

§ 78.21

completeness, the applicant will be required to supply the missing information. Applications which are not substantially complete will be returned to the applicant. Applications requiring fees as set forth at part 1, subpart G, of this chapter must be filed in accordance with § 0.401(b) of this chapter.

(b) Acceptance of an application for filing means only that it has been the subject of a preliminary review by the Commission's administrative staff as to completeness. Applications which are determined to be clearly not in accordance with the Commission's rules or other requirements, unless accompanied by an appropriate request for waiver, will be considered defective and will not be accepted for filing, or if inadvertently accepted for filing, will be dismissed. Requests for waiver shall show the nature of the waiver or exception desired and shall set forth the reasons in support thereof.

(c) The Commission will give public notice of all applications and major amendments thereto which have been accepted for filing. No application shall be acted on less than thirty (30) days from the date of public notice.

[37 FR 15926, Aug. 8, 1972, as amended at 52 FR 10231, Mar. 31, 1987; 67 FR 13235, Mar. 21, 2002; 68 FR 27004, May 19, 2003]

§ 78.21 Dismissal of applications.

(a) Any application may, on request of the applicant, be dismissed without prejudice as a matter of right prior to the adoption date of any final action taken by the Commission with respect to the application. An applicant's request for the return of an application will be regarded as a request for dismissal.

(b) Failure to prosecute an application, or failure to respond to official correspondence or request for additional information, will be cause for dismissal. Such dismissal will be without prejudice if it occurs prior to the adoption date of any final action taken by the Commission with respect to the application.

[37 FR 15927, Aug. 8, 1972]

§ 78.22 Objections to applications.

(a) Any party in interest may file a petition to deny any application

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(whether as originally filed or as amended) no later than thirty (30) days after issuance of a public notice of the acceptance for filing of any such application or amendment thereto. Petitions to deny shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with the public interest, convenience, and necessity. Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof.

(b) The applicant may file an opposition to any petition to deny, and the petitioner may file a reply to such opposition (see § 1.45 of this chapter), in which allegations of fact or denials thereof shall be supported by affidavit of a person or persons with personal knowledge thereof.

(c) Notwithstanding the provisions of paragraph (a) of this section, before Commission action on any application for an instrument of authorization, any person may file informal objections to the grant. Such objections may be submitted in letter form (without extra copies) and shall be signed by the objector. The limitation on pleadings and time for filing pleadings provided for in § 1.45 of this chapter shall not be applicable to any objections duly filed pursuant to this paragraph.

[37 FR 15927, Aug. 8, 1972, as amended at 50 FR 23421, June 4, 1985]

§ 78.23 Equipment tests.

(a) Following the grant of a CARS license, the licensee, during the process of construction of the station, may, without further authority from the Commission, conduct equipment tests for the purpose of such adjustments and measurements as may be necessary to assure compliance with the terms of the authorization, the technical provisions of the application therefore, the rules and regulations, and the applicable engineering standards.

(b) The Commission may notify the licensee to conduct no tests or may cancel, suspend, or change the date for the beginning of equipment tests as and when such action may appear to be