



PUBLIC NOTICE

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MEDIA BUREAU ANNOUNCES AVAILABILITY OF THE REVISED FCC FORM 318 AND THE FILING PROCEDURES FOR OCTOBER 15 – OCTOBER 29, 2013 LOW POWER FM FILING WINDOW

As directed by the Commission,¹ this Public Notice (“Notice”) announces procedures and filing requirements that will apply to the upcoming Low Power FM (“LPFM”) new station and major change filing window. The window is available for LPFM proposals in the entire FM band (channels 201-300). The window will open on October 15, 2013, and close at 6:00 pm EDT on October 29, 2013.

The Commission established the LPFM service in 2000 and more than 800 LPFM stations have been licensed from the initial 2000-2001 windows. The Commission recently modified a number of LPFM licensing and service rules to implement the Local Community Radio Act² and to otherwise promote a robust and sustainable community radio service. Potential applicants are encouraged to review these recent Commission Orders.³

Participation. Each applicant must be a nonprofit educational organization, or a Tribe or Tribally-controlled organization, or a state or local government or a non-government entity that will provide a noncommercial public safety radio service to protect the safety of life, health, or property.⁴ Each applicant will be required to document its eligibility.⁵ Applicants also must be “local” as that term is defined in the Commission’s Rules.⁶

LPFM applications filed during this window must protect all FM, FM Translator, FM Booster and TV Channel 6 authorizations. LPFM applications also must protect pending broadcast applications in these services that were filed prior to the date of this Notice. Finally, LPFM applications must protect

¹ See *Creation of a Low Power Radio Service*, Fifth Order on Reconsideration and Sixth Report and Order, 27 FCC Rcd 15402, 15481 (2012) (“*Sixth Report and Order*”).

² Pub. L. No. 111-371, 124 Stat. 4072 (2011).

³ *Sixth Report and Order*, 27 FCC Rcd at 15424-15482; *Creation of a Low Power Radio Service*, Fifth Report and Order, Fourth Further Notice of Proposed Rulemaking and Fourth Order on Reconsideration, 27 FCC Rcd 3315 (2012).

⁴ See 47 C.F.R. § 73.853. See also *Creation of a Low Power Radio Service*, Report and Order, 15 FCC Rcd 2205, 2212-15 (2000) (nonprofit and public safety applicant eligibility) (“*Report and Order*”); *Creation of a Low Power Radio Service*, Fifth Order on Reconsideration and Sixth Report and Order, 27 FCC Rcd 15402, 15454-57 (2012) (tribal applicant eligibility).

⁵ See FCC Form 318 Instructions, Section II, B. (April 2013).

⁶ See 47 C.F.R. § 73.853(b).

existing vacant FM allotments.⁷ Consistent with established processing rules, an LPFM application that fails to protect these authorizations, applications, and allotments will be dismissed with no opportunity to correct the deficiency.⁸

Revised FCC Form 318. By this Notice, the Bureau is also making available the revised FCC Form 318, Application for Construction Permit for a Low Power FM Broadcast Station (April 2013 version). The revised form is effective immediately and must be used by all LPFM applicants. All previous editions of the FCC Form 318 are obsolete and may not be used in the October 15-October 29, 2013, filing window.

Filing Requirements. Those wishing to participate in this LPFM window *must* electronically complete and timely file FCC Form 318, Application for Construction Permit for a Low Power FM Broadcast Station. No fee is required when filing FCC Form 318.

Applications must be filed between October 15, 2013 and October 29, 2013. Applications filed earlier in the window will not receive any preference over those filed later in the window. Applications filed before October 15, 2013, or after October 29, 2013, will be returned. Incomplete and patently defective applications will be dismissed without any opportunity to amend.⁹

Electronic Filing Instructions. Applications must be filed through the Media Bureau's Consolidated Database System (CDBS) online filing system. The CDBS electronic filing system has numerous business rules and other edit checks to help ensure that filings are substantially complete when filed. When filing a new or major change proposal, applicants must select "New station" or "Major Change in licensed facility," respectively, on the Pre-form for Form 318 (Question 2 – Application Purpose).¹⁰ Instructions for use of the electronic filing system are available in the CDBS User's Guide, which can be accessed from the electronic filing website at:

http://licensing.fcc.gov/prod/cdbs/forms/prod/cdbs_ug.htm

For assistance with electronic filing, call the Audio Division Help Desk at (202) 418-2662.

Applicants are encouraged to access the system and prepare their applications and amendments at their earliest convenience. Applicants may begin to complete applications *immediately*. Applicants are also encouraged to submit their applications early during the window to ensure proper submission. An applicant may amend a filed application without limitation during the window by checking the Section I, Question 3 box "Amendment to pending application."¹¹ Applications and amendments filed during the

⁷ See 47 C.F.R. §§ 73.807 and 73.825.

⁸ See, e.g., *Low Power FM Filing Window*, Public Notice, 15 FCC Rcd 24817, 24818 (MB 2000).

⁹ See 47 C.F.R. § 73.801 (incorporating § 73.3566 into Subpart G). See also *Report and Order*, 15 FCC Rcd at 2257.

¹⁰ Although LPFM permittees may file "major modification of construction permit" applications, the Bureau strongly discourages such filings. They will be subject to competing proposals. Such an applicant will have no assurance that its major modification proposal will be comparatively preferred to mutually exclusive filings or, assuming that it is, that the application will be granted prior to the expiration of the underlying construction permit. The Bureau will automatically dismiss any major modification application upon expiration of the associated permit. It is imperative that an applicant submitting a major modification of construction permit application have an alternate plan to complete station construction prior to the construction permit deadline.

