

§ 73.3580

construction permit or license, shall be considered to be a minor amendment, except that any amendment which seeks a change in the ownership interest of the proposed assignee or transferee which would result in a change in control, or any amendment which would require the filing of FCC Forms 314, 315, or 345 (see § 73.3540), if the changes sought were made in an original application for assignment or transfer of control, shall be considered to be a major amendment. However, the FCC may, within 15 days after the acceptance for filing of any other amendment, advise the applicant that the amendment is considered to be a major amendment and therefore is subject to the provisions of § 73.3580.

[44 FR 38504, July 2, 1979, as amended at 51 FR 18451, May 20, 1986]

§ 73.3580 Local public notice of filing of broadcast applications.

(a) All applications for instruments of authorization in the broadcast service (and major amendments thereto, as indicated in §§ 73.3571, 73.3572, 73.3573, 73.3574 and 73.3578) are subject to the local public notice provisions of this section, except applications for:

(1) A minor change in the facilities of an authorized station, as indicated in §§ 73.3571, 73.3572, 73.3573 and 73.3574.

(2) Consent to an involuntary assignment or transfer or to a voluntary assignment or transfer which does not result in a change of control and which may be applied for on FCC Form 316 pursuant to the provisions of § 73.3540(b).

(3) A license under section 319(c) of the Communications Act or, pending application for or grant of such license, any special or temporary authorization to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as would be authorized by such license.

(4) Extension of time to complete construction of authorized facilities.

(5) An authorization of facilities for remote pickup or studio links for use in the operation of a broadcast station.

(6) Authorization pursuant to section 325(c) of the Communications Act (“* * * studios of foreign stations”) where the programs to be transmitted

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are special events not of a continuing nature.

(7) An authorization under any of the proviso clauses of section 308(a) of the Communications Act concerning applications for and conditions in licenses.

(b) Applications (as originally filed or amended) will be acted upon by the FCC no sooner than 30 days following public notice of acceptance for filing or amendment, except as otherwise permitted in § 73.3542, “Application for temporary authorization.”

(c) An applicant who files an application or amendment thereto which is subject to the provisions of this section, must give notice of this filing in a newspaper. Exceptions to this requirement are applications for renewal of AM, FM, TV, Class A TV and international broadcasting stations; low power TV stations; TV and FM translator stations; TV boosters stations; FM boosters stations; and applications subject to paragraph (e) of this section. The local public notice must be completed within 30 days of the tendering of the application. In the event the FCC notifies the applicant that a major change is involved, requiring the applicant to file public notice pursuant to §§ 73.3571, 73.3572, 73.3573 or 73.3578, this filing notice shall be given in a newspaper following this notification.

(1) *Notice requirements for these applicants are as follows.* (i) In a daily newspaper of general circulation published in the community in which the station is located, or proposed to be located, at least twice a week for two consecutive weeks in a three-week period; or,

(ii) If there is no such daily newspaper, in a weekly newspaper of general circulation published in that community, once a week for 3 consecutive weeks in a 4-week period; or,

(iii) If there is no daily or weekly newspaper published in that community, in the daily newspaper from wherever published, which has the greatest general circulation in that community, twice a week for 2 consecutive weeks within a 3-week period.

(2) *Notice requirements for applicants for a permit pursuant to section 325(b) of the Communications Act (“* * * Studios of Foreign Stations”)* are as follows. In a daily newspaper of general circulation in the largest city in the principal area

to be served in the U.S.A. by the foreign broadcast station, at least twice a week for 2 consecutive weeks within a three-week period.

(3) *Notice requirements for applicants for a change in station location are as follows.* In the community in which the station is located and the one in which it is proposed to be located, in a newspaper with publishing requirements as in paragraphs (c)(1)(i), (ii) or (iii) of this section.

(4) The notice required in paragraphs (c)(1), (2) and (3) of this section shall contain the information described in paragraph (f) of this section.

