



This document is scheduled to be published in the
Federal Register on 06/18/2020 and available online at
federalregister.gov/d/2020-11127, and on govinfo.gov

6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket Nos. 17-264, 17-105, 05-6; FCC 20-65; FRS 16777]

Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Commission adopts changes to its rules and procedures for broadcast station applicants to provide public notice of application filings to the principal area that is served or to be served by the station. The changes are designed to improve, streamline, and standardize the notices, including replacing notice by newspaper with online notice. The changes are further designed to enhance rule compliance and public participation in the application process, increase public access to filed applications, and reduce applicant burdens.

DATES: Effective [INSERT 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], except for rule changes to 47 CFR 73.3525, 73.3526, 73.3527, 73.3571, 73.3573, 73.3580, and 73.3594. The Commission will publish a separate document in the *Federal Register* announcing the effective date of these rules.

FOR FURTHER INFORMATION CONTACT: Albert Shuldiner, Chief, Media Bureau, Audio Division, (202) 418-2721; Lisa Scanlan, Deputy Division Chief, Media Bureau, Audio Division, (202) 418-2704; Thomas Nessinger, Senior Counsel, Media Bureau, Audio Division, (202) 418-2709. For additional information concerning the Paperwork Reduction Act (PRA) information collection requirements contained in this document, contact Cathy Williams at 202-

418-2918, or via the Internet at Cathy.Williams@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order (*Second R&O*), MB Docket Nos. 17-264, 17-105, and 05-6; FCC 20-65, adopted on May 12, 2020, and released on May 13, 2020. The full text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) website at http://fjallfoss.fcc.gov/edocs_public/ or via the FCC's Electronic Comment Filing System (ECFS) website at <http://www.fcc.gov/ecfs>. (Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Alternative formats are available for people with disabilities (braille, large print, electronic files, audio format), by sending an e-mail to fcc504@fcc.gov or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Paperwork Reduction Act of 1995 Analysis

This document contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13, *see* 44 U.S.C. 3507. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document in a separate Federal Register Notice, as required by the PRA. These new or modified information collections will become effective after the Commission publishes a document in the *Federal Register* announcing such approval and the relevant effective date.

In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law

107-198, *see* 44 U.S.C. 3506(c)(4), the Commission previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Congressional Review Act

The Commission will send a copy of this *Second R&O* to Congress and the Government Accountability Office (GAO) pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

SYNOPSIS

1. *Introduction.* In the *Second R&O*, the Commission revised the broadcast local public notice rule, 47 CFR 73.3580, along with other associated rules. These rule amendments were proposed in the *Further Notice of Proposed Rulemaking (FNPRM)* in this proceeding, 34 FCC Rcd 9251 (2019), 84 FR 54881 (Oct. 18, 2019), which expanded upon the initial *Notice of Proposed Rulemaking (NPRM)*, 32 FCC Rcd 8203 (2017), 82 FR 56574 (Nov. 29, 2017). Based upon comments received in response to both the *NPRM* and the *FNPRM*, the Commission adopted, in some cases with modifications, its proposals to update, clarify, and streamline § 73.3580 and the local public notice obligations contained in that and other related rule sections. Specifically, it adopted the proposal to eliminate the obligation to publish public notices in print newspapers, and to require instead that applicants provide public notice through online notices that link directly to the Commission-hosted online public inspection file or application databases, and/or through on-air announcements that direct viewers and listeners to those application resources. The new rules are designed to simplify broadcasters' local public notice obligations in a manner that reduces costs and burdens on applicants, while facilitating robust public participation in the broadcast licensing process.

2. Section 311 of the Communications Act of 1934, as amended (47 U.S.C. 311),

provides that applicants for certain broadcast authorizations shall give notice of such filing in the principal area which is served or is to be served by the station. The purpose of the statute, and of the implementing § 73.3580, is to ensure that relevant communities are made aware of applications and are afforded the opportunity to participate in the broadcast licensing process. Under the current rule, notices break down broadly into giving on-air notice of application filings and/or publishing such notice in newspapers, yet the details of those requirements differ based on the type of application being filed and the type of applicant submitting the filing. This resulted in a rule that has become increasingly complex, creating compliance difficulties.

3. Based on comments filed in response to the *NPRM*, the Commission proposed in the *FNPRM* to eliminate the requirement to publish written public notice in newspapers, replacing newspaper publication with shorter online written notice, and also seeking comment on whether there were more effective means of providing online public notice. The Commission further proposed to streamline both on-air and online written public notices, requiring simpler and less frequent on-air announcements that emphasize referring viewers and listeners to the Commission-hosted Online Public Inspection File (OPIF), and that the schedule of such announcements be made uniform for all applicants, broadcast services, and application types. Commenters to the *FNPRM* generally agreed with the proposals, differing only as to some of the details, with some of the comments pointing to improvements that will further increase access to application information needed for meaningful public participation in the process.

4. *Proposed elimination of public notice requirements.* As a threshold matter, the Commission adopted its tentative conclusion that it is obliged under 47 U.S.C. 311(a)(1) to require broadcast station applicants to provide notice of application filing in the principal area which is served or is to be served by the station.

5. *Substitution of online written public notice for newspaper publication.* The Commission adopted its proposal to discontinue requiring broadcast station applicants to publish local public notice in newspapers, and to require instead that applicants required to give “written” (as opposed to on-air) notice do so by posting notices on a publicly accessible website for 30 days, beginning within five days of the acceptance of the application for filing. Given the ease of Internet search and specificity to stations of interest, the Commission found that the cost savings and increased information yielded by online notice with links to the application outweighed the minimal benefit of publishing occasional notices in one local newspaper.

6. *Online notice requirements.* Based upon comments received, the Commission adopted modifications to its online notice proposals. Instead of posting the entire notice text on its home page, as proposed in the *FNPRM*, the Commission modified the proposal to provide that a broadcaster should be required to include a conspicuous “FCC Applications” link or tab on the home page that will link to a separate page containing the full notice text. The Commission further modified the proposed text of online notices to mirror on-air announcements and to indicate where members of the public may obtain information regarding filing comments on applications. The Commission committed to provide links in OPIF and the Licensing and Management System (LMS) database landing page to a separate page detailing how a member of the public can comment on an application. The Commission also adopted its proposal that online notice be posted continuously for 30 days immediately following acceptance of the application for filing and clarified that the 30-day period can begin as soon as the application is accepted, but not later than five business days following acceptance for filing. With regard to noncommercial educational (NCE) stations, the Commission retained the current practice of exempting them from providing written public notice, except in cases where the NCE station has not commenced

program operations or is off the air. Likewise, it found that silent stations must provide online notice in lieu of on-air announcements. Finally, the Commission adopted its proposal to require applicants for authorization under 47 U.S.C. 325(c) to provide notice by online posting, using the same sites as specified for other broadcast stations.

7. *Websites for posting online notice.* The Commission adopted its proposal to require online public notice to be published, in order of availability, on (1) the website of the applicant station; (2) the website of the applicant station’s licensee; (3) the website of the applicant station’s parent entity or, if there is no applicant-affiliated website (4) on a locally targeted, publicly accessible website, defined as an Internet website (a) that members of the public can access without payment, registration, or any other requirement that the user provide information or respond to a survey or questionnaire in exchange for being able to access the online notice, and (b) that is locally targeted to the area served and/or to be served by the applicant station (e.g., local government website, local community bulletin board website, local newspaper website, state broadcasters’ association website). In response to comments, however, we supplement and modify our proposal. At the suggestion of commenters, it required that “posting” on the applicant station website be accomplished by inserting a tab or link on the home page conspicuously labeled “FCC Applications,” that will link to a separate page containing the text of the notice(s).

