

# FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

[MM Docket Nos. 98-43 and 94-149, FCC 99-267]

### 1998 Biennial Regulatory Review—Streamlining of Mass Media Applications, Rules, and Processes

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document addresses thirty-eight petitions for reconsideration. The document grants in part several petitions, clarifies certain rules adopted in the *Report and Order* (hereafter the “*Streamlining Order*”) in this proceeding, and denies other petitions in whole or in part. Petitioners had not provided grounds for reconsidering or reversing any policies adopted in the *Streamlining Order*. Nevertheless, several petitioners pointed out specific circumstances in which the Commission could exempt permittees from strict compliance with the rules while ensuring that the policy underlying the rule remained intact. It also eliminates the requirement that applications, amendments, and other requests for Commission action contain an original signature, and it revises the criteria for evaluating “minor change” applications in the FM broadcasting service. These actions will further the *Streamlining Order*’s stated goals of making the Commission’s broadcast licensing procedures more efficient and eliminating unwarranted regulatory burdens on Commission broadcast regulatees.

**DATES:** Effective December 21, 1999.

**FOR FURTHER INFORMATION CONTACT:** Michael Wagner, (202) 418-2700, Audio Services Division, Mass Media Bureau.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s Memorandum Opinion and Order (“*MO&O*”), adopted September 29, 1999; released October 6, 1999. The full text of the Commission’s *MO&O* is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room TW-A306), 445 12th Street, SW, Washington D.C. 20554. The complete text of this *MO&O* may also be purchased from the Commission’s copy contractor, International Transcription Services, (202) 857-3500, 1231 20th Street, NW, Washington, DC 20036.

# Synopsis of Memorandum Opinion and Order

## Introduction and Background

1. On November 26, 1998, the Commission released its Report and Order in MM Docket Nos. 98-43 and 94-149, 13 FCC Rcd 23,056 (1998), 63 FR 70039. In the *Streamlining Order*, the Commission significantly modified its broadcast application and licensing procedures to make them more efficient and eliminate unwarranted regulatory burdens. Specifically, in the *Streamlining Order*, the Commission (1) Adopted an electronic filing mandate for key Mass Media Bureau broadcast application and reporting forms, establishing a “phase-in” period of six months between the date that the pertinent form becomes available for filing electronically and the date that electronic filing would become mandatory; (2) substantially revised key forms to replace many narrative exhibits with “yes” or “no” certifications, supplemented with detailed instructions and worksheets; (3) adopted a system of random audits to ensure the integrity of our application process, as well as compliance with the Communications Act and the Commission’s Rules, under the streamlined application procedures; (4) extended the construction period for all broadcast stations to three years (from 18 months for radio stations and 24 months for television stations) and provided for automatic forfeiture of the permit if a station is not operational with an application for covering license on file by the end of that period; (5) adopted a formal system by which the construction period would be “tolled” in the event that (a) An “act of God” interfered with construction efforts, or (b) a permit itself was the subject of administrative or judicial review; (6) eliminated the restriction on payment allowable for the sale of an unbuilt construction permit; (7) eliminated the requirement that broadcast station ownership reports be filed every year on the date of the station’s license renewal and substituted a requirement that the report be filed only every two years; and (8) modified the ownership report form to require the provision of information on the racial and gender identity of broadcast licensees/principals.

2. Thirty-eight parties filed petitions for reconsideration of the *Streamlining Order*. The issues raised, and the Commission’s resolution of each issue, are summarized below.

# Discussion

## Worksheets

3. In the *Streamlining Order*, the Commission stated that it would assist applicants in completing the new certification-based forms by providing detailed worksheets and instructions. The Commission also determined that it would not require applicants to retain worksheets, place them in the station public files, or file them with the Commission.

4. In the *MO&O*, the Commission rejected arguments by the Federal Communications Bar Association that the filing and retention of worksheets would constitute a minimal burden on the applicant and would ensure the integrity of the application process. The Commission stated that the worksheets were designed “to provide guidance” and that it would be contrary to the purpose of the streamlining proceeding to treat the worksheets as part of the application. Additionally, the Commission stated that the certification requirement, buttressed by the formal audit program and the agency’s authority to request additional information from applicants as necessary, will be sufficient to ensure the integrity of the application process.

