

INSTRUCTIONS FOR FCC FORM 318

APPLICATION FOR CONSTRUCTION PERMIT FOR A LOW POWER FM BROADCAST STATION

GENERAL INSTRUCTIONS

INTRODUCTION

A. This form, together with the associated instructions and worksheets, are designed to provide you with sufficient information to fully and accurately complete an application for a construction permit for a low power FM (LPFM) station. Ultimately, however, if you are awarded a construction permit and license for a new LPFM station, you will be required to know and comply with all of the Commission's rules and policies applicable to the LPFM service.

B. FCC Form 318 is used to apply for authority to construct a new LPFM broadcast station, to make changes in an authorized LPFM broadcast station, or to amend a pending Form 318 application. This application for a construction permit is the first step in the licensing process. Following completion of station construction you must file a separate application for an FCC license, FCC Form 319. Applications for new stations and major change proposals must be filed during a window filing period announced by the Commission in a public notice. All proposals for minor changes to LPFM authorizations are also to be filed on this form. See 47 C.F.R. Section 73.870. The application consists of the following sections:

- I. General Information
- II. Legal Information
- III. Point System Factors
- IV. Involuntary Time-Share Information
- V. Certification
- VI. LPFM Engineering Data and Preparer's Certification (for preparer of engineering sections of the application)

All applicants must complete Sections I, II, V, and VI. In Section II, however, applicants for major and minor changes in authorized stations need fill out only Questions 1, 4, 6, 7, and 9.

C. This form makes many references to the Commission's rules. Applicants should have on hand and be familiar with current broadcast rules in Title 47 of the Code of Federal Regulations (C.F.R.):

- (1) Part 0 "Commission Organization"
- (2) Part 1 "Practice and Procedure"
- (3) Part 73 "Radio Broadcast Services"

Copies of the Commission's rules may be purchased from the Government Printing Office. Current prices may be obtained from the GPO Customer Service Desk at (202) 512-1803. For payment by credit card, call (202) 512-1800, M-F, 8 a.m. to 4 p.m. e.s.t.; facsimile orders may be placed by dialing (202) 518-2233, 24 hours a day. Payment by check may be made to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250-7954.

In addition, any rule in Title 47, including the LPFM rules in Part 73, may be retrieved by rule section number via the internet. Applicants may locate any rule in Parts 0, 1, and 73 at http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=beedc875cf08bb2ad471c10737fb7ad0&c=ecfr&tpl=ecfrbrowse/Title47/47tab_02.tpl.

D. **Electronic Filing of Application Forms.** Applicants must file Form 318 electronically. The Commission has developed an electronic version of this form that is available on the Commission's Web site. Each applicant filing electronically will benefit from "error checks" in the Form 318 computer software and obtain immediate confirmation of the receipt of its application by the Commission. The electronic version of this form can be accessed through the Consolidated Database System (CDBS) online electronic forms filing system, located at the following site: https://licensing.fcc.gov/prod/cdbs/forms/prod/cdbs_ef.htm. Electronic filing instructions are available in the CDBS User's Guide. The Guide can be accessed from the Commission's web site at http://licensing.fcc.gov/prod/cdbs/forms/prod/cdbs_ug.htm. Applicants may find it useful to download and print a copy of the Guide for easy reference during application preparation.

E. **Electronic Filing of Amendments.** Amendments to previously filed applications must be filed electronically, and must contain the following information to identify the associated application:

- (1) Applicant's name;
- (2) Call letters, or specify "NEW";
- (3) Proposed channel number;
- (4) Proposed station location; and
- (5) File number of application being amended (if known) or date of filing of application being amended (if file number is unknown).

F. **Defective Applications.** Applicants should provide all information requested by this application. If any portions of the application are not applicable, the applicant should so state. **Defective or incomplete applications will be returned without consideration.** If the FCC inadvertently accepts a defective or incomplete application, that application may be dismissed. See 47 C.F.R. Section 73.3564(b).

G. **Current Information.** In accordance with 47 C.F.R. Section 1.65, applicants have a continuing obligation to advise the Commission, through amendments, of any substantial and material changes in the information furnished in this application. This requirement continues until the Commission action on this application is no longer subject to reconsideration by the Commission or review by the Commission or any court.

