

§ 73.870

(1) Less than a substantial change in ownership and control; or

(2) An involuntary assignment of license or transfer of control.

(b) A change in the name of an LPFM licensee where no change in ownership or control is involved may be accomplished by written notification by the licensee to the Commission.

§ 73.870 Processing of LPFM broadcast station applications.

(a) A minor change for an LP100 station authorized under this subpart is limited to transmitter relocations of less than two kilometers. A minor change for an LP10 station authorized under this subpart cannot be limited to transmitter site relocations of less than one kilometer. Minor changes of LPFM stations may include changes in frequency to adjacent or IF frequencies, or, upon a technical showing of reduced interference, to any frequency.

(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, 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

47 CFR Ch. I (10–1–00 Edition)

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.

§ 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 application certification that the qualifying conditions are met:

(1) *Established community presence.* An applicant must, for a period of at least two years prior to application, have been physically headquartered, have had a campus, or have had seventy-five percent of its board members residing within 10 miles of the coordinates of the proposed transmitting antenna. Applicants claiming a point for this criterion must submit the documentation set forth in the application form at the time of filing their applications.

(2) *Proposed operating hours.* The applicant must pledge to operate at least 12 hours per day.

(3) *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 within 10 miles of the coordinates of the proposed transmitting antenna.

(c) *Voluntary time-sharing.* If mutually exclusive applications have the same point total, any two or more of the tied applicants may propose to share use of the frequency by submitting, within 30 days of the release of a public notice announcing the tie, a time-share proposal. Such proposals shall be treated as amendments to the time-share proponents' applications, and shall become part of the terms of the station license. Where such proposals include all of the tied applications, all of the tied applications will be treated as tentative selectees; otherwise, time-share proponents' points will be aggregated to determine the tentative selectees.

(1) Time-share proposals shall be in writing and signed by each time-share proponent, and shall satisfy the following requirements:

(i) The proposal must specify the proposed hours of operation of each time-share proponent;

(ii) The proposal must not include simultaneous operation of the time-share proponents; and (iii) Each time-share proponent must propose to operate for at least 10 hours per week.

(2) Where a station is licensed pursuant to a time-sharing proposal, a change of the regular schedule set forth therein will be permitted only where an written agreement signed by each time-sharing licensee and complying with requirements (i) through (iii) of paragraph (c)(1) of this section is filed with the Commission, Attention: Audio Services Division, Mass Media Bureau, prior to the date of the change.

(d) *Successive license terms.* (1) If a tie among mutually exclusive applications is not resolved through time-sharing in accordance with paragraph (c) of this section, the tied applications will be reviewed for acceptability and applicants with tied, grantable applications will be eligible for equal, successive, non-renewable license terms of no less

than one year each for a total combined term of eight years, in accordance with § 73.873. Eligible applications will be granted simultaneously, and the sequence of the applicants' license terms will be determined by the sequence in which they file applications for licenses to cover their construction permits based on the day of filing, except that eligible applicants proposing same-site facilities will be required, within 30 days of written notification by the Commission staff, to submit a written settlement agreement as to construction and license term sequence. Failure to submit such an agreement will result in the dismissal of the applications proposing same-site facilities and the grant of the remaining, eligible applications.

(2) Groups of more than eight tied, grantable applications will not be eligible for successive license terms under this section. Where such groups exist, the staff will dismiss all but the applications of the eight entities with the longest established community presences, as provided in paragraph (b)(1) of this section. If more than eight tied, grantable applications remain, the applicants must submit, within 30 days of written notification by the Commission staff, a written settlement agreement limiting the group to eight. Failure to do so will result in dismissal of the entire application group.

(e) Mutually exclusive applicants may propose a settlement at any time during the selection process after the release of a public notice announcing the mutually exclusive groups. Settlement proposals must include all of the applicants in a group and must comply with the Commission's rules and policies regarding settlements, including the requirements of §§ 73.3525, 73.3588, and 73.3589. Settlement proposals may include time-share agreements that comply with the requirements of paragraph (c) of this section, provided that such agreements may not be filed for the purpose of point aggregation outside of the thirty-day period set forth in paragraph (c) of this section.

§ 73.873 LPFM license period.

(a) Initial licenses for LPFM stations not subject to successive license terms will be issued for a period running until