8. Upon consideration of comments the Commission agreed that having a separate web page for the written notice would avoid consuming too much space on the home page in the event that there were multiple applications pending. In recognition of comments that point out that the design of websites can vary widely among broadcasters, the Commission decided it would not dictate the exact placement of the link or the tab on the home page of the website.

Several comments pointed out that what may be optimal placement of a link or tab on one station’s website may be inappropriate on another’s. The Commission thus disagreed with certain commenters that “conspicuous” display of such a link or tab on a station’s home page requires that it must be placed at the top of the station’s home page. Other Commission rules mandating links on broadcaster websites do not impose such specific placement, but instead only require that the link be on the home page. *See, e.g.*, 47 CFR 73.3526(b)(2)(ii); 47 CFR 73.1216(c)(1). Therefore, the Commission will require, as with the contest rules (47 CFR 73.1216), that the link or tab must be conspicuously displayed on the station’s home page, and further defined “conspicuous,” as it has in other contexts, to mean that the link or tab must be displayed in such size, color, contrast, and/or location on the home page that it is readily readable, understandable, and locatable by visitors to that page, and thus may be quickly found among other web content.¹ Thus, online public notice on an applicant-affiliated website shall require a tab or link, conspicuously and appropriately labeled, on the website home page, which links to a permanent, dedicated page containing only required online local public notice(s). To the extent that there are no pending applications requiring online public notice, the link or tab should link to a page indicating that there are no pending applications subject to the posting requirement. The page must indicate when it was last updated.

9. *Online notice texts.* The Commission adopted its proposed online notice texts, with slight modification to bring the online text more in line with the proposed on-air

¹ As the Commission stated when adopting an online posting requirement for station contest rules, “the burden is on the broadcaster to inform the public, not on the public to discern the message.” *Amendment of Section 73.1216 of the Commission’s Rules Related to Broadcast Licensee-Conducted Contests*, Report and Order, 30 FCC Rcd 10468, 10474, para. 12 (2015), 81 FR 7477 (Feb. 12, 2016).

announcement, which contains a reference directed to consumers wishing to obtain information regarding filing comments or petitions on the application, with a concomitant plan to provide links on the OPIF and LMS landing pages to information concerning how members of the public can comment on pending applications. The Commission adopted the following texts for online local public notices. For authorized stations (with a granted construction permit or license):

On [DATE], [APPLICANT NAME], [PERMITTEE / LICENSEE] of [STATION CALL SIGN], [STATION FREQUENCY], [STATION COMMUNITY OF LICENSE OR, FOR INTERNATIONAL BROADCAST STATIONS, COMMUNITY WHERE THE STATION'S TRANSMISSION FACILITIES ARE LOCATED], filed an application with the Federal Communications Commission for [TYPE OF APPLICATION].

Members of the public wishing to view this application or obtain information about how to file comments and petitions on the application can visit [INSERT HYPERLINK TO APPLICATION LINK IN APPLICANT'S ONLINE PUBLIC INSPECTION FILE (OPIF) OR, IF THE STATION HAS NO OPIF, TO APPLICATION LOCATION IN THE MEDIA BUREAU'S LICENSING AND MANAGEMENT SYSTEM; IF AN INTERNATIONAL BROADCAST STATION, TO APPLICATION LOCATION IN THE INTERNATIONAL BUREAU'S MYIBFS DATABASE].

“Type of Application,” in online notices, should be a brief but complete statement of the purpose of the application, for example: “for renewal of its broadcast license”; “to assign its broadcast license to X Broadcasting Corporation”; “to change its community of license from Florin to Guilder, Michigan.” For proposed stations that have not been authorized, the Commission adopted the following text:

On [DATE], [APPLICANT NAME], [APPLICANT FOR] [A NEW (STATION TYPE)

STATION ON] [STATION FREQUENCY], [STATION COMMUNITY OF LICENSE OR, FOR INTERNATIONAL BROADCAST STATIONS, COMMUNITY WHERE THE STATION'S TRANSMISSION FACILITIES ARE TO BE LOCATED], filed an application with the Federal Communications Commission for [TYPE OF APPLICATION]. Members of the public wishing to view this application or obtain information about how to file comments and petitions on the application can visit [INSERT HYPERLINK TO APPLICATION LOCATION IN THE MEDIA BUREAU'S LICENSING AND MANAGEMENT SYSTEM; IF AN INTERNATIONAL BROADCAST STATION, TO APPLICATION LOCATION IN THE INTERNATIONAL BUREAU'S MYIBFS DATABASE].

Examples of "Station Type" in online notices would be, "television," "radio," "low power television," "low-power FM," "Class A television," or "FM translator."

10. *Duration of posting for online notice.* The Commission adopted its proposal to require 30-day continuous posting of online local public notice, to commence no earlier than the date a public notice of application acceptance is released, and no later than five business days after public notice of acceptance is released. It modified the initial proposal to provide for commencement of posting no later than five business days rather than five calendar days after release of notice of acceptance, so that posting will take place within a reasonable amount of time after public notice of acceptance, but will not require posting to commence on a weekend or holiday. The Commission found that this requirement will afford sufficient time for composition and coding of the required online notice, or in some cases time to locate a suitable third-party website.

11. *NCE online requirements.* The Commission upheld its existing practice of

allowing NCE stations to fulfill their local notice requirements solely through on-air announcements, where possible. Given that operating NCE stations are currently exempt from publishing local public notice in newspapers, and that due to the nonprofit nature of such stations they are exempted from other requirements such as the payment of application filing fees, the Commission saw no reason to impose even the minimal costs of the online notice requirement on such stations. Accordingly, NCE stations are exempted from the requirement to post online notice of applications, unless they are not broadcasting during the part of the year when on-air announcements are required, as discussed below. The Commission further adopted its proposal that applicants for initial construction permits for new NCE broadcast stations comply only with the online notice requirements, as they are unable to broadcast on-air announcements. Finally, the Commission adopted its proposal to eliminate the provision in paragraph (e) of current § 73.3580(e) exempting “the only operating station in its broadcast service which is located in the community involved” from having to provide written notice.

12. *Silent stations.* The Commission adopted its *FNPRM* proposal that any station required to make on-air announcements that is not broadcasting during all or a portion of the period during which the on-air announcements are required to be broadcast must comply with the online notice requirements during the time period it is not broadcasting. A station required to provide both online notice and on-air announcements, for example, a commercial assignment or transfer applicant, would be expected to provide online notice for the entire 30-day period notwithstanding whether it was currently broadcasting. The Commission further adopted its proposal that if such a station returns to the air during the period that on-air announcements are required, the station must resume on-air announcements.