Certifications

H. This application requires applicants to certify compliance with various statutory and regulatory requirements. Detailed instructions and three worksheets provide additional information regarding Commission rules and policies. These materials are designed to track the standards and criteria which the Commission applies to determine compliance and to increase the reliability of applicant certifications.

I. This application is presented primarily in a "Yes/No" certification format. However, it contains places for submitting explanations and exhibits where necessary or appropriate. Each certification, explanation and exhibit constitutes a material representation. Applicants may only mark the "Yes" certification when they are certain that the response is correct. A "No" response is required if the applicant is requesting a waiver of a pertinent rule and/or policy, or where the applicant is uncertain that the application fully satisfies the pertinent rule and/or policy. A "No" response to a certification question for which an exhibit can be submitted will not cause the immediate dismissal of the application, provided that an appropriate exhibit is completed. However, the application includes several certifications for which an explanatory exhibit cannot be submitted. These include Section II, Question 1

(Certification), Question 2 (Eligibility), Question 4 (Community-Based Criteria) and Question 8 (Unlicensed Operation).

J. The applicant or the applicant's authorized legal representative, if any, must sign the application. Depending on the nature of the applicant, the application should be signed as follows: if a corporation, by an officer; if an unincorporated association, by a member who is an officer (for an unincorporated educational institution, this could be a school superintendent, officer of the school board, or a university officer); if a governmental entity, by such duly elected or appointed official as is competent under the laws of the particular jurisdiction. Counsel may sign the application for his or her client, but only in cases of the applicant's disability or absence from the United States. If the application is filed electronically, the signature will consist of the electronic equivalent of the typed name of the individual.

SECTION I: GENERAL INFORMATION

A. **Question 1: Applicant Name, etc.** The name of the applicant stated in Question 1 shall be the exact name of the agency, board, institution, organization, corporation, association, Tribe or governmental entity seeking the authorization. Do not list the name of an individual. Individuals are not eligible for LPFM licenses. The name of the applicant must be stated exactly in Question 1. In all other sections of this form, an abbreviated name may be used to identify the applicant.

State Abbreviation

Applicants should use only those State abbreviations approved by the U.S. Postal Service.

Facility ID Number

The FCC assigns a unique facility identification number to all authorized broadcast stations. **New station applicants should leave this box blank.** Applicants for minor or major changes can obtain facility ID numbers for their authorized LPFM stations at the Commission's website at http://licensing.fcc.gov/prod/cdbs/pubacc/prod/cdbs_p_a.htm. You can also obtain your facility ID number by calling (202) 418-2700. Further, the facility ID number is included on all Commission authorizations and correspondence.

B. **Question 2: Contact Representative.** If the applicant is represented by a representative or agent (for example, legal counsel), that person's name, firm or company, and telephone/electronic mail address may be specified here, at the applicant's option.

C. **Question 3: Application Purpose.** This question requires

that the applicant identify the purpose of the application and provide certain information about the facilities proposed in the FCC Form 318. Applicants for a new LPFM station should check “New Station.” Applicants updating information on a previously filed but not yet granted application for a new LPFM station should check “Amendment to pending application.”

SECTION II: LEGAL INFORMATION

- A. **Question 1: Certification.** Each applicant is responsible for the information that the application instructions and worksheets convey. The Commission's licensing processes are premised on the accuracy and reliability of applicant certifications. Thus, each applicant must carefully review all instructions and worksheet materials prior to completing this application.
- B. **Question 2: Eligibility.** Applicants for new LPFM stations must certify their eligibility to own and operate an LPFM station under Commission rules and regulations. Each applicant must check one “Yes” box for this question and must check “No” for the other two boxes. An applicant must submit an explanatory exhibit in connection with its Question 2 “Yes” response but should not submit any explanatory exhibits in connection with its Question 2 “No” responses.

