



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

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MEDIA BUREAU IDENTIFIES MUTUALLY EXCLUSIVE APPLICATIONS FILED IN THE LPFM WINDOW AND ANNOUNCES 60-DAY SETTLEMENT PERIOD; CDBS IS NOW ACCEPTING FORM 318 AMENDMENTS

By this Public Notice, the Media Bureau (“Bureau”) identifies by group all of the mutually exclusive (“MX”) applications filed in the recent LPFM window (“LPFM Window”). Effective today, applicants may also electronically file certain amendments using the Commission’s Consolidated Database System (“CDBS”). The Bureau will provide expedited processing for all amendments, settlement requests and time-share agreements filed during the next 60 days to resolve technical conflicts.

Mutually Exclusive Groups: When the distance between two window applications does not meet the minimum distance separation requirements specified in 47 C.F.R. § 73.807, the applications are treated as MX. An MX group consists of all applications which are MX to at least one other application in the group. Attachment A identifies all MX Groups and lists all applications in each group.

The Bureau has **not** made either acceptability or grantability determinations with regard to the applications listed in Appendix A. The Bureau later could determine that one or more applications within an MX group cannot be accepted for filing or granted. The applications identified in the MX groups also may include applications the Bureau has determined or may at a future date determine are subject to dismissal for legal and/or technical defects.¹

Resolution of Application Conflicts: As discussed in the *LPFM Processing PN*,² MX applicants may resolve technical conflicts through three methods – technical amendments, settlements and time-share agreements. To receive expedited processing, any such filing must eliminate all technical conflicts between at least one application and all other applications in the MX group.

Amendments: Simultaneously with the release of this Public Notice, CDBS is being modified to permit the electronic filing of certain amendments. As stated in the *LPFM Processing PN*, applicants may only file “minor” amendments during this period.³ These include: (1) site relocations of 5.6 kilometers or less; (2) channel changes of no more than +/- three channels or to an intermediate frequency (+/- 53 or 54)

¹ Generally, following dismissal an applicant may file either one minor curative amendment or a petition for reconsideration. Both filings are due no later than 30 days following the dismissal of the application.

² See *Media Bureau Provides Further Guidance on the Processing of Form 318 Applications Filed in the LPFM Window*, Public Notice, DA 13-2308 (MB 2013) (“*LPFM Processing PN*”).

³ Major amendments, such as non-adjacent channel changes and otherwise prohibited site relocations of greater than 5.6 kilometers, will only be allowed after the Commission identifies tentative selectees among the MX groups. Major amendments will only be allowed within 90 days of the announcement of tentative selectees.

channel; (3) partial and universal voluntary time-sharing agreements; (4) changes in general or legal information; (5) changes in ownership where the original parties retain more than 50 percent ownership in the application as originally filed. Site relocation amendments of more than 5.6 kilometers will be permitted for time-share proponents⁴ to relocate to a common transmitter site.

The Bureau reminds applicants that they **may not** amend their applications to increase their comparative point total and **may not** amend their applications to come into compliance with the minimum separation requirements provided in 47 C.F.R. § 73.807. Technical amendments may not create any new application conflicts and must specify rule-compliant facilities. Applicants filing technical amendments should carefully consider all legal, *e.g.*, maintaining eligibility as a “local” applicant,⁵ and technical requirements. Applicants may file technical amendments as part of an agreement with other applicants in an MX group or unilaterally.

Settlement Agreements: Applicants entering into an agreement to procure the removal of a conflict between applications by amendment and/or application dismissal must ensure that their settlement agreement complies with the pertinent requirements of Section 73.3525 of the Commission’s Rules.⁶

Voluntary Time-Share Agreements: As stated in the *LPFM Processing PN*, MX applicants may enter into a partial or universal voluntary time-share agreement. The Bureau also will expedite the processing of applicants that are able to enter into time-share agreements. We remind applicants that point aggregation procedures⁷ will not apply to time-share agreements submitted prior to identification of the tentative selectees in a MX group.

Applicants should refer to the *LPFM Processing PN* for a fuller discussion regarding all requirements for filing technical amendments, proposing a settlement agreement and/or seeking approval of a time-share agreement.

For additional information, contact:

- 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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⁴ 47 C.F.R. § 73.871(c).

⁵ *See* 47 C.F.R. § 73.853(b).

⁶ 47 C.F.R. § 73.3525.

⁷ 47 C.F.R. § 73.872(c).