13. *Authorizations pursuant to 47 U.S.C. 325(c).* The Commission adopted its

FNPRM proposal to require applicants for authorization under 47 U.S.C. 325(c), for a permit to deliver programs to a foreign broadcast station for re-broadcast into the United States, to provide online notice only, rather than newspaper publication, with the online notice posted on a website locally targeted to the principal area to be served in the United States by the foreign broadcast station. Section 325(c) applicants propose to locate, use, or maintain a studio supplying programming to a foreign broadcast station whose signals are consistently received in the United States. The Commission adopted this rule as proposed in the *FNPRM*, along with the notice text proposed, except adding the language, adopted for online notice of broadcast applications, indicating that the public can obtain information regarding how to comment on applications in IBFS, and further retaining the current requirement that the notice include a description of the programs to be transmitted over the station. The Commission found that it would serve the public interest to retain the current requirement that the notice include a description of the programs to be transmitted over the station. *See* current 47 CFR 73.3580(f)(8). The nature of the programming is a key component of a section 325 (c) permit and the Commission's public interest analysis. Such programming usually targets a specific segment or sub-set of population residing in the principal area to be served in the United States. Accordingly, providing a description of the programs to be transmitted over a foreign station would ensure that the relevant population is targeted for local public notice for purposes of these section 325(c) authorizations. The Commission also proposed to retain the exemption from local public notice for stations applying for section 325(c) authorization for special event programming only and, having received no comment, adopted it as proposed. The online notice text for stations applying for section 325(c) authorization will be as follows:

On [DATE], [APPLICANT NAME] filed an application with the Federal

Communications Commission for a permit to deliver programs to foreign station [FOREIGN STATION CALL SIGN], [FOREIGN STATION FREQUENCY], [FOREIGN STATION COMMUNITY OF LICENSE]. [DESCRIPTION OF THE PROGRAMS TO BE TRANSMITTED OVER THE STATION]. Members of the public wishing to view this application or obtain information about how to file comments and petitions on the application can visit [INSERT HYPERLINK TO APPLICATION LOCATION IN THE INTERNATIONAL BUREAU MYIBFS DATABASE].

14. *Streamlining content of on-air announcements.* The Commission adopted, with some modifications, its *FNPRM* proposals for on-air announcements. It adopted its proposed streamlined script, which directs viewers and listeners to the application in OPIF or Commission databases; it further adopted its proposal to allow broadcasters to air public notice announcements at any time from 7 a.m. to 11 p.m. local time, Monday through Friday; and it increased the number of proposed on-air announcements from four to six, at least once per week for four consecutive weeks, with no more than one announcement per day nor more than two per week.

15. *Number of Announcements.* For all applicants required to provide on-air notice, the Commission amended its original proposal of four on-air announcements over a four-week period, to now require a total of six on-air announcements, to be aired at least once per week, for four consecutive weeks, commencing no later than five business days after release of the Commission public notice announcing that the application was accepted for filing. On-air announcements aired in the same week shall not air on the same day, and no more than two on-air announcements shall air in the same week. The Commission also adopted its proposal to eliminate all pre-filing announcements.

16. *Start of Notice Period.* The Commission also modified its *FNPRM* proposal regarding commencement of the notice period for on-air announcements. The notice period will commence no later than five business days after release of the Commission's public notice accepting filing of the application. Although some commenters believed the notice period should commence upon application filing, the time period for filing petitions to deny commences on the date of acceptance, and the time period between application filing and acceptance may in some instances be substantially delayed. The public would therefore not benefit from public notice given prior to the date commencing the period for filing comments and petitions. The Commission did change the commencement of the notice period from no more than five calendar days to no more than five business days following release of notice of acceptance, in order to be more consistent with the rule for online notice, and also because on-air announcements will not be made on weekends.

17. *Timing of on-air announcements.* As proposed in the *FNPRM*, the Commission modified § 73.3580(d) to permit on-air announcements for all applicants, services, and application types to air at any time from 7:00 a.m. to 11:00 p.m. local time at the community of license, from Monday through Friday. This will bring uniformity to the current rule, under which applicants must air announcements during varying time windows based on applicant, application, and service type.

18. *On-air announcement scripts.* The Commission adopted the on-air announcement scripts as proposed in the *FNPRM*, with one minor change as set forth below. Additionally, program crawls containing on-air announcement text will not be required, but the Commission adopted its proposal to require that the entire text of the on-air announcement for television stations be displayed on screen while being read by an announcer. The on-air announcement

scripts are as follows:

On [DATE], [APPLICANT NAME], licensee of [STATION CALL SIGN], [STATION FREQUENCY], [STATION COMMUNITY OF LICENSE], filed an application with the Federal Communications Commission for [TYPE OF APPLICATION].² Members of the public wishing to view this application or obtain information about how to file comments and petitions on the application can visit publicfiles.fcc.gov and search in [STATION CALL SIGN'S] public file.

For stations without an OPIF:

On [DATE], [APPLICANT NAME], licensee of [STATION CALL SIGN], [STATION FREQUENCY], [STATION COMMUNITY OF LICENSE], filed an application with the Federal Communications Commission for [TYPE OF APPLICATION]. Members of the public wishing to view this application or obtain information about how to file comments and petitions can visit www.fcc.gov/stationsearch, and search in the list of [STATION CALL SIGN'S] filed applications.

19. In the *FNPRM*, the Commission requested comment as to whether it should require additional language in on-air announcement scripts regarding requests to waive Commission rules and the nature of the waiver sought. It concluded that adopting waiver-specific language in the on-air script is not warranted. Rather, Commission-generated public notices of assignment and transfer application filings and actions in the Media Bureau LMS database will henceforth indicate whether the applicant has indicated that it is seeking a media ownership waiver. Because the on-air scripts and online notices will direct viewers and listeners

² The Commission also adopted the short description of “type of application” as proposed in the *FNPRM*. See *FNPRM*, 34 FCC Rcd at 9266 n.94.

to applicants' online public inspection files or applications, which include the specific waiver sought, the Commission believed it is not necessary for applicants to give further notice of a waiver request, whether on-air or online. The Commission also adopted its *FNPRM* proposal to require television broadcasters to display on screen the full text of the on-air announcement during the verbal broadcast of the announcement. It believed the public interest will be enhanced by requiring television broadcasters to display the text of the new, abbreviated on-air script, and that benefit outweighs any minimal burden this requirement will impose. Visual text beyond the announcement will not be required, nor will television text crawls containing the text of the on-air notice. Because crawls are most often used to deliver urgent and, in some cases, emergency information to viewers, use of text crawls for local public notice will at best confuse viewers, and at worst their overuse might result in viewers ignoring text crawls that convey information vital to public safety.

20. *Channel Sharing and Multicasting.* The Commission clarified that each television station in a channel sharing arrangement must broadcast appropriate on-air announcements on its program stream. Under a channel-sharing arrangement, the Commission has stated that each licensee has an independent obligation to comply with all pertinent statutory requirements and our rules. Thus, under our current rules, each separately licensed station engaged in a channel sharing arrangement must broadcast any on-air announcements required of it on its program stream. Radio or television stations may also engage in multicasting, which involves transmission of multiple streams of programming by a single licensee. For such multicasting stations, the Commission interpreted 47 U.S.C. 311 and its rules to require on-air notice only on the digital TV or digital radio station's primary over-the-air programming stream as defined in 47 CFR 73.403(a) and 73.624(b). Section 311 provides that an "applicant" must "give notice" of

the filing of a covered application in the principal area served. Nothing in section 311 or elsewhere in the Act requires that notice be provided over each and every individual stream broadcast by the applicant. The Commission believed that on-air notice provided over the primary stream, which is the stream with the most viewers or listeners, is sufficient to meet the goal of section 311 to inform the public.

21. *International broadcast station applications.* The Commission adopted its *FNPRM* proposal to require international broadcast stations, governed by subpart F of part 73 of the Commission's rules, to give local public notice by publishing notice of the application on a website that targets the local community in which the international broadcast station's transmission facilities are located or are proposed to be located (e.g., local government Internet website, local community bulletin board Internet website). The Commission agreed with the only commenter to address this issue that residents of the area in which an international broadcast station's transmitter is located are not listeners of that station, which is designed to be heard by the general public in foreign countries, and thus are not likely to seek out the station's web page. The Commission therefore adopted a rule requiring international broadcast stations to give online notice on a website that is locally targeted to the community where the station's transmission facilities are located as defined in paragraph 7, above.