Subsection 2(a): Nonprofit Educational Organizations. An applicant may be eligible for an LPFM station authorization under 47 C.F.R. Section 73.503 of the Commission's rules, which applies to LPFM stations pursuant to 47 C.F.R. Section 73.801. 47 C.F.R. Section 73.503 provides that a noncommercial educational (“NCE”) FM broadcast station “will be licensed only to a nonprofit educational organization and upon showing that the station will be used for the advancement of an educational program.” The three basic NCE eligibility requirements are: (1) nonprofit educational organization; (2) an educational goal or purpose; and (3) use of station programming to further that educational purpose. In considering these requirements, emphasis is placed on proposed station programs which are clearly educational in nature, *i.e.*, actually involve teaching or instruction, whether for formal credit or not. However, it is not necessary that the proposed station's programming be exclusively or even primarily educational in nature.

Individuals cannot qualify as organizational applicants. A nonprofit educational organization can be a public entity (such as a governmental agency) or a private, nonprofit entity which operates a *bona fide*, full-time school in the community where it proposes to operate. Under the Commission's standards, these organizations generally are presumed to have an educational purpose, and need only demonstrate how their proposed station programming will

be used to advance their educational purpose. Applicants should provide detailed descriptions of the nature of their proposed station programming and, if possible, program schedules. Applicants accredited by State departments of education or recognized by regional and/or national accrediting organizations should identify the accrediting entities. Applicants also must submit complete copies of the documents establishing their nonprofit status, such as corporate charters or articles of incorporation. Applicants that fail to provide these materials are subject to dismissal.

A nonprofit educational organization also can be a private, nonprofit entity such as a nonprofit foundation, corporation or association. Under the Commission's standards, these applicants must demonstrate both that they have an educational purpose and how their proposed station programming will be used to advance that purpose. Applicants should provide detailed descriptions of the nature of their proposed station programming and, if possible, program schedules. Applicants also must submit complete copies of the documents establishing their nonprofit status, such as corporate charters or articles of incorporation. Applicants that fail to provide these materials are subject to dismissal.

Subsection 2(b): Tribes and Tribal Organizations. A Tribe is any Indian or Alaska Native Tribe, band, nation, pueblo, village or community which is recognized by the federal government. *See* 47 C.F.R. Sections 73.853(c) and 73.7000. A Tribal organization is a private nonprofit entity such as a nonprofit foundation, corporation or association that is 51 percent or more owned or controlled by a Tribe or Tribes. Applicants should provide a detailed description of the noncommercial nature of their proposed station programming and, if possible, program schedules. Applicants that are Tribal organizations should explain which Tribe or Tribes own or control them. Applicants that are Tribal organizations – incorporated or unincorporated – also must submit complete copies of the documents establishing their nonprofit status, such as corporate charters or articles of incorporation. Applicants that fail to provide these materials are subject to dismissal.

Subsection 2(c): Public Safety Radio Service. State and local governments and non-government entities may be eligible for LPFM station authorizations because they propose to provide public safety radio services under Section 309(j)(2)(A) of the Communications Act of 1934, as amended, 47 U.S.C. Section 309(j)(2)(A). In order to qualify under this provision, an applicant must not be organized for profit, must use the proposed LPFM station for public safety radio services to protect the safety of life, health, or property, and the services must not be made commercially available to the public. 47 U.S.C. Section 309(j)(2)(A); *see also* 47 C.F.R. Sections 90.17, 90.23, and 90.27. Applicants that are non-government entities – incorporated or unincorporated – must submit complete copies of the documents establishing their nonprofit

status, such as corporate charters or articles of incorporation. Applicants that fail to provide these materials are subject to dismissal.

C. **Question 3: Parties to the Application.** This question is designed to identify all individuals who may be subject to various FCC ownership rules and related statutory restrictions. Specifically, as used in this application, the term "party to the application" includes any individual or entity whose ownership or positional interest in the applicant is "attributable." An "attributable interest" is an ownership interest in or in relation to an applicant or licensee which will give its holder that degree of influence or control over the applicant or licensee sufficient to implicate the Commission's multiple ownership rules. The Commission's policies and standards for attribution are set forth below. You will be answering questions about those individuals and entities listed in response to Question 3 when you respond to various other questions.