## Contour Maps

5. In the *Streamlining Order*, the Commission required the submission with the application of the coverage contour overlap map upon which the applicant relied in certifying its compliance with the local radio ownership rules. In response to Petitioner David Tillotson, the Commission carved a limited exception to this requirement: when the acquisition will result in same-service overlap of stations licensed to the same community (and no other station outside the community of license is involved), an applicant will be permitted to certify compliance with the local radio ownership rules simply by showing that there are greater than the requisite number of stations licensed to that community.

## Enforcement and Audits

6. In the *Streamlining Order*, the Commission adopted a system of random audits to prevent abuse of its licensing process. Pursuant to this system, up to five percent of all broadcast applications would be subject to heightened scrutiny prior to grant, typically during the petition to deny period, and subject up to five percent of

all applications to a formal audit after grant.

7. In the *MO&O*, the Commission rejected the contention of petitioner Tillotson that audits must be conducted prior to grant or, in any event, prior to the date on which grant of an application becomes final. According to the petitioner, lending institutions and investors will be reluctant to advance funds based upon a qualified opinion letter from counsel regarding finality disclosing that a granted application may still be subject to an audit. The Commission held that the post-grant audit program does not alter the concept of a grant's "finality," as the agency has the authority under 47 U.S.C. 312(a)(7) to revoke a construction permit or license at any time after grant. The adoption of a post-grant audit program therefore will not make permit grants any less "final" than under existing law.

#### *Collection of Information on Minority and Female Ownership*

8. In the *Streamlining Order*, the Commission adopted a proposal to revise its Annual Ownership Report, to be submitted on FCC Form 323, to collect race and gender information about the attributable owners of broadcast licenses. In the *MO&O*, the Commission rejected the argument by the National Association of Broadcasters that the requirement imposes a "significant burden" on broadcasters and duplicates information already collected by the National Telecommunications and Information Administration ("NTIA"). The Commission held that the collection of race and gender data is consistent with its statutory mandate to "promote the policies and purposes of [the Communications Act] favoring diversity of media voices" and to promote the public policy of "disseminating licenses among a wide variety of applicants, including \* \* \* businesses owned by members of minority groups and women." Collection of this data will make it easier for the Commission to monitor the success of these policies.

9. Additionally, the Commission held that the requirement will not unduly burden broadcasters, because it will not require broadcasters to obtain information from anyone whose interests are not currently reportable. Finally on this issue, the Commission found that the NTIA's race and gender collection methodology does not include information on women and does not ensure that the NTIA report includes a complete listing of all stations owned by minorities; NTIA data is therefore an inadequate substitute for

the data to be collected by the Commission.

#### *Revised Construction Periods*

10. In order to reduce the time spent in applicant preparation and staff study of extension applications, the Commission determined in the *Streamlining Order* to: (1) Apply a uniform three-year term to all construction permits; (2) exclude from the calculation of this term those periods during which the permit itself was the subject of administrative or judicial review or where construction delays were caused by an "act of God," i.e., "toll" the construction period for these events; (3) eliminate the practice of providing extra time for construction after a permit has been modified or assigned/transferred; and (4) make construction permits subject to automatic forfeiture upon expiration. Petitioners challenged the scope of application of the new rules and the tolling provisions of the new rules.

11. The Commission rejected the challenges and affirmed the *Streamlining Order's* application of the revised construction period rules to all outstanding permits. First, the Commission held that the *Notice of Proposed Rule Making* in this proceeding, 13 FCC Rcd 11,349 (1998), 63 FR 19926 (April 17, 1998), let interested commenters know that their interests were likely to be affected by the proceeding, and it fairly apprised interested parties of the subjects and issues of the rule making. The *Streamlining Order* did not "reach back" into past construction periods and change the legal consequences of actions taken those periods. Since permittees or licensees have no proprietary interest in their authorizations, permit forfeiture resulting from application of the rules cannot constitute an unconstitutional government "taking" so long as notice requirements were met when the rules were adopted. Nonetheless, the *MO&O* provides relief for a group of permittees holding valid permits on the effective date of the *Streamlining Order*, including permittees whose authorizations have expired but for which the forfeiture is not administratively "final." Specifically, it establishes for those permittees a revised automatic forfeiture date of one year from the effective date of the *MO&O*.

