

or where the Chief, Media Bureau desires instructions from the Commission, the matter is placed on the Commission agenda.

[67 FR 13233, Mar. 21, 2002]

§ 73.3564 Acceptance of applications.

(a)(1) Applications tendered for filing are dated upon receipt and then forwarded to the Media Bureau, where an administrative examination is made to ascertain whether the applications are complete. Except for applications for minor modifications of facilities in the non-reserved FM band, as defined in § 73.3573(a)(2), long form applications subject to the provisions of § 73.5005 found to be complete or substantially complete are accepted for filing and are given file numbers. In the case of minor defects as to completeness, a deficiency letter will be issued and the applicant will be required to supply the missing or corrective information. Applications that are not substantially complete will not be considered and will be returned to the applicant.

(2) In the case of minor modifications of facilities in the non-reserved FM band, applications will be placed on public notice if they meet the following two-tiered minimum filing requirements as initially filed in first-come/first-serve proceedings:

- (i) The application must include:
 - (A) Applicant's name and address,
 - (B) Applicant's signature,
 - (C) Principal community,
 - (D) Channel or frequency,
 - (E) Class of station, and
 - (F) Transmitter site coordinates; and
- (ii) The application must not omit more than three of the following second-tier items:
 - (A) A list of the other media interests of the applicant and its principals,
 - (B) Certification of compliance with the alien ownership provisions contained in 47 U.S.C. 310(b),
 - (C) Tower/antenna heights,
 - (D) Effective radiated power,
 - (E) Whether the antenna is directional or omnidirectional, and
 - (F) An exhibit demonstrating compliance with the contour protection requirements of 47 CFR 73.215, if applicable.
- (3) Applications found not to meet minimum filing requirements will be

returned to the applicant. Applications found to meet minimum filing requirements, but that contain deficiencies in tender and/or acceptance information, shall be given an opportunity for corrective amendment pursuant to 73.3522 of this part. Applications found to be substantially complete and in accordance with the Commission's core legal and technical requirements will be accepted for filing. Applications with uncorrected tender and/or acceptance defects remaining after the opportunity for corrective amendment will be dismissed with no further opportunity for amendment.

(b) Acceptance of an application for filing merely means that it has been the subject of a preliminary review by the FCC's administrative staff as to completeness. Such acceptance will not preclude the subsequent dismissal of the application if it is found to be patently not in accordance with the FCC's rules.

(c) At regular intervals, the FCC will issue a Public Notice listing all long form applications which have been accepted for filing. Pursuant to §§ 73.3571(h), 73.3572, and 73.3573(f), such notice shall establish a cut-off date for the filing of petitions to deny. With respect to reserved band FM applications, the Public Notice shall also establish a cut-off date for the filing of mutually exclusive applications pursuant to § 73.3573(e). However, no application will be accepted for filing unless certification of compliance with the local notice requirements of § 73.3580(h) has been made in the tendered application.

(d) The FCC will specify by Public Notice, pursuant to § 73.5002, a period for filing applications for new stations or for major modifications in the facilities of an existing station. Except for reserved band FM stations and TV stations on reserved noncommercial educational channels, applications for new and major modifications in facilities will be accepted only during these window filing periods specified by the Commission.

(e) Applications for minor modification of facilities may be tendered at any time, unless restricted by the FCC. These applications will be processed on a "first come/first served" basis and

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will be treated as simultaneously tendered if filed on the same day. Any applications received after the filing of a lead application will be grouped according to filing date, and placed in a queue behind the lead applicant. The FCC will periodically release a Public Notice listing those minor modification of facilities applications accepted for filing.

(f) If a non-reserved band FM channel allotment becomes vacant, after the grant of a construction permit becomes final, because of a lapsed construction permit or for any other reason, the FCC will, by Public Notice, announce a subsequent filing window for the acceptance of new applications for such channels.

(g) Applications for operation in the 1605–1705 kHz band will be accepted only if filed pursuant to the terms of § 73.30(b).

[63 FR 48624, Sept. 11, 1998, as amended at 64 FR 56978, Oct. 22, 1999; 67 FR 13233, Mar. 21, 2002]

§ 73.3566 Defective applications.

(a) Applications which are determined to be patently not in accordance with the FCC rules, regulations, or other requirements, unless accompanied by an appropriate request for waiver, will be considered defective and will not be accepted for filing or if inadvertently accepted for filing will be dismissed. Requests for waiver shall show the nature of the waiver or exception desired and shall set forth the reasons in support thereof.

(b) If an applicant is requested by the FCC to file any additional documents or information not included in the prescribed application form, a failure to comply with such request will be deemed to render the application defective, and such application will be dismissed.

[44 FR 38499, July 2, 1979]

§ 73.3568 Dismissal of applications.

(a) (1) Failure to prosecute an application, or failure to respond to official correspondence or request for additional information, will be cause for dismissal.

(2) Applicants in all broadcast services subject to competitive bidding will

be subject to the provisions of §§ 73.5002 and 1.2105(b) regarding the dismissal of their short-form applications.

(3) Applicants in all broadcast services subject to competitive bidding will be subject to the provisions of §§ 73.5004, 73.5005 and 1.2104(g) regarding the dismissal of their long-form applications and the imposition of applicable withdrawal, default and disqualification payments.

(b)(1) Subject to the provisions of § 73.3525, dismissal of applications for channels reserved for noncommercial educational use will be without prejudice where an application has not yet been designated for hearing, but may be made with prejudice after designation for hearing.

(2) Subject to the provisions of § 73.3525, requests to dismiss an application for a channel reserved for noncommercial educational use, without prejudice, after it has been designated for hearing, will be considered only upon written petition properly served upon all parties of record. Such requests shall be granted only upon a showing that the request is based on circumstances wholly beyond the applicant's control which preclude further prosecution of his application.

(c) Subject to the provisions of §§ 73.3523 and 73.3525, any application for minor modification of facilities may, upon request of the applicant, be dismissed without prejudice as a matter of right.

(d) An applicant's request for the return of an application that has been accepted for filing will be regarded as a request for dismissal.

[63 FR 48624, Sept. 11, 1998]

§ 73.3571 Processing of AM broadcast station applications.

(a) Applications for AM broadcast facilities are divided into three groups.

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations. A major change for an AM station authorized under this part is any change in frequency, except frequency changes to non-expanded band first, second or third adjacent channels. A major change in ownership is a situation where the original party or parties to the application do not retain more