Non-Stock Corporations or Other Non Stock Entities

The applicant, the parent and subsidiary entities of the applicant, and the officers, directors, and governing board members of the applicant and its parent and subsidiary entities are considered to be parties to the application, with the exceptions provided by 47 C.F.R. Section 73.858, which are set forth below.

Partnerships and Limited Partnerships

Partners and non-insulated limited partners are considered to be parties to the application. A limited partner in a limited partnership is considered to be insulated if the limited partner is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership, and the applicant so certifies in response to subsection b of Question 3. Sufficient insulation of a limited partner for purposes of this certification is assured if the limited partnership agreement:

- (1) specifies that any exempt limited partner (if not a natural person, its directors, officers, partners, etc.) cannot act as an employee of the limited partnership if his or her functions, directly or indirectly, relate to the media enterprises of the company;
- (2) bars any exempt limited partner from serving, in any material capacity, as an independent contractor or agent with respect to the partnership's media enterprises;
- (3) restricts any exempted limited partner from communicating with the licensee or the general partner on matters pertaining to the day-to-day operations of its business;

- (4) empowers the general partner to veto any admissions of additional general partners admitted by vote of the exempt limited partners;
- (5) prohibits any exempt limited partner from voting on the removal of a general partner or limits this right to situations where the general partner is subject to bankruptcy proceedings, as described in Sections 402 (4)-(5) of the Revised Uniform Limited Partnership Act, is adjudicated incompetent by a court of competent jurisdiction, or is removed for cause, as determined by an independent party;
- (6) bars any exempt limited partner from performing any services to the limited partnership materially relating to its media activities, with the exception of making loans to, or acting as a surety for, the business; and
- (7) states, in express terms, that any exempt limited partner is prohibited from becoming actively involved in the management or operation of the media businesses of the partnership.

Notwithstanding conformance of the partnership agreement to these criteria, however, the requisite certification cannot be made if the applicant has actual knowledge of a material involvement of a limited partner in the management or operation of the media-related businesses of the partnership. In the event that the applicant cannot certify as to the noninvolvement of a limited partner, the limited partner will be considered as a party to this application.

Limited Liability Companies

The Commission treats an LLC as a limited partnership, each of whose members is considered to be a party to the application. However, where an LLC member is insulated in the manner specified above with respect to a limited partnership and where the relevant state statute authorizing the LLC permits an LLC member to insulate itself in accordance with the Commission's criteria, that LLC member is not considered a party to the application. In such a case, the applicant should certify "Yes" in response to Section II, Question 3b.

Stock Corporations

The Commission's multiple ownership attribution policies and standards apply to LPFM applicants and licensees that are stock corporations, with the exceptions provided by 47 C.F.R. Section 73.858, which are set forth below.

Generally, the applicant, the parent and subsidiary entities of the applicant, the officers, directors, and governing board members of the applicant and its parent and subsidiary entities, and holders of voting stock interests in the applicant of 5 percent or more are considered to be parties to the application.

a. **Voting stock interests.** Voting stock interests of 5 percent or more of the issued and outstanding voting stock of the applicant are attributable, unless the interest is passive in nature, in which case voting stock interests of 20 percent or more are attributable. Worksheet 1b entitled “Non-Party Influence Over Applicant” is provided to help determine whether an interest is passive in nature for purposes of the Commission’s attribution policies and standards. Where the 5 percent stock owner is itself a corporation, each of its stockholders, directors and "executive" officers (president, vice-president, secretary, treasurer or their equivalents) is considered a party to this application **UNLESS** the applicant submits as an exhibit a statement establishing that an individual director or officer will not exercise authority or influence in areas that will affect the applicant or the station. In this statement, the applicant should identify the individual by name and title, describe the individual's duties and responsibilities, and explain the manner in which such individual is insulated from the corporate applicant and should not be attributed an interest in the corporate applicant or considered a party to this application. In addition, a person or entity holding an ownership interest in the corporate stockholder of the applicant is considered a party to this application **ONLY IF** that interest, when multiplied by the corporate stockholder's interest in the applicant, would account for 5% or more of the issued and outstanding voting stock of the applicant. For example, where Corporation X owns stock accounting for 25% of the applicant's votes, only Corporation X shareholders holding 20 percent or more of the issued and outstanding voting stock of Corporation X have a 5% or more indirect interest in the applicant ($.25 \times .20 = .05$) and, therefore, are considered parties to this application. In applying the multiplier, any entity holding more than 50% of its subsidiary will be considered a 100% owner. Where the 5% stock owner is a partnership, each general partner and any limited partner that is non-insulated, regardless of the partnership interest, is considered a party to the application.