12. Additionally, the Commission held that the "tolling" provisions adopted in the *Streamlining Order* strike the proper balance between the fundamental public interest in expediting new broadcast service and

the recognition that there are some legitimate obstacles that may prevent construction. By adding one full year to all full-service television broadcast permits and one and one-half years to all other broadcast permits, the Commission has built in a "cushion" of additional time sufficient for diligent permittees to complete construction unless faced with insurmountable circumstances.

13. The Commission specifically rejected the contention of several petitioners that local zoning matters should constitute a circumstance beyond the permittee's control such that the "tolling" provisions should be invoked; it held that zoning delays often stem from misjudgments by permittees in specifying transmitter sites and that diligent permittees can overcome zoning obstacles given the increased construction period now allotted. It did, however expand the tolling provision to include certain circumstances raised by petitioners, i.e.: (1) When there is the failure of a Commission-imposed condition precedent to commencement of operation (such as where a broadcaster ordered to change frequencies to accommodate another has not done so in a timely manner), and (2) in certain limited circumstances involving low power television stations, due to the unique nature of this secondary service and the impact of the transition to digital television on that service.

14. The Commission also clarified the notification procedures to be utilized by permittees seeking to have their construction periods "tolled." Apart from the information required by the *Streamlining Order* for tolling notifications (date/circumstances of the tolling event, station call sign, frequency, community of license, and construction permit application file number), the tolling notification should contain the following information: (1) The grant date and original expiration date of the construction permit; (2) a brief description of the tolling event; (3) a specific reference to § 73.3598 of the Commission's rules, the *Streamlining Order*, or the *MO&O* demonstrating that the circumstances qualify as an approved tolling event; (4) the date(s) during which the tolling impediment prevented construction; and (5) if possible at the time of notification, the permittee's calculation of the revised permit expiration date.

#### *FM Minor Change Tenderability Criteria*

15. Prior to the institution of the competitive bidding procedures for broadcast facilities, applications for facilities in the non-reserved FM band

would be acceptable for filing only if they met a two-tiered minimum filing requirement. First, the application had to include six essential elements: (1) The applicant's name and address; (2) the applicant's original signature; (3) the applicant's principal community; (4) the specified channel or frequency; (5) the class of station proposed; and (6) the transmitter site coordinates.

Additionally, the applicant could omit no more than three of the "second tier" items specified in Appendix C to the *Report and Order* in MM Docket No. 91-347, 7 FCC Rcd 5074 (1992), 57 FR 34,872 (August 7, 1992). In order to facilitate the auction process, the Commission abolished the two-tier system for all full-service FM applications for new facilities and major changes in the *First Report and Order* in MM Docket No. 97-234, GC Docket No. 92-52, and GEN Docket No. 90-264, 13 FCC Rcd 15,920 (1998), 63 FR 48615 (September 30, 1998). Subsequently, in the *Notice of Proposed Rule Making* in this proceeding, the Commission concluded that the rationale underlying the auction-related processing rule change applied only to new and major change applications. However, in light of the revisions to the application forms and processing procedures proposed in the *Notice of Proposed Rule Making*, the Commission invited comment on whether or not it should modify the "tenderability" and two-tier standards for minor change FM applications.

16. The Commission received no comments on this issue, and it did not address the matter in the *Streamlining Order*. In the *MO&O*, therefore, the Commission clarified and modified the two-tier review system for FM minor change applications. This action is necessary because many of the "second tier" elements have been eliminated as a result of the streamlined application forms. The Commission incorporated the six remaining elements contained in Appendix C to the *Report and Order* in MM Docket No. 91-347 directly into § 73.3564 of its rules. Applicants FM filing minor change applications will be considered to meet the minimum filing requirements if they omit no more than three of the six items. Applicants omitting up to three of the second-tier elements will be sent a deficiency letter by the staff and given one opportunity to correct all tender and acceptance defects; applications omitting more than three of the six will be returned.

