

not be deemed a substantial change in ownership or control, subject to the filing of an FCC Form 316.

[73 FR 3216, Jan. 17, 2008]

§ 73.870 Processing of LPFM broadcast station applications.

(a) A minor change for an LPFM station authorized under this subpart is limited to transmitter site relocations of 5.6 kilometers or less. These distance limitations do not apply to amendments or applications proposing transmitter site relocation to a common location filed by applicants that are parties to a voluntary time-sharing agreement with regard to their stations pursuant to § 73.872 paragraphs (c) and (e). These distance limitations also do not apply to an amendment or application proposing transmitter site relocation to a common location or a location very close to another station operating on a third-adjacent channel in order to remediate interference to the other station; provided, however, that the proposed relocation is consistent with all localism certifications made by the applicant in its original application for the LPFM station. Minor changes of LPFM stations may include:

(1) Changes in frequency to adjacent or IF frequencies or, upon a technical showing of reduced interference, to any frequency; and

(2) Amendments to time-sharing agreements, including universal agreements that supersede involuntary arrangements.

(b) The Commission will specify by Public Notice a window filing period for applications for new LPFM stations and major modifications in the facilities of authorized LPFM stations. LPFM applications for new facilities and for major modifications in authorized LPFM stations will be accepted only during the appropriate window. Applications submitted prior to the window opening date identified in the Public Notice will be returned as premature. Applications submitted after the deadline will be dismissed with prejudice as untimely.

(c) Applications subject to paragraph (b) of this section that fail to meet the § 73.807 minimum distance separations with respect to all applications and facilities in existence as the date of the

pertinent public notice in paragraph (b) of this section other than to LPFM station facilities proposed in applications filed in the same window, will be dismissed without any opportunity to amend such applications.

(d) Following the close of the window, the Commission will issue a Public Notice of acceptance for filing of applications submitted pursuant to paragraph (b) of this section that meet technical and legal requirements and that are not in conflict with any other application filed during the window. Following the close of the window, the Commission also will issue a Public Notice of the acceptance for filing of all applications tentatively selected pursuant to the procedures for mutually exclusive LPFM applications set forth at § 73.872. Petitions to deny such applications may be filed within 30 days of such public notice and in accordance with the procedures set forth at § 73.3584. A copy of any petition to deny must be served on the applicant.

(e) Minor change LPFM applications may be filed at any time, unless restricted by the staff, and generally, will be processed in the order in which they are tendered. Such applications must meet all technical and legal requirements applicable to new LPFM station applications.

(f) New entrants seeking to apply for unused or unwanted time on a time-sharing frequency will only be accepted during an open filing window, specified pursuant to paragraph (b) of this section.

[65 FR 7640, Feb. 15, 2000, as amended at 65 FR 67304, Nov. 9, 2000; 70 FR 39186, July 7, 2005; 73 FR 3217, Jan. 17, 2008; 78 FR 2108, Jan. 9, 2013]

§ 73.871 Amendment of LPFM broadcast station applications.

(a) New and major change applications may be amended without limitation during the pertinent filing window.

(b) Amendments that would improve the comparative position of new and major change applications will not be accepted after the close of the pertinent filing window.

(c) Only minor amendments to new and major change applications will be

accepted after the close of the pertinent filing window. Subject to the provisions of this section, such amendments may be filed as a matter of right by the date specified in the FCC's Public Notice announcing the acceptance of such applications. For the purposes of this section, minor amendments are limited to:

(1) Filings subject to paragraph (c)(5) of this section, site relocations of 5.6 kilometers or less for LPFM stations;

(2) Filings subject to paragraph (c)(5), site relocations of 5.6 kilometers or less for LP100 stations;

(3) Changes in ownership where the original party or parties to an application retain more than a 50 percent ownership interest in the application as originally filed;

(4) Universal voluntary time-sharing agreements to apportion vacant time among the licensees;

(5) Other changes in general and/or legal information;

(6) Filings proposing transmitter site relocation to a common location submitted by applications that are parties to a voluntary time-sharing agreement with regard to their stations pursuant to § 73.872 (c) and (e); and

(7) Filings proposing transmitter site relocation to a common location or a location very close to another station operating on a third-adjacent channel in order to remediate interference to the other station.

(d) Unauthorized or untimely amendments are subject to return by the FCC's staff without consideration.

[66 FR 23863, May 10, 2001, as amended at 70 FR 39186, July 7, 2005; 73 FR 3217, Jan. 17, 2008; 78 FR 2108, Jan. 9, 2013]

§ 73.872 Selection procedure for mutually exclusive LPFM applications.

(a) Following the close of each window for new LPFM stations and for modifications in the facilities of authorized LPFM stations, the Commission will issue a public notice identifying all groups of mutually exclusive applications. Such applications will be awarded points to determine the tentative selectee. Unless resolved by settlement pursuant to paragraph (e) of this section, the tentative selectee will be the applicant within each group with the highest point total under the

procedure set forth in this section, except as provided in paragraphs (c) and (d) of this section .

(b) Each mutually exclusive application will be awarded one point for each of the following criteria, based on certifications that the qualifying conditions are met and submission of any required documentation:

(1) *Established community presence.* An applicant must, for a period of at least two years prior to application and at all times thereafter, have qualified as local pursuant to § 73.853(b). Applicants claiming a point for this criterion must submit any documentation specified in FCC Form 318 at the time of filing their applications.

(2) *Local program origination.* The applicant must pledge to originate locally at least eight hours of programming per day. For purposes of this criterion, local origination is the production of programming by the licensee, within ten miles of the coordinates of the proposed transmitting antenna. Local origination includes licensee produced call-in shows, music selected and played by a disc jockey present on site, broadcasts of events at local schools, and broadcasts of musical performances at a local studio or festival, whether recorded or live. Local origination does not include the broadcast of repetitive or automated programs or time-shifted recordings of non-local programming whatever its source. In addition, local origination does not include a local program that has been broadcast twice, even if the licensee broadcasts the program on a different day or makes small variations in the program thereafter.

(3) *Main studio.* The applicant must pledge to maintain a publicly accessible main studio that has local program origination capability, is reachable by telephone, is staffed at least 20 hours per week between 7 a.m. and 10 p.m., and is located within 16.1 km (10 miles) of the proposed site for the transmitting antenna for applicants in the top 50 urban markets and 32.1 km (20 miles) for applicants outside the top 50 urban markets. Applicants claiming a point under this criterion must specify the proposed address and telephone number for the proposed main studio in