(d) The licensee of an operating broadcast station who files an application or amendment thereto which is subject to the provisions of this section must give notice as follows:

(1) An applicant who files for renewal of a broadcast station license, other than a low power TV station license not locally originating programming as defined by §74.701(h), an FM translator station or a TV translator station license, must give notice of this filing by broadcasting announcements on applicant's station. (Sample and schedule of announcements are below.) Newspaper publication is not required. An applicant who files for renewal of a low power TV station license not locally originating programming as defined by §74.701(h), an FM translator station or a TV translator station license will comply with (g) below.

(2) An applicant who files an amendment of an application for renewal of a broadcast station license will comply with paragraph (d)(1) of this section.

(3) An applicant who files for modification, assignment or transfer of a broadcast station license (except for International broadcast, low power TV, TV translator, TV booster, FM translator and FM booster stations) shall give notice of the filing in a newspaper as described in paragraph (c) of this section, and also broadcast the same notice over the station as follows:

(i) At least once daily on four days in the second week immediately following either the tendering for filing of the application or immediately following notification to the applicant by the FCC that Public Notice is required pursuant to §§73.3571, 73.3572, 73.3573 or

§73.3578. For commercial radio stations these announcements shall be made between 7 a.m. and 9 a.m. and/or 4 p.m. and 6 p.m. For stations which neither operate between 7 a.m. and 9 a.m. nor between 4 p.m. and 6 p.m., these announcements shall be made during the first two hours of broadcast operation. For commercial TV stations, these announcements shall be made between 6 p.m. and 11 p.m. (5 p.m. and 10 p.m. Central and Mountain time).

(4) The broadcast notice requirements for those filing renewal applications and amendments thereto are as follows:

(i) *Pre-filing announcements.* During the period and beginning on the first day of the sixth calendar month prior to the expiration of the license, and continuing to the date on which the application is filed, the following announcement shall be broadcast on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communication Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We must file an application for renewal with the FCC (date four calendar months prior to expiration date). When filed, a copy of this application will be available for public inspection during our regular business hours. It contains information concerning this station's performance during the last (period of time covered by the application).

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station's public inspection file) or may be obtained from the FCC, Washington, DC 20554.

(A) An applicant who files for renewal of a low power TV station locally originating programming (as defined by §74.701(h)) shall broadcast this announcement, except that statements indicating there is a public inspection

file at the station containing the renewal application and other information on the license renewal process, shall be omitted.

(B) This announcement shall be made during the following time periods:

(1) For commercial TV stations—at least two of the required announcements between 6 p.m. and 11 p.m. (5 p.m. and 10 p.m. Central and Mountain Time).

(2) For commercial radio stations—at least two of the required announcements between 7 a.m. and 9 a.m. and/or 4 p.m. and 6 p.m. For stations which neither operate between 7 a.m. and 9 a.m. nor between 4 p.m. and 6 p.m., at least two of the required announcements shall be made during the first two hours of broadcast operation.

(3) For noncommercial educational stations, at the same time as commercial stations, except that such stations need not broadcast the announcement during any month during which the station does not operate.

(4) For low power TV stations locally originating programming (as defined by § 74.701(h)), at the same time as for commercial TV stations, or as close to that time as possible.

(ii) *Post-filing announcements.* During the period beginning of the date on which the renewal application is filed to the sixteenth day of the next to last full calendar month prior to the expiration of the license, all applications for renewal of broadcast station licenses shall broadcast the following announcement on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

On *(date of last renewal grant)* *(Station's call letters)* was granted a license by the Federal Communications Commission to serve the public interest as a public trustee until *(expiration date)*.

Our license will expire on *(date)*. We have filed an application for renewal with the FCC.

A copy of this application is available for public inspection during our regular business hours. It contains information concerning this station's performance during the last *(period of time covered by application)*.

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and pe-

titions with the FCC by *(date first day of last full calendar month prior to the month of expiration)*.