22. *Other provisions and rules.* Having received no opposition in the comments, the Commission adopted the following proposals as set forth in the *FNPRM*:

- (a) Retention of the categories of applicants, broadcast services, and application types for which local public notice is not required, as currently listed in 47 CFR 73.3580(a)(1)-(7).
- (b) Retention of the requirement that applicants certify in any application for which

public notice is required that they will comply with the applicable requirements of the local public notice rule;

(c) Retention of the requirement that those license renewal applicants that are obliged to provide public notice only through on-air announcements must add to their OPIF the list of dates and times the required on-air announcements were broadcast;

(d) Elimination of the requirement that the on-air license renewal announcement script be added to an applicant's OPIF, due to the use of mandatory language contained in the new rules; and

(e) Clarification that low-power FM (LPFM) stations will continue to have the same local public notice obligations as other NCE radio stations, i.e., on-air announcements only, except when the station is unbuilt, off the air, or silent.

Concerning this last proposal, for the sake of clarity, the Commission directed that 47 CFR 73.3580 of the rules should be added to the list of rules applicable to LPFM stations set forth in 47 CFR 73.801. Cross-referencing §73.3580 in §73.801 will eliminate any confusion regarding the obligations of LPFM stations. The Commission thus amends 47 CFR 73.801 accordingly.

23. The Commission further adopted its proposal to apply the same updated public notice requirements to public notice of hearing designation orders under 47 CFR 73.3594, and to eliminate the public notice requirement for the withdrawal of an application pursuant to an agreement to resolve mutual exclusivity under 47 CFR 73.3525. Although one commenter suggested some modifications to the proposed notice in 47 CFR 73.3594, the Commission concluded that the notice provisions as proposed in the *FNPRM*, including both on-air

announcements and online notice, will suffice to advise the public of the particulars of a hearing designation order, and will give consumers ample opportunity to investigate those issues themselves. The on-air announcement text is as follows:

On [DATE], [APPLICANT NAME], licensee of [STATION CALL SIGN], [STATION FREQUENCY], [STATION COMMUNITY OF LICENSE], filed an application with the Federal Communications Commission for [TYPE OF APPLICATION]. On [DATE], the Commission designated the application for an evidentiary hearing on certain issues. Members of the public wishing to view the Hearing Designation Order and list of issues can visit [URL OF INTERNET WEBSITE MAINTAINED BY THE STATION, THE LICENSEE/PERMITTEE, OR THE LICENSEE/PERMITTEE'S PARENT ENTITY, OR OTHER PUBLICLY ACCESSIBLE WEBSITE], and click the link in the "Hearing Designation Order" notice.

The online notice text is as follows:

HEARING DESIGNATION ORDER

On [DATE], [APPLICANT NAME], licensee of [STATION CALL SIGN], [STATION FREQUENCY], [STATION COMMUNITY OF LICENSE], filed an application with the Federal Communications Commission for [TYPE OF APPLICATION]. On [DATE], the Commission designated the application for an evidentiary hearing on the following issues: [LIST OF ISSUES IN THE HEARING AS LISTED IN THE FCC's ORDER OR SUMMARY OF DESIGNATION FOR HEARING]. Members of the public wishing to view the Hearing Designation Order or to file comments can visit [INSERT HYPERLINK TO THE HEARING DESIGNATION ORDER, ORDER TO SHOW CAUSE, OR OTHER ORDER DESIGNATING THE APPLICATION FOR HEARING,

ON THE FCC's INTERNET WEBSITE].

Provisions for on-air announcement commencement and frequency of announcement, times when announcements are to be made, language of broadcasts, and text to be displayed visually are the same as with on-air announcements set forth herein. Provisions for online announcement sites for posting, times for commencement of posting and duration of posting are likewise the same as for online announcements set forth herein.

PROCEDURAL MATTERS

24. **Regulatory Flexibility Analysis.** As required by the Regulatory Flexibility Act of 1980, as amended (RFA), 5 U.S.C. 603, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking (NPRM)* and the *Further Notice of Proposed Rulemaking (FNPRM)* to this proceeding, and the *Notice of Proposed Rulemaking* in MB Docket No. 05-6, 70 FR 37728 (June 30, 2005). The Commission sought written public comment on the proposals in the *FNPRM*, including comment on the IRFA. The Commission received no comments on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA. *See* 5 U.S.C. 604.

25. **Need for, and Objectives of, the Second R&O.** This *Second Report and Order (Second R&O)* adopted several rule changes that are intended (a) to clarify and simplify the rules and procedures to be followed by certain applicants for broadcast authorizations in order to give local public notice of those applications; and (b) to give local public notice of the designation of certain applications for evidentiary hearing. The Commission replaced the current rules (*see generally* 47 CFR 73.3580, 73.3594), which had been characterized as being difficult to follow, and which contain varying local public notice requirements based on the type of application and the type of station to which the application pertains. The rules adopted in the *Second R&O*

constitute a more uniform, and thus more convenient, set of procedures for providing notice through on-air announcements and by online posting of links to applications, rather than publication in local newspapers. Additionally, by eliminating the need to publish some public notices in local newspapers and allowing a broadcaster instead to post notices on its website or an affiliated website, the new rules eliminate a substantial expense currently borne by broadcasters. The Commission also eliminated the current rule requiring public notice of the withdrawal of an application pursuant to an agreement with another applicant to resolve mutual exclusivity. 47 CFR 73.3525(b). Additionally, the Commission amended certain other rules to the extent that they reference the substantive rule changes.

26. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA.* There were no comments to the IRFA filed.

27. *Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration.* Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. 5 U.S.C. 604(a)(3). The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

28. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 5 U.S.C. 603(b)(3). The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” *Id.* section 601(6). In addition, the term “small business” has the same meaning as

the term “small business concern” under the Small Business Act. *Id.* section 601(3). A small business concern 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 SBA. *Id.* section 632.

29. The rule changes adopted herein will directly affect small television and radio broadcast stations. Below, we provide a description of these small entities, as well as an estimate of the number of such small entities, where feasible.

30. Television Broadcasting. This Economic Census category “comprises establishments primarily engaged in broadcasting images together with sound.” These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: those having \$41.5 million or less in annual receipts. 13 CFR 121.201; 2012 NAICS Code 515120. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of this number, 656 had annual receipts of \$25 million or less, 25 had annual receipts between \$25 million and \$49,999,999, and 70 had annual receipts of \$50 million or more. U.S. Census Bureau, Table No. EC1251SSSZ4, *Information: Subject Series - Establishment and Firm Size: Receipts Size of Firms for the United States: 2012* (515120 Television Broadcasting). Based on this data the Commission therefore estimated that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

31. The Commission has estimated the number of licensed commercial television stations to be 1,374. *Broadcast Station Totals as of December 31, 2019*, FCC News Release (rel. Jan. 3, 2020) (*Broadcast Station Totals*). Of this total, 1,261 stations had revenues of \$41.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on March 6, 2020, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 388. *Id.* The Commission, however, does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

32. We note, however, that in assessing whether a business concern qualifies as “small” under the above definition, business (control) affiliations must be included. 13 CFR 21.103(a)(1). Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of “small business” requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive.