#### *Broadcast Application Signature Requirement*

17. Section 73.3513 of the Commission's rules specifies who must sign the certification section of the

broadcast application or amendment on behalf of various broadcast entities. It also specifies that the applicant's attorney may sign in case of the applicant's disability or absence from the United States. Commission case law consistently has held that the application must bear an original signature; facsimile signatures have been held to be unacceptable. The basis for this policy has been that the original signature requirement provides assurance that the applicant has personally reviewed the application and can be held responsible for the truthfulness and accuracy of the application.

18. In the *MO&O*, the Commission stated that it no longer believed that the original signature requirement is the only reliable means of guaranteeing application review: applicants can be held accountable for false information and representations made in applications irrespective of whether or not the application contains an original signature. The Commission cited 47 CFR 73.1015 (requiring truthful written responses to Commission inquiries); 47 CFR 73.3513(d) (willful false statements in applications will be considered, *inter alia*, a violation of section 73.1015); see also 47 CFR 1.52 (facsimile signature of attorney or unrepresented party sufficient for subscription and verification of pleadings). The agency noted that there also may be cases—for example, informal requests for special temporary authorization in emergency situations—where permitting the use of facsimile signatures could expedite Commission action furthering the public interest. Accordingly, the Commission amended § 73.3513 to permit facsimile signatures by the appropriate signatory.

#### **Administrative Matters**

##### *Supplemental Final Paperwork Reduction Act of 1995 Analysis*

19. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and recordkeeping requirements on the public. Implementation of these new or modified reporting and recordkeeping requirements are subject to approval by the Office of Management and Budget as prescribed by the Act. The new or modified paperwork requirements contained in this *MO&O* which are subject to approval by the Office of Management and Budget will go into effect upon OMB approval.

#### *Regulatory Flexibility Analysis*

20. Pursuant to the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601 *et seq.*, the Commission's Supplemental Final Regulatory Flexibility Analysis in this *MO&O* is reprinted below at paragraphs 25-38.

#### *Ordering Clauses*

21. Accordingly, *it is ordered* that, That the petitions for reconsideration of the *Streamlining Order* ARE GRANTED IN PART AND DENIED IN PART, and the motions for stay filed by Z-Spanish Media, *et al.* and W. Russell Withers, Jr. IS DISMISSED.

22. *It is further ordered*, That, pursuant to authority in sections 4(i) and (j), 301, 303(f), 303(g), 303(h), 303(j), 303(r), 307(c), 308(b), 319(b), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 301, 303(f), 303(g), 303(h), 303(j), 303(r), 307(c), 308(b), 319(b), and 403, Part 73 of the Commission's Rules IS AMENDED as set forth below.

23. *It is further ordered*, That the rule amendments set forth in Appendix C WILL BECOME EFFECTIVE 60 days after their publication in the **Federal Register**, and the information collection requirements contained in these rules will become effective 60 days after publication in the **Federal Register**, following OMB approval, unless a notice is published in the **Federal Register** stating otherwise.

24. *It is further ordered*, That the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this *Memorandum Opinion and Order*, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

#### **Supplemental Final Regulatory Flexibility Analysis**

25. As required by the Regulatory Flexibility Act ("RFA"), 5 U.S.C. 603, a Final Regulatory Flexibility Analysis ("FRFA") was incorporated in Appendix B of the *Report and Order* in this proceeding.<sup>1</sup> The Commission's Supplemental Final Regulatory Flexibility Analysis ("Supplemental FRFA") in this *Memorandum Opinion and Order* reflects revised or additional information to that contained in the FRFA. This Supplemental FRFA is thus limited to matters raised in response to the *First Report and Order* that are granted on reconsideration in the *Memorandum Opinion and Order*. This

<sup>1</sup> 13 FCC Rcd 23,056 (1998). Certain abbreviated references used in the *Memorandum Opinion and Order* are also used in this Appendix.

Supplemental FRFA conforms to the RFA, as amended by the Contract with America Advancement Act of 1996.<sup>2</sup>

### I. Need for and Objectives of Action

26. The actions taken in this *Memorandum Opinion and Order* are in response to petitions for reconsideration of the rules and policies adopted in the *Report and Order* to streamline the Commission's broadcast application procedures, reducing both applicant and licensee burdens as well as increasing the efficiency of application processing to conserve staff resources, while at the same time preserving the public's ability to participate in the broadcast license process. The petitions are denied, with the following exceptions.

