the applicant would be unlicensed and would, as a consequence, be unable to operate his radio. This defeats the purpose for which Congress made special provision for granting special temporary authorizations. Moreover, it does not appear that the Commission

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has authority to remedy this statutory defect by renewing the STA until it can grant the application for regular operation.

The Commission believes that this deficiency in the statutory scheme can be corrected by its proposed amendment. Therefore, we recommend that paragraph (2)(G) of subsection 309(c) be amended to give us this additional authority.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF EMERGENCY PLANNING,
OFFICE OF THE DIRECTOR,
Washington, D.C., May 28, 1963.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for a report on S. 1005, 88th Congress, a bill, to amend paragraph (2)(G) of subsection 309(c) of the Communications Act of 1934, as amended, by granting the Federal Communications Commission additional authority to grant special temporary authorizations for 60 days for certain nonbroadcast operations.

The Office of Emergency Planning has no objection to the enactment of S. 1005.

From the standpoint of the administration's program, the Bureau of the Budget advises that it has no objection to the submission of this report.

Sincerely,

EDWARD A. McDERMOTT.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, March 11, 1963.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate.*

DEAR MR. CHAIRMAN: Your letter of March 5, 1963, acknowledged March 6, transmitted copies of S. 974, S. 1005, and S. 1006, 88th Congress, and requested our comments thereon.

S. 1005 proposes to amend the Communications Act of 1934, as amended, so as to grant the Federal Communications Commission additional authority to grant special temporary authorizations for 60 days for certain nonbroadcast operations. Other than the explanations made part of the record at the time S. 1005 and its predecessor bill, S. 3602, 87th Congress, were introduced, we have no information as to the necessity for or desirability of granting the proposed authority to the Federal Communications Commission. Hence, and since the bill, if enacted, would not affect the functions of our Office, we have no comments with respect to the merits of the bill or recommendations regarding its enactment.

The remaining two bills, S. 974 and S. 1006, are the subjects of separate communications.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (new matter is printed in italics and existing law which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934, AS AMENDED, ACTION UPON APPLICATIONS: FORM OF AND CONDITIONS ATTACHED TO LICENSES

SEC. 309. (a) * * *

(b) * * *

(c) Subsection (b) of this section shall not apply—

(1) * * *

(2) to any application for—

(A) * * *

(B) * * *

(C) * * *

(D) * * *

(E) * * *

(F) * * *

(G) a special temporary authorization for non-broadcast operation not to exceed thirty days where no application for regular operation is contemplated to be filed, or *not to exceed sixty days* pending the filing of an application for such regular operation, or

(H) * * *

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