Further information concerning the FCC's broadcast license renewal process is available at *(address of location of the station's public inspection file)* or may be obtained from the FCC, Washington, DC 20554.

(A) An applicant who files for renewal of a low power TV station locally originating programming (as defined by § 74.701(h)) shall broadcast this announcement, except that statements indicating there is a public inspection file at the station containing the renewal application and other information on the license renewal process, shall be omitted.

(B) This announcement shall be made during the following time periods:

(1) For commercial TV stations—at least three of the required announcements between 6 p.m. and 11 p.m. (5 p.m. and 10 p.m. Central and Mountain time), at least one announcement between 9 a.m. and 1 p.m., at least one announcement between 1 p.m. and 5 p.m., and at least one announcement between 5 p.m. and 7 p.m.

(2) For commercial radio stations—at least three of the required announcements between 7 a.m. and 9 a.m. and/or 4 p.m. and 6 p.m., at least one announcement between 9 a.m. and noon, at least one announcement between noon and 4 p.m., and at least one announcement between 7 p.m. and midnight. For stations which do not operate between 7 a.m. and 9 a.m. or between 4 p.m. and 6 p.m., at least three of the required announcements shall be made during the first two hours of broadcast operation.

(3) For noncommercial educational stations, at the same time as commercial stations, except that such stations need not broadcast the announcement during any month during which the station does not operate. In such instances noncommercial educational stations shall meet the requirements in the exact order specified in paragraph (d)(4)(ii)(A) (1) or (2) of this section (e.g., if only four renewal notices are broadcast by an educational TV licensee, 3 must be broadcast between 6 p.m. and 11 p.m. and the fourth between 9 a.m. and 1 p.m.).

(4) For low power TV stations locally originating programming (as defined

by §74.701(h)), at the same time as for commercial TV stations, or as close to that time as possible.

(iii) TV broadcast stations (commercial and noncommercial educational), in presenting the pre- and post-filing announcements, must use visuals with the licensee's and the FCC's addresses when this information is being orally presented by the announcer.

(iv) Stations which have not received a renewal grant since the filing of their previous renewal application, shall use the following first paragraph for the pre-filing and the post-filing announcements:

(Station's call letters) is licensed by the Federal Communications Commission to serve the public interest as a public trustee.

(5) An applicant who files for a Class A television license must give notice of this filing by broadcasting announcements on applicant's station. (Sample and schedule of announcements are below.) Newspaper publication is not required.

(i) The broadcast notice requirement for those filing for Class A television license applications and amendment thereto is as follows:

(A) *Pre-filing announcements.* Two weeks prior to the filing of the license application, the following announcement shall be broadcast on the 5th and 10th days of the two week period. The required announcements shall be made between 6 p.m. and 11 p.m. (5 p.m. and 10 p.m. Central and Mountain Time) Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

On (date), the Federal Communications Commission granted (Station's call letters) a certification of eligibility to apply for Class A television status. To become eligible for a Class A certificate of eligibility, a low power television licensee was required to certify that during the 90-day period ending November 28, 1999, the station: (1) Broadcast a minimum of 18 hours per day; (2) broadcast an average of at least three hours per week of programming produced within the market area served by the station or by a group of commonly-owned low power television stations; and (3) had been in compliance with the Commission's regulations applicable to the low power television service. The Commission may also issue a certificate of eligibility to a licensee unable to satisfy the foregoing criteria, if it determines that the pub-

lic interest, convenience and necessity would be served thereby.

(Station's call letters) intends to file an application (FCC Form 302-CA) for a Class A television license in the near future. When filed, a copy of this application will be available at (address of location of the station's public inspection file) for public inspection during our regular business hours. Individuals who wish to advise the FCC of facts relating to the station's eligibility for Class A status should file comments and petitions with the FCC prior to Commission action on this application.