33. There are also 387 Class A stations. *See Broadcast Station Totals.* Given the nature of these services, including their limited ability to cover the same size geographic areas as full power stations, thus restricting their ability to generate similar levels of revenue, we will

presume that these licensees qualify as small entities under the SBA definition. In addition, there are 1,897 low-power television (LPTV) stations and 3,648 TV translator stations. Given the nature of these services as secondary and in some cases purely a “fill-in” service, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

34. Radio Stations. This Economic Census category “comprises establishments primarily engaged in broadcasting aural programs by radio to the public.” U.S. Census Bureau, 2012 NAICS Definitions, “515112 Radio Stations.” The SBA has created the following small business size standard for this category: those having \$41.5 million or less in annual receipts. 13 CFR 121.201; NAICS code 515112. Census data for 2012 show that 2,849 firms in this category operated in that year. U.S. Census Bureau, Table No. EC0751SSSZ4, *Information: Subject Series – Establishment and Firm Size: Receipts Size of Firms for the United States: 2012* (515112). Of this number, 2,806 firms had annual receipts of less than \$25 million, and 43 firms had annual receipts of \$25 million or more. *Id.* Because the Census has no additional classifications that could serve as a basis for determining the number of stations whose receipts exceeded \$41.5 million in that year, we conclude that the majority of radio broadcast stations were small entities under the applicable SBA size standard.

35. Apart from the U.S. Census, the Commission has estimated the number of licensed commercial AM radio stations to be 4,389 and the number of commercial FM radio stations to be 6,772 for a total number of 11,161, along with 8,182 FM translator and booster stations. *See Broadcast Station Totals.* As of March 2020, 4,389 AM stations and 6,767 FM stations had revenues of \$41.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA). In addition, the Commission has

estimated the number of noncommercial educational FM radio stations to be 4,135. *Id.* NCE stations are non-profit, and therefore considered to be small entities. 5 U.S.C. 601(4), (6).

Therefore, we estimate that the majority of radio broadcast stations are small entities.

36. Low Power FM Stations. The same SBA definition that applies to radio stations applies to low power FM stations. As noted, the SBA has created the following small business size standard for this category: those having \$41.5 million or less in annual receipts. 13 CFR 121.201, NAICS Code 515112. While the U.S. Census provides no specific data for these stations, the Commission has estimated the number of licensed low power FM stations to be 2,169. *See Broadcast Station Totals.* Given the fact that low power FM stations may only be licensed to not-for-profit organizations or institutions that must be based in their community and are typically small, volunteer-run groups, we will presume that these licensees qualify as small entities under the SBA definition.

37. We note again, however, that in assessing whether a business concern qualifies as “small” under the above definition, business (control) affiliations must be included. 13 CFR 21.103(a)(1). Because we do not include or aggregate revenues from affiliated companies in determining whether an entity meets the applicable revenue threshold, our estimate of the number of small radio broadcast stations affected is likely overstated. In addition, as noted above, one element of the definition of “small business” is that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific radio broadcast station is dominant in its field of operation. Accordingly, our estimate of small radio stations potentially affected by the rule revisions discussed in the *NPRM* includes those that could be dominant in their field of operation. For this reason, such estimate likely is over-inclusive.

38. *Description of Projected Reporting, Recordkeeping, and Other Compliance*

Requirements. In this section, we identify the reporting, recordkeeping, and other compliance requirements adopted in the *Second R&O*, and consider whether small entities are affected disproportionately by any such requirements.

39. Reporting Requirements. The *Second R&O* does not adopt reporting requirements.

40. Recordkeeping Requirements. The *Second R&O* adopts recordkeeping requirements insofar as it amends 47 CFR 73.3526(e) and 73.3527(e) to reflect the nature of the proposed new on-air announcement requirements for which licensees must certify compliance and retain the certification in the online public inspection file (OPIF). The new requirements are no more extensive than the current certification and retention requirements, and in fact are less onerous in that there are fewer announcements requiring certification, and OPIF is online rather than a physical file. Thus, the impact on small entities will be no greater than it is currently, and in most cases the new rules will be less burdensome.

41. *Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603(c)(1)-(c)(4).

42. The *Second R&O* amends 47 CFR 73.3580 to reorganize, simplify, and clarify broadcasters' public notice obligations when filing certain applications, such as license renewal applications and applications to assign or transfer broadcast authorizations. In addition to streamlining and making uniform the requirement of some stations to provide public notice through on-air announcements, the *Second R&O* requires public notice of the filing of certain broadcast applications through online postings on the Internet, instead of publishing such notice in a newspaper. These proposals will reduce burdens on all broadcast applicants, including small entities, when meeting their obligation to notify the public of pending or prospective applications, while improving the public's access to information enabling it to participate in the licensing process. The majority of commenters agreed that permitting public notice through the Internet would be less costly and administratively burdensome than the existing requirement of newspaper publication, and thus the new rule will provide a less burdensome compliance option for all applicants, including small entities. With regard to just one category of applicants, those applying for consent to assign a broadcast authorization or to transfer control of the entity holding a broadcast authorization, the Commission has estimated that there are 4,020 annual applicants, each of which must publish public notice in a local newspaper four times at a cost of \$113.25 per publication, for a total annual burden of \$1,820,256, for applicants in this category alone. See Notice of Office of Management and Budget Action, ICR Ref. No. 201905-3060-002, "No Material or Nonsubstantive Change to a Currently Approved Collection" (for Application for Consent to Assignment or Transfer of Broadcast Authorizations, OMB Control No. 3060-0031) (rel. May 16, 2019), "Supporting Statement" at 7. Given that the majority of online notices will be posted on applicant-affiliated websites, which are typically maintained by in-house staff and do not involve materials such as paper or ink, the cost of online notice should be

minimal. Thus, replacing newspaper publication with online notices can result in considerable cost savings to broadcasters and broadcast applicants.

43. Any changes to the rules originally proposed in this proceeding are based on commenter suggestions, and do not significantly increase burdens on applicants vis-à-vis the current rules. For example, the Commission originally proposed that certain applicants be required to make four on-air announcements once per week over a four-week period; the adopted rule, suggested by commenters, requires six announcements, at least once per week over a four-week period. Under the current rules applicants for license renewal, which includes all licensees once every eight years, must make a minimum of ten on-air announcements. Thus, even with the modest increase over the proposed number of on-air announcements, the overall burden on applicants has been decreased, especially considering that on-air announcements under the rule adopted in the *Second R&O* are shorter and more uniform than those under the rules being replaced. Similarly, based on comments the Commission modified the proposed online notice rule to allow stations to post online notice on a separate page rather than on their home page, with a conspicuous tab or link to the separate page on the home page to facilitate the public's access to the information. This modification was designed to save space on broadcasters' websites while making links more accessible to the public. Again, the modified rules still represent a substantial burden decrease to broadcasters compared to the rules being replaced.

44. *Report to Congress.* The Commission will send a copy of this *Second R&O*, including this FRFA, in a report to Congress and the Government Accountability Office pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. *See* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *Second R&O*, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Second R&O*

and FRFA (or summaries thereof) will also be published in the *Federal Register*. See *id.* section 604(b).

45. **Paperwork Reduction Act.** This *Second R&O* contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. The requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

46. In this *Second R&O*, we adopt modified rules for applicants required to provide local public notice of application filings and other notices. We have assessed the effects of the new rules on small business concerns. We find that the streamlined rules and procedures adopted here will minimize the information collection burden on affected applicants, permittees, and licensees, including small businesses.

47. **Congressional Review Act.** The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is “non-major” under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this *Second R&O* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A). The Commission will send a copy of this *Second R&O* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

ORDERING CLAUSES

48. IT IS ORDERED that, pursuant to the authority contained in sections 1, 4(i), 4(j), 301, 303, 307, 308, 309, 316, and 319 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 301, 303, 307, 308, 309, 316, and 319, this *Second Report and Order* IS ADOPTED and WILL BECOME EFFECTIVE 30 days after publication in the *Federal Register*.