27. The first amendment to the rules and policies adopted in the *Report and Order* in this proceeding is based on petitions arguing that the promulgated provisions for seeking extension of time to construct were too restrictive and did not account for certain circumstances legitimately beyond the control of the permittee. While rejecting the majority of the petitioners' arguments, we did state that we would accord relief to permittees who are prevented from construction by operation of a Commission-imposed condition or by Commission processing requirements for permit modifications, the latter being most prevalent in the Low Power Television ("LPTV") service.

28. Second, in response to a petition claiming that such procedure was costly and often unnecessary, we exempted applicants for assignment/transfer of control of broadcast stations from the requirement that applications proposing local radio ownership concerns must be accompanied by a contour map detailing the stations serving the pertinent broadcast "market." No map would be required if the applicant could demonstrate that a sufficient number of stations are licensed to the community in question that the numerical cap will not be approached.

29. Third, the *Notice of Proposed Rule Making* ("NPRM") in this proceeding<sup>3</sup> invited comments on a streamlined approach to FM "minor change" applications, which currently are evaluated under a two-tiered review process. The *NPRM* invited comment on a proposal that would parallel the approach previously adopted with respect to applications for new FM stations and "major change"

applications. The Commission received no comments on this issue, and it was not addressed in the *Report and Order*. However, the streamlined application forms adopted in the *Report and Order* eliminated many of the second-tier review elements. Accordingly, this *Memorandum Opinion and Order* incorporates the remaining elements directly into the FM processing rules, specifically 47 CFR 73.3564.

30. Finally, this *Memorandum Opinion and Order* adopts *sua sponte* a rule permitting the use of facsimile signatures in place of the original applicant signature that had previously been required on all applications and requests for Commission action. The Commission believes that an applicant can be held accountable for false information and representations in an application whether or not the application contains an original signature, and permitting facsimile signatures will in some cases expedite the submission and processing of requests for Commission action.

### II. Summary of Significant Issues Raised by Public in Response to Final Regulatory Flexibility Analysis

31. No petitions or comments were received in response to the FRFA. Several petitioners, however, raised indirectly small business-related issues. As indicated above, for example, several petitioners stated that the revised construction period/tolling procedures would disproportionately impact LPTV permittees;<sup>4</sup> another petitioner commented that the construction period/tolling procedures will disproportionately impact public television stations, especially those proposing to construct their initial facility as a digital broadcast station. One petitioner argued that the contemporaneous notification procedure would increase, as opposed to decrease, the burden on permittees.<sup>5</sup> Another petitioner claimed that the contour map submission requirement was unduly expensive and unnecessary in many assignment/transfer cases, even those involving the local radio ownership rules.<sup>6</sup> Finally, one petitioner noted that the requirement that broadcasters provide information regarding the race, ethnicity, and gender of any attributable owner was burdensome and unnecessary, given that ethnicity and gender data is already collected by the National

Telecommunications and Information Administration ("NTIA").<sup>7</sup>

### III. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

32. Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. 5 U.S.C. 601(6). The RFA, 5 U.S.C. 601(3), generally defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. 632. A small business is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration ("SBA"). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**."

33. In the FRFA, we utilized the definition of "small business" promulgated by the SBA. No petitions or comments were received concerning the Commission's use of the SBA's small business definition for the purposes of the FRFA, and we will therefore continue to employ such definition for this Supplemental FRFA. We hereby incorporate by reference the description and estimate of the numbers of small entities from the FRFA in this proceeding.

### IV. Description of Projected Reporting, Recordkeeping, and other Compliance Requirements

34. The *Report and Order* adopted a number of rules and policies that included, but reduced, reporting, record-keeping, and compliance requirements. These were described in detail in the FRFA and are not increased in any way by the rule and policy amendments adopted in this *Memorandum Opinion and Order*. Those reporting and recordkeeping requirements that were amended were in fact ameliorated. For example, certain assignment/transfer applicants will not need to submit contour maps to demonstrate compliance with the local radio ownership rules.

35. Additionally, while the *Memorandum Opinion and Order*

<sup>2</sup> Public Law 104-121, 110 Stat. 847 (1996) ("CWAAA"); see generally 5 U.S.C. 601 *et. seq.* Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA").