(B) *Post-filing announcements.* The following announcement shall be broadcast on the 1st and 10th days following the filing of an application for a Class A television license. The required announcements shall be made between 6 p.m. and 11 p.m. (5 p.m. and 10 p.m. Central and Mountain Time). Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

On (date of filing license application) (Station's call letters) filed an application, FCC Form 302-CA, for a Class A television license. Such stations are required to broadcast a minimum of 18 hours per day, and to average at least 3 hours of locally produced programming each week, and to comply with certain full-service television station operating requirements.

A copy of this application is available for public inspection during our regular business hours at (address of location of the station's public inspection file). Individuals who wish to advise the FCC of facts relating to the station's eligibility for Class A status should file comments and petitions with the FCC prior to Commission action on this application.

(ii) [Reserved]

(e) When the station in question is the only operating station in its broadcast service which is located in the community involved, or if it is a non-commercial educational station, publication of the notice in a newspaper, as provided in paragraph (c) of this section is not required, and publication by broadcast over that station as provided in paragraph (d) of this section shall be deemed sufficient to meet the notice requirements of this section. Non-commercial educational broadcast stations which do not broadcast during the portion of the year in which the period of broadcast of notice falls must

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comply with the provisions of paragraph (c) of this section.

(f) The notice required by paragraphs (c) and (d) of this section shall contain, when applicable, the following information, except as otherwise provided in paragraphs (d) (1) and (2) and (e) of this section in regard to renewal applications:

(1) The name of the applicant, if the applicant is an individual; the names of all partners, if the applicant is a partnership; or the names of all officers and directors and of those persons holding 10% or more of the capital stock or other ownership interest if the applicant is a corporation or an unincorporated association. (In the case of applications for assignment or transfer of control, information should be included for all parties to the application.)

(2) The purpose for which the application was or will be filed (such as, construction permit, modification, assignment or transfer of control).

(3) The date when the application or amendment was tendered for filing with the FCC.

(4) The call letters, if any, of the station, and the frequency or channel on which the station is operating or proposes to operate.

(5) In the case of an application for construction permit for a new station, the facilities sought, including type and class of station, power, location of studios, transmitter site and antenna height.

(6) In the case of an application for modification of a construction permit or license, the exact nature of the modification sought.

(7) In the case of an amendment to an application, the exact nature of the amendment.

(8) In the case of applications for a permit pursuant to Section 325(b) of the Communications Act (“* * * studios of foreign stations”), the call letters and location of the foreign radio broadcast station, the frequency or channel on which it operates, and a description of the programs to be transmitted over the station.

(9) A statement that a copy of the application, amendment(s), and related material are on file for public inspection at a stated address in the community in which the station is located or

is proposed to be located. See §§ 73.3526 and 73.3527.

(g) An applicant who files for authorization or major modifications, or a major amendment thereto, for a low power TV, TV translator, TV booster, FM translator, or FM booster station, must give notice of this filing in a daily, weekly or biweekly newspaper of general circulation in the community or area to be served. Likewise, an applicant for assignment, transfer or renewal, or a major amendment thereto, for a low power TV, TV translator or FM translator station, must give this same type of newspaper notice. The filing notice will be given immediately following the tendering for filing of the application or amendment, or immediately following notification to the applicant by the FCC that public notice is required pursuant to §§ 73.3572, 73.3573, or 73.3578.

(1) Notice requirements for these applicants are as follows:

(i) In a newspaper at least one time; or

(ii) If there is no newspaper published or having circulation in the community or area to be served, the applicant shall determine an appropriate means of providing the required notice to the general public, such as posting in the local post office or other public place. The notice shall state:

(A) The name of the applicant, the community or area to be served, and the transmitter site.

(B) The purpose for which the application was filed.

(C) The date when the application or amendment was filed with the FCC.

(D) The output channel or channels on which the station is operating or proposes to operate and the power used or proposed to be used.

(E) In the case of an application for changes in authorized facilities, the nature of the changes sought.

(F) In the case of a major amendment to an application, the nature of the amendment.