49. IT IS FURTHER ORDERED that part 73 of the Commission's Rules IS AMENDED as set forth in the Final Rules to the *Second Report and Order*, and the rule change to § 73.801 adopted herein will become effective 30 days after the date of publication in the *Federal Register*.

50. IT IS FURTHER ORDERED that part 73 of the Commission's Rules IS AMENDED as set forth in the Final Rules, and the rule changes to §§ 73.3525, 73.3526, 73.3527, 73.3571, 73.3573, 73.3580, and 73.3594 adopted herein, which contain new or modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, WILL BECOME EFFECTIVE on the date specified in a document published in the *Federal Register* announcing such approval.

51. IT IS FURTHER ORDERED that, should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket Nos. 05-6 and 17-264 SHALL BE TERMINATED, and their dockets CLOSED.

52. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Second Report and Order*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

53. IT IS FURTHER ORDERED that the Commission SHALL SEND a copy of this *Second Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Cable television, Civil defense, Communications equipment, Defense communications, Education, Equal employment opportunity, Foreign relations, Mexico, Political candidates, Radio, Reporting and recordkeeping requirements, Satellites, Television.

FEDERAL COMMUNICATIONS COMMISSION

Cecilia Sigmund,
Federal Register Liaison Officer,
Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends of 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, 155, 301, 303, 307, 309, 310, 334, 336, 339.

2. Amend § 73.801 by adding “Section 73.3580” in numeric order to read as follows:

§ 73.801 Broadcast regulations applicable to LPFM stations.

* * * * *

Section 73.3580 Local public notice of filing of broadcast applications.

* * * * *

§ 73.3525 [Amended]

3. Amend § 73.3525 by:

a. Removing paragraph (b) and redesignating paragraphs (c) through (l) as paragraphs (b) through (k).

b. In newly redesignated paragraph (k), removing “§§1.2105(c) and 73.5002 of this section” and add in its place “§§1.2105(c) of this chapter and 73.5002.”

4. Amend § 73.3526 by revising paragraph (e)(13) to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

* * * * *

(e) * * *

(13) *Local public notice announcements.* Each applicant for renewal of license shall, within 7 days of the last day of broadcast of the local public notice of filing announcements required

pursuant to §73.3580(c)(3), place in the station's online public inspection file a statement certifying compliance with this paragraph (e)(13). The dates and times that the on-air announcements were broadcast shall be made part of the certifying statement. The certifying statement shall be retained in the public file for the period specified in §73.3580(e)(2) (for as long as the application to which it refers).

* * * * *

5. Amend § 73.3527 by revising paragraph (e)(10) to read as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

* * * * *

(e) * * *

(10) *Local public notice announcements.* Each applicant for renewal of license shall, within 7 days of the last day of broadcast of the local public notice of filing announcements required pursuant to §73.3580(c)(3), place in the station's online public inspection file a statement certifying compliance with this paragraph (e)(10). The dates and times that the on-air announcements were broadcast shall be made part of the certifying statement. The certifying statement shall be retained in the public file for the period specified in §73.3580(e)(2) (for as long as the application to which it refers).

* * * * *

6. Amend § 73.3571 by revising paragraph (j)(3) to read as follows:

§ 73.3571 Processing of AM broadcast station applications.

* * * * *

(j) * * *

(3) The applicant must comply with the local public notice provisions of §73.3580(c)(5).

* * * * *

7. Amend § 73.3573 by revising paragraph (g)(3) to read as follows:

§ 73.3573 Processing FM broadcast station applications.

* * * * *

(g) * * *

(3) The applicant must comply with the local public notice provisions of §73.3580(c)(5).

* * * * *

8. Revise § 73.3580 to read as follows:

§ 73.3580 Local public notice of filing of broadcast applications.

(a) *Definitions.* The following definitions shall apply to this section:

(1) *Acceptance public notice.* A Commission public notice announcing that an application has been accepted for filing.

(2) *Applicant-affiliated website.* (i) Any of the following Internet websites, to the extent they are maintained, in order of priority:

(A) The applicant station's Internet website;

(B) The applicant's Internet website; or

(C) The applicant's parent entity's Internet website.

(ii) An applicant maintaining or having access to more than one of the Internet websites in paragraphs (a)(2)(i)(A) through (C) of this section shall post a link or tab to a web page containing the online notice text on the website with the highest priority.

(3) *Locally originating programming.* Programming from a low power television (LPTV) or television translator station as defined in § 74.701(h) of this chapter.

(4) *Major amendment.* A major amendment to an application is that defined in §§

73.3571(b), 73.3572(c), 73.3573(b), and 73.3578, and 74.787(b) of this chapter.

(5) *Publicly accessible website.* An Internet website:

(i) That is accessible to members of the public without registration or payment requirements, or any other requirement that the user provide information, or response to a survey or questionnaire in exchange for being able to access information on the website; and

(ii) That is locally targeted to the area served and/or to be served by the applicant station (e.g., local government Internet website, local community bulletin board Internet website, state broadcasters' association Internet website). For international broadcast station applications filed pursuant to § 73.3574, the Internet website must locally target the community in which the International broadcast station's transmission facilities are located or are proposed to be located (e.g., local government Internet website, local community bulletin board Internet website).

(b) *Types of public notice.* Public notice is required of applicants for certain broadcast authorizations in the manner set forth in paragraphs (b)(1) and (2) of this section:

(1) *On-air announcement.* An applicant shall broadcast on-air announcements of the filing of certain applications for authorization, if required as set forth in paragraph (c) of this section, over its station as follows:

(i) *Content.* The on-air announcement shall be in the following form:

On [DATE], [APPLICANT NAME], licensee of [STATION CALL SIGN], [STATION FREQUENCY], [STATION COMMUNITY OF LICENSE], filed an application with the Federal Communications Commission for [TYPE OF APPLICATION]. Members of the public wishing to view this application or obtain information about how to file comments and petitions on the application can visit publicfiles.fcc.gov, and search in [STATION CALL SIGN'S] public file.

An applicant station without an online public inspection file shall instead broadcast the following on-air announcement:

On [DATE], [APPLICANT NAME], licensee of [STATION CALL SIGN], [STATION FREQUENCY], [STATION COMMUNITY OF LICENSE], filed an application with the Federal Communications Commission for [TYPE OF APPLICATION]. Members of the public wishing to view this application or obtain information about how to file comments and petitions can visit www.fcc.gov/stationsearch, and search in the list of [STATION CALL SIGN'S] filed applications.

Television broadcast stations, in presenting on-air announcements, must use visuals with the full text of the on-air announcement when this information is being orally presented by the announcer.

(ii) *Frequency of broadcast.* The applicant shall broadcast the on-air announcements at least once per week (Monday through Friday) for four consecutive weeks, for a total of six (6) broadcasts, with no more than two broadcasts in a week. Broadcasts made in the same week shall not air on the same day.

(iii) *Commencement of broadcast.* The applicant may air the first broadcast of the on-air announcement as early as the date of release of the acceptance public notice for the application, but not later than the fifth business day following release of the acceptance public notice for the application.

(iv) *Time of broadcast.* The applicant shall broadcast all on-air announcements between the hours of 7:00 a.m. and 11:00 p.m. local time at the applicant station's community of license, Monday through Friday.

(v) *Language of broadcast.* A station broadcasting primarily in a foreign language should broadcast the announcements in that language.