<sup>3</sup> 13 FCC Rcd 11,349 (1998).

<sup>4</sup> See Comments of Browne Mountain Television, Equity Broadcasting Corporation, UP Wireless, L.L.C., and Z-Spanish Media, *et al.*

<sup>5</sup> See Comments of Z-Spanish Media, *et al.*

<sup>6</sup> See Comments of David Tillotson.

<sup>7</sup> See Comments of Association of America's Public Television Stations.

retains the requirement that permittees and licensees compile and retain information concerning the ethnicity and gender of its attributable owners, they must submit this information on a biennial, rather than annual, basis. As stated in the FRFA, not all broadcast licensees are required to file ownership reports at all; sole proprietorships and partnerships comprised solely of natural persons are exempt from the filing requirement. Furthermore, the modified reporting requirements apply only to commercial broadcast stations, not to the 2401 noncommercial educational FM and television stations authorized as of April 30, 1999.

#### V. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

36. The FRFA described in some detail the steps taken in the *Report and Order* to minimize significant economic impact on small entities and the alternatives considered. The rule and policy amendments adopted in this *Memorandum Opinion and Order* should also serve to minimize the adverse impact of the "streamlining" rules on small entities. Initially, with respect to the revised construction period/tolling rules, we note that small entities that might require more time to construct an authorized broadcast station than would a large corporation would likely benefit from the rules adopted in the *Report and Order*. These entities would now be given on extra year to construct a new television facility and 18 extra months to complete a radio station. Furthermore, these revised construction periods apply to all outstanding permits. Therefore, to the extent that such smaller entities needing some additional time will be granted up to three "unencumbered" years simply upon a written request for such treatment.

37. As urged by several petitioners, the *Memorandum Opinion and Order* modifies the rules and policies promulgated in the *Report and Order* in such ways that will indirectly benefit smaller broadcast entities. For example, the elimination of the need to compose and submit station service contour maps in all assignment/transfer applications implicating the local radio ownership rules will likely benefit smaller entities owning fewer broadcast stations.

#### VI. Report to Congress

38. The Commission will send a copy of the *Memorandum Opinion and Order* in this proceeding, including this Supplemental FRFA, in a report that will be sent to Congress pursuant to the Small Business Regulatory Enforcement

Fairness Act of 1996. See 5 U.S.C. 801(l)(1)(A). In addition, the Commission will send a copy of this *Memorandum Opinion and Order*, including this Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects in 47 CFR Part 73

Radio, Reporting and recordkeeping requirements, Television.

Federal Communications Commission.

**Magalie Roman Salas,**  
Secretary.

#### Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

#### Part 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

2. Section 73.3513 is amended by revising paragraph (c) to read as follows:

##### § 73.3513 Signing of applications.

\* \* \* \* \*

(c) Facsimile signatures are acceptable. Only the original of applications, amendments, or related statements of fact, need be signed; copies may be conformed.

\* \* \* \* \*

3. Section 73.3564 is amended by revising paragraph (a)(2) and adding paragraph (a)(3) to read as follows:

##### § 73.3564 Acceptance of applications.

\* \* \* \* \*

(a) \* \* \*

(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.

\* \* \* \* \*

[FR Doc. 99-27638 Filed 10-21-99; 8:45 am]

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#### DEPARTMENT OF TRANSPORTATION

#### Research and Special Programs Administration

#### 49 CFR Part 192

[Docket No. PS-107; Amdt. 192-87]

RIN 2137-AB50

#### Determining the Extent of Corrosion on Gas Pipelines

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This final rule requires that when gas pipeline operators find harmful external corrosion on buried metallic pipelines that have been exposed, they must investigate further to determine if additional harmful corrosion exists in the vicinity of the original exposure. Further investigation can help determine the significance of the initial corrosion discovery. The new requirement may prevent accidents due to corrosion that might otherwise go undetected near an exposed portion of pipeline.

**EFFECTIVE DATE:** This final rule becomes effective November 22, 1999.

**FOR FURTHER INFORMATION CONTACT:** L.M. Furrow at (202) 366-4559 or [furrowl@rspa.dot.gov](mailto:furrowl@rspa.dot.gov). General information about RSPA's pipeline safety program can be obtained at <http://ops.dot.gov>.