(G) A statement, if applicable, that the station engages in or intends to engage in rebroadcasting, and the call letters, location and channel of operation of each station whose signals it is rebroadcasting or intends to rebroadcast.

(H) A statement that invites comment from individuals who wish to advise the FCC of facts relating to the renewal application and whether the station has operated in the public interest.

(h) The applicant may certify in the appropriate application that it has or will comply with the public notice requirements contained in paragraphs (c), (d) or (g) of this section. However, an applicant for renewal of a license that is required to maintain a public inspection file, shall, within 7 days of the last day of broadcast of the required publication announcements, place in its public inspection file a statement certifying compliance with § 73.3580 along with the dates and times that the pre-filing and post-filing notices were broadcast and the text thereof. This certification need not be filed with the Commission but shall be retained in the public inspection file for as long as the application to which it refers.

(i) Paragraphs (a) through (h) of this section apply to major amendments to license renewal applications. See § 73.3578(a).

[44 FR 38504, July 2, 1979, as amended at 44 FR 65765, Nov. 15, 1979; 45 FR 6402, Jan. 28, 1980; 46 FR 36852, July 16, 1981; 47 FR 17066, Apr. 21, 1982; 49 FR 33664, Aug. 24, 1984; 49 FR 47844, Dec. 7, 1984; 50 FR 40015, Oct. 1, 1985; 52 FR 21686, June 9, 1987; 52 FR 31401, Aug. 20, 1987; 53 FR 26074, July 11, 1988; 57 FR 14647, Apr. 22, 1992; 58 FR 51251, Oct. 1, 1993; 65 FR 30008, May 10, 2000; 65 FR 34406, May 30, 2000]

§ 73.3584 Procedure for filing petitions to deny.

(a) For mutually exclusive applications subject to selection by competitive bidding (non-reserved channels) or fair distribution/point system (reserved channels), petitions to deny may be filed only against the winning bidders or tentative selectee(s), and such petitions will be governed by §§ 73.5006 and 73.7004, respectively. For all other applications the following rules will govern. Except in the case of applications for new low power TV, TV translator or TV booster stations, for major changes in the existing facilities of such stations, or for applications for a change in output channel tendered by displaced low power TV and TV translator stations pursuant to § 73.3572(a)(1), any

party in interest may file with the Commission a Petition to Deny any application (whether as originally filed or if amended so as to require a new file number pursuant to §§ 73.3571(j), 73.3572(b), 73.3573(b), 73.3574(b) or 73.3578) for which local notice pursuant to § 73.3580 is required, provided such petitions are filed prior to the day such applications are granted or designated for hearing; but where the FCC issues a public notice pursuant to the provisions of §§ 73.3571(c), 73.3572(c) or § 73.3573(d), establishing a "cut-off" date, such petitions must be filed by the date specified. In the case of applications for transfers and assignments of construction permits or station licenses, Petitions to Deny must be filed not later than 30 days after issuance of a public notice of the acceptance for filing of the applications. In the case of applications for renewal of license, Petitions to Deny may be filed at any time up to the deadline established in § 73.3516(e). Requests for extension of time to file Petitions to Deny applications for new broadcast stations or major changes in the facilities of existing stations or applications for renewal of license will not be granted unless all parties concerned, including the applicant, consent to such requests, or unless a compelling showing can be made that unusual circumstances make the filing of a timely petition impossible and the granting of an extension warranted.

(b) Except in the case of applications for new low power TV or TV translator stations, or for major changes in the existing facilities of such stations, the applicant may file an opposition to any Petition to Deny, and the Petitioner a reply to such opposition in which allegations of fact or denials thereof shall be supported by affidavit of a person or persons with personal knowledge thereof. The times for filing such oppositions and replies shall be those provided in § 1.45 except that as to a Petition to Deny an application for renewal of license, an opposition thereto may be filed within 30 days after the Petition to Deny is filed, and the party that filed the Petition to Deny may reply to the opposition within 20 days after opposition is due or within 20 days after the opposition is filed,