(vi) *Silent stations or stations not broadcasting.* Any station required to broadcast on-air announcements that is not broadcasting during all or a portion of the period during which on-air announcements are required to be broadcast, including silent stations and noncommercial educational broadcast stations that are not scheduled to broadcast during the portion of the year

during which on-air announcements are required to be broadcast, must comply with the provisions of paragraph (b)(2) of this section during the time period in which it is unable to broadcast required on-air announcements, and must broadcast required on-air announcements during the time period it is able to do so.

(2) *Online notice.* An applicant shall conspicuously post on an Internet website notice of the filing of certain applications for authorization, if required as set forth in paragraph (c) of this section, as follows:

(i) *Content.* The online notice shall be in the following form:

On [DATE], [APPLICANT NAME], [PERMITTEE / LICENSEE] of [STATION CALL SIGN], [STATION FREQUENCY], [STATION COMMUNITY OF LICENSE OR, FOR INTERNATIONAL BROADCAST STATIONS, COMMUNITY WHERE THE STATION'S TRANSMISSION FACILITIES ARE LOCATED], filed an application with the Federal Communications Commission for [TYPE OF APPLICATION]. Members of the public wishing to view this application or obtain information about how to file comments and petitions on the application can visit [INSERT HYPERLINK TO APPLICATION LINK IN APPLICANT'S ONLINE PUBLIC INSPECTION FILE (OPIF) OR, IF THE STATION HAS NO OPIF, TO APPLICATION LOCATION IN THE MEDIA BUREAU'S LICENSING AND MANAGEMENT SYSTEM; IF AN INTERNATIONAL BROADCAST STATION, TO APPLICATION LOCATION IN THE INTERNATIONAL BUREAU'S MYIBFS DATABASE].

An applicant for a proposed but not authorized station shall post the following online notice:

On [DATE], [APPLICANT NAME], applicant for [A NEW (STATION TYPE) STATION ON] [STATION FREQUENCY], [STATION COMMUNITY OF LICENSE OR, FOR INTERNATIONAL BROADCAST STATIONS, COMMUNITY WHERE THE STATION'S TRANSMISSION FACILITIES ARE TO BE LOCATED], filed an application with the Federal Communications Commission for [TYPE OF APPLICATION]. Members of the public wishing to view this application or

obtain information about how to file comments and petitions on the application can visit [INSERT HYPERLINK TO APPLICATION LOCATION IN THE MEDIA BUREAU'S LICENSING AND MANAGEMENT SYSTEM; IF AN INTERNATIONAL BROADCAST STATION, TO APPLICATION LOCATION IN THE INTERNATIONAL BUREAU'S MYIBFS DATABASE].

An applicant for an authorization under section 325(c) of the Communications Act (Studio Delivering Programs to a Foreign Station) shall post the following online notice:

On [DATE], [APPLICANT NAME] filed an application with the Federal Communications Commission for a permit to deliver programs to foreign station [FOREIGN STATION CALL SIGN], [FOREIGN STATION FREQUENCY], [FOREIGN STATION COMMUNITY OF LICENSE]. [DESCRIPTION OF THE PROGRAMS TO BE TRANSMITTED OVER THE STATION]. Members of the public wishing to view this application or obtain information about how to file comments and petitions on the application can visit [INSERT HYPERLINK TO APPLICATION LOCATION IN THE INTERNATIONAL BUREAU'S MYIBFS DATABASE].

(ii) *Site.* The applicant shall post online notice by posting a conspicuous link or tab labeled “FCC Applications” on an applicant-affiliated website, as defined in paragraph (a)(2) of this section. The link or tab will link directly to a page containing only the online notice text referenced in paragraph (b)(2)(i) of this section. To the extent that there are no pending applications requiring online public notice, the link or tab should link to a page indicating that there are no pending applications subject to the posting requirement. This page must include the date when it was last updated. If the applicant does not maintain or have access to an applicant-affiliated website, the applicant may post the online notice on a publicly accessible website, as defined in paragraph (a)(5) of this section. An applicant for an authorization under section 325(c) of the Communications Act (Studio Delivering Programs to a Foreign Station) shall post online notice on a publicly accessible website that is locally targeted to the principal area to be served in the United States by the foreign broadcast station.

(iii) *Duration of posting.* If the online notice is posted on an applicant-affiliated website or on a publicly accessible website for which the applicant is not required to compensate the website owner in exchange for posting the online notice, then the applicant must post the online notice for a minimum of 30 consecutive days. If the applicant does not maintain an applicant-affiliated website, and the applicant is required to compensate a website owner in exchange for posting on a publicly accessible website, the applicant must post the online notice for a period of not less than 24 consecutive hours, once per week (Monday through Friday), for four consecutive weeks.

(iv) *Commencement of posting.* The applicant must post the online notice no earlier than the date of release of the acceptance public notice for the application, and not later than five business days following release of the acceptance public notice for the application.

(c) *Applications requiring local public notice.* The following applications filed by licensees or permittees of the following types of stations must provide public notice in the manner set forth in paragraphs (c)(1) through (6) of this section:

(1) *Applications for a construction permit for a new station, a major amendment thereto, or a major modification to a construction permit for a new unbuilt station.* (i) For a commercial or noncommercial educational full power television; commercial or noncommercial educational full-service AM or FM radio station; Class A television station; low power television (LPTV) or television translator station; low-power FM (LPFM) station; or commercial or noncommercial FM translator or FM booster station, the applicant shall give online notice.

(ii) For an international broadcast station, the applicant shall give online notice on a publicly accessible website, locally targeted to the community in which the station's transmission facilities are to be located.

(2) *Applications for a major change to the facilities of an operating station, or major amendments thereto.* (i) For a noncommercial educational full power television; noncommercial full-service AM or FM radio station; or for an LPFM station, the applicant shall broadcast on-air announcements.

(ii) For a commercial full power television; commercial full-service AM or FM radio station; or a Class A television station, the applicant shall both broadcast on-air announcements and give online notice.

(iii) For an LPTV or television translator station; or an FM translator or FM booster station, the applicant shall give online notice.

(iv) For an international broadcast station, the applicant shall give online notice on a publicly accessible website, locally targeted to the community in which the station's transmission facilities are located.

(3) *Applications for renewal of license.* (i) For a full power television; full-service AM or FM radio station; Class A television station; LPTV station locally originating programming; or LPFM station, the applicant shall broadcast on-air announcements.

(ii) For an LPTV station that does not locally originate programming; or for a TV or FM translator station, the applicant shall give online notice.

(iii) For an international broadcast station, the applicant shall give online notice on a publicly accessible website, locally targeted to the community in which the station's transmission facilities are located.

(4) *Applications for assignment or transfer of control of a construction permit or license, or major amendments thereto.* (i) For a noncommercial educational full power television; noncommercial educational full-service AM or FM radio station; or an LPFM station, the

applicant shall broadcast on-air announcements.

- (ii) For a commercial full power television; commercial full-service AM or FM radio station; Class A television station; or an LPTV station that locally originates programming, the applicant shall both broadcast on-air announcements and give online notice.
- (iii) For an LPTV station that does not locally originate programming, or a TV or FM translator station, the applicant shall give online notice.
- (iv) For an international broadcast station, the applicant shall give online notice on a publicly accessible website, locally targeted to the community in which the station's transmission facilities are located.
- (v) For any application for assignment or transfer of control of a construction permit or license, for a station that is not operating, the applicant shall give online notice.

(5) Applications for a minor modification to change a station's community of license, or major amendments thereto. (i) For a noncommercial educational full-service AM or FM radio station, the applicant shall broadcast on-air announcements.