¹¹ Form 318, Section 1, Question 3 (April 2013); 47 C.F.R. § 73.871(a).

window will not be made available to the public until after the close of the filing window. To ensure the security of its application, it is important that an applicant shares its CDBS account passwords with only those individuals who are authorized to view and/or modify proposals in progress.

To complete the filing process, applicants must select the specific application under “Work in Progress” and then click on the “File Form” button. Applicants that have successfully filed Form 318 will immediately receive a CDBS response similar to the following:

FCC MB – CDBS Electronic Filing
Application Reference Number: 20131018ABC
Successfully filed at Oct 18 2013 12:01AM

Applicants that believe they have filed correctly and have not received such a message from the electronic filing system should log into their CDBS account and determine the status of the application. If the status is other than “Ready” or “Filed,” the application has NOT been properly filed and will NOT be processed.

Following the close of the window, the Commission staff will return and/or dismiss applications and amendments not submitted in accordance with the procedures described in this Public Notice. No curative amendments for such applications and amendments will be accepted after the close of the window.

The Commission must receive electronically filed applications no later than 6:00 PM EDT on October 29, 2013.

Finding an LPFM Station Channel. Applicants may use the Bureau’s LPFM Channel Finder to help determine if a proposed transmitter site would meet minimum LPFM station spacing requirements. This internet-based utility is available on the FCC web site at: <http://www.fcc.gov/encyclopedia/low-power-fm-lpfm-channel-finder>. The LPFM Channel Finder incorporates certain technical changes implemented by the LPFM *Sixth Report and Order*.¹² The site also provides additional information on the LPFM service, including the text of the *Sixth Report and Order*, specific rule requirements for LPFM applicants, and methods to determine the coordinates of an applicant’s proposed transmitter site. Please note that the LPFM Channel Finder tool is intended solely to assist LPFM applicants in tentatively identifying available FM channels.¹³ There is no guarantee that channels represented as “available” will be technically acceptable at the time an application is filed. An applicant should consider using a consulting engineer or a party familiar with the LPFM technical rules to determine the technical acceptability of its application, particularly if the applicant is requesting a second-adjacent channel spacing waiver.

Application Limitation. Nonprofit educational organizations may not file more than one application in this window. Tribal applicants may not file more than two applications. Not-for-profit organizations or governmental entities proposing to operate public safety or emergency services may file more than one application. However, applicants proposing public safety or emergency services must designate a “priority” application if multiple applications are submitted. Non-priority applications will be dismissed if competing applications are filed in the window. For applicants subject to the one application filing limit, a second application filed by such an applicant in this window would be treated as a

¹² See *Sixth Report and Order*, 27 FCC Rcd at 15424-15449.

¹³ The Bureau will update the Channel finder in the coming months to reflect database changes.

“conflicting” application subject to dismissal under Section 73.3518.¹⁴ This restriction applies even where more than one frequency is available at its proposed transmitter site.

Conflicting Applications. After the close of the LPFM filing window, in cases of conflicting, i.e., “mutually exclusive,” applications, mutual exclusivity determinations will be made with regard to all timely and complete filings.¹⁵ Thus, unless the applicants propose a settlement, the Commission will use a point system to select among the mutually exclusive applications.¹⁶ Applicants may claim a point for the following criteria if the applicant: (1) has an established community presence of at least two years; (2) pledges to originate locally at least eight hours of programming per day; (3) pledges to maintain a publicly accessible main studio that has local program origination capability; (4) can certify that it qualifies for a point under both the local program origination and the main studio criteria; (5) can certify that neither it nor any party to the application has an attributable interest in another broadcast station; and (6) is a Tribal Applicant proposing to locate its transmitting antenna site on that Tribal Applicant’s Tribal Lands.¹⁷

The comparative qualifications of applicants, *i.e.*, maximum possible points awarded pursuant to Section 73.872, are established as of the close of the filing window. While new and major change applications may be amended without limitation during the filing window,¹⁸ amendments that would improve the comparative position of these new and major change applications will not be accepted after the close of the filing window.¹⁹

Additional information on the LPFM service and LPFM station licensing procedures may be found at: <http://www.fcc.gov/encyclopedia/low-power-fm-broadcast-radio-stations-lpfm>.

For additional information, contact:

- Assistance with FRN numbers and passwords: FRN Help Desk 1-(877) 480-3201, Option 4
- Electronic filing assistance: Konrad Herling or David Trout, (202) 418-2662
- Legal inquiries: Tom Hutton or Parul P. Desai, (202) 418-2700
- Engineering inquiries: James Bradshaw or Gary Loehrs, (202) 418-2700
- Press inquiries: Janice Wise, (202) 418-8165

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¹⁴ 47 C.F.R. § 73.3518. *See also* 47 C.F.R. § 73.801 (making Section 73.3518 applicable to LPFM stations).

¹⁵ 47 C.F.R. § 73.870(d).

¹⁶ 47 C.F.R. § 73.872.

¹⁷ *Id.* *See also* Form 318 Instructions, Section III, A-G (April 2013) (providing detailed instructions to determine eligibility for point system factors).

¹⁸ 47 C.F.R. § 73.871(a).

¹⁹ 47 C.F.R. 73.871(b).