(ii) For a commercial full-service AM or FM radio station, the applicant shall both broadcast on-air announcements and give online notice. In addition to the online notice set forth in paragraph (b)(2) of this section locally targeted to the applicant station's current community of license, the applicant shall also give online notice on a publicly accessible website locally targeted to the community that the applicant proposes to designate as its new community of license, for the same time periods and in the same manner as set forth in paragraph (b)(2) of this section.

(6) Applications for a permit pursuant to section 325(c) of the Communications Act (studio delivering programming to a foreign station). The applicant shall give online notice.

(d) *Applications for which local public notice is not required.* The following types of applications are not subject to the local public notice provisions of this section:

- (1) A minor change in the facilities of an authorized station, as indicated in §§ 73.3571, 73.3572, 73.3573, and 73.3574, and 74.787(b) of this chapter, except a minor change to designate a different community of license for an AM or FM radio broadcast station, pursuant to the provisions of §§ 73.3571(j) and 73.3573(g).
- (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, or any successor form released in the future, 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 (Studio Delivering Programs to a Foreign Station) where the programs to be transmitted 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.

(e) *Certification of local public notice.* (1) The applicant must certify in the appropriate application that it will comply with the public notice requirements set forth in paragraph (c) of

this section.

(2) An applicant for renewal of a license that is required to maintain an online public inspection file shall, within seven (7) days of the last day of broadcast of the required on-air announcements, place in its online public inspection file a statement certifying compliance with this section, along with the dates and times that the on-air announcements were broadcast. An applicant for renewal of a license that is required to maintain an online public inspection file, and that is not broadcasting during all or a portion of the period during which on-air announcements are required to be broadcast, as set forth in paragraph (b)(1)(v) of this section, shall, within seven (7) days of the last on-air announcement or last day of posting online notice, whichever occurs last, place in its online public inspection file a statement certifying compliance with this section, along with the dates and times that any on-air announcements were broadcast, along with the dates and times that online notice was posted and the Universal Resource Locator (URL) of the Internet website on which online notice was posted. This certification need not be filed with the Commission but shall be retained in the online public inspection file for as long as the application to which it refers.

(f) *Time for acting on applications.* Applications (as originally filed or amended) will be acted upon by the FCC no sooner than 30 days following release of the acceptance public notice, except as otherwise permitted in §73.3542 or § 73.1635.

9. Revise § 73.3594 to read as follows:

§ 73.3594 Local public notice of designation for hearing.

(a) When an application subject to the provisions of §73.3580 is designated for hearing, the applicant shall give notice of such designation as follows:

(1) *On-air announcement.* The applicant (except an applicant filing an application for an

International broadcast, low power TV, TV translator, FM translator, and FM booster station) shall broadcast an on-air announcement of the designation of an application for hearing over its radio or television station as follows:

(i) *Content.* The on-air announcement shall be in the following form:

On [DATE], [APPLICANT NAME], licensee of [STATION CALL SIGN], [STATION FREQUENCY], [STATION COMMUNITY OF LICENSE], filed an application with the Federal Communications Commission for [TYPE OF APPLICATION]. On [DATE], the Commission designated the application for an evidentiary hearing on certain issues. Members of the public wishing to view the Hearing Designation Order and list of issues can visit [URL OF INTERNET WEBSITE MAINTAINED BY THE STATION, THE LICENSEE/PERMITTEE, OR THE LICENSEE/PERMITTEE'S PARENT ENTITY, OR OTHER PUBLICLY ACCESSIBLE WEBSITE], and click the link in the "Hearing Designation Order" notice.

Television broadcast stations (commercial and noncommercial educational), in presenting on-air announcements, must use visuals [with the full text of the on-air announcement] when this information is being orally presented by the announcer.

(ii) *Frequency of broadcast.* The on-air announcements shall be broadcast a total of six (6) times, once per week for four consecutive weeks.

(iii) *Commencement of broadcast.* The first broadcast of the on-air announcement shall occur no earlier than the date of release of the Hearing Designation Order, Order to Show Cause, or other order designating issues for hearing, and no later than the fifth business day following release of said order.

(iv) *Time of broadcast.* The on-air announcements shall be broadcast between the hours of 7:00 a.m. and 11:00 p.m. local time at the applicant station's community of license, Monday through Friday.

(v) *Language of broadcast.* A station broadcasting primarily in a foreign language shall broadcast the announcements in that language.

(2) *Online notice.* The applicant shall also post an online notice of the designation of an application for hearing conspicuously on an Internet website as follows:

(i) *Content.* The online notice shall be in the following form:

HEARING DESIGNATION ORDER

On [DATE], [APPLICANT NAME], licensee of [STATION CALL SIGN], [STATION FREQUENCY], [STATION COMMUNITY OF LICENSE], filed an application with the Federal Communications Commission for [TYPE OF APPLICATION]. On [DATE], the Commission designated the application for an evidentiary hearing on the following issues: [LIST OF ISSUES IN THE HEARING AS LISTED IN THE FCC's ORDER OR SUMMARY OF DESIGNATION FOR HEARING]. Members of the public wishing to view the Hearing Designation Order or to file comments can visit [INSERT HYPERLINK TO THE HEARING DESIGNATION ORDER, ORDER TO SHOW CAUSE, OR OTHER ORDER DESIGNATING THE APPLICATION FOR HEARING, ON THE FCC's INTERNET WEBSITE].

(ii) *Site.* (A) The applicant shall post online notice by posting a conspicuous link or tab labeled “FCC Hearing” on an applicant-affiliated website, as defined in paragraph (a)(2) of this section. The link or tab will link directly to a page containing only the online notice text referenced in paragraph (b)(2)(i) of this section. The applicant shall post online notice on one of the following Internet websites, to the extent such websites are maintained, in order of priority:

- (1) The applicant station’s Internet website;
- (2) The applicant’s Internet website; or
- (3) The applicant’s parent entity’s Internet website.

(B) If the applicant does not maintain an Internet website for the station or itself, or if the

applicant's parent entity does not maintain an Internet website, the applicant shall post online notice on an Internet website:

- (1) That is accessible to members of the public without registration or payment requirements, or any other requirement that the user provide information, or response to a survey or questionnaire in exchange for being able to access information on the website; and
- (2) That is locally targeted to the area served and/or to be served by the applicant station (e.g., local government Internet website, local community bulletin board Internet website, state broadcasters' association Internet website).

(iii) *Commencement of posting.* The online notice shall be posted no earlier than the date of release of the Hearing Designation Order, Order to Show Cause, or other order designating issues for hearing, and no later than the fifth business day following release of said order.

(iv) *Length of posting.* The online notice must be posted for a minimum of 30 consecutive days.

(b) Within seven (7) days of the last day of broadcast of the notice required by paragraph (a)(1) of this section, the applicant shall file a an original statement and one copy with the Secretary of the Commission setting forth the dates and times on which the on-air announcements were made, the date the online notice was first posted, and the Universal Resource Locator (URL) address of the Internet website on which online notice is posted.

(c) The failure to comply with the provisions of this section is cause for dismissal of an application with prejudice. However, upon a finding that applicant has complied (or proposes to comply) with the provisions of section 311(a)(2) of the Communications Act, and that the public interest, convenience, and necessity will be served thereby, the presiding officer may authorize an applicant, upon a showing of special circumstances, to give notice in a manner other

than that prescribed by this section; may accept notice that is given in a manner which does not conform strictly in all respects with the provisions of this section; or may extend the time for giving notice.

[FR Doc. 2020-11127 Filed: 6/17/2020 8:45 am; Publication Date: 6/18/2020]