Stock subject to stockholder cooperative voting agreements accounting for 50% or more of the votes in a corporate applicant will be treated as if held by a single entity and any stockholder holding 5% or more of the stock in that block is considered a party to this application.

An investment company, insurance company or trust department of a bank is not considered a party to this application, and an applicant may properly certify that such entity's interest is non-attributable, **IF** its aggregated holding accounts for less than 20% of the outstanding votes in the applicant **AND IF**:

- (1) such entity exercises no influence or control over the corporation, directly or indirectly; and
- (2) such entity has no representatives among the officers and directors of the corporation.

b. **Non-voting stock and debt interests.** Non-voting stock and debt interests may be attributable under the Commission’s “equity-debt-plus” (EDP) attribution standard. Under the EDP standard, the interest held, aggregating both equity and debt, must exceed 33% of the total asset value (all equity plus all debt) of the applicant, a broadcast station licensee, cable television system, daily newspaper or other media outlet subject to the Commission's broadcast multiple ownership rules **AND** the interest holder must either hold an attributable interest in a media outlet in the same market or supply over 15% of the total weekly broadcast programming hours of the station in which the interest is held. For example, if a full-power broadcaster were to invest in an LPFM applicant and the investment accounted for more than 33 percent of the LPFM applicant's total capitalization, the investment would be attributable and would violate the cross-ownership prohibition of 47 C.F.R. Section 73.860 of the Commission’s rules, which is discussed below in the Instructions to Section II, Question 5. Similarly, if a director of the same full-power broadcaster were to act as an officer of the LPFM applicant, the director would be attributed with both stations and Section 73.860 would be violated.

Exceptions

Section 73.858 of the Commission’s rules establishes two exceptions to the above-stated attribution policies and standards applicable to LPFM station applicants. **Applicants relying on either of these attribution exceptions should answer question 5b “No” and provide an explanatory exhibit.**

a. **Section 73.858(a).** Under this provision, members of the board of directors of the parent of an LPFM applicant or licensee may hold otherwise attributable interests in a broadcast licensee, daily newspaper or cable television system subject to the Commission’s multiple ownership rules and not have those interests attributed to them for purposes of an LPFM station application, **provided that** the board members holding such interests recuse themselves from any consideration of matters affecting the LPFM station. Similarly, an officer or director of an LPFM applicant or licensee may hold an otherwise attributable interest in a broadcast licensee, daily newspaper or cable television system if: (1) the LPFM applicant or licensee entity is a multi-faceted organization, such as a university; (2) the duties of the officer or director

are wholly unrelated to the LPFM station; and (3) the officer or director recuses himself or herself from consideration of any matters affecting the LPFM station. The purpose of these exceptions is to permit an entity, such as a university, to become a LPFM station licensee, notwithstanding the fact that certain members of the entity's board hold attributable media interests. Applicants applying for LPFM station licenses under this exception must submit an explanatory exhibit in response to Question 5b identifying the individuals with otherwise attributable interests.

b. Section 73.858(b). Under this provision a local chapter of a national organization will not have the attributable media interests of the national organization attributed to it, provided that the local chapter: (1) is incorporated in its local area separately from the national organization with which it is affiliated; and (2) has a distinct local presence and mission. To satisfy the second element of this standard, an applicant must demonstrate that it has significant membership within its local area and that it has a local purpose that can be distinguished from the purpose of the national organization with which it is affiliated. For example, the purpose of raising awareness of an environmental issue like air or water quality in the United States would not satisfy the distinct local mission requirement, but the purpose of raising awareness of an environmental issue like air or water quality in a particular local area would satisfy the distinct local mission requirement. Applicants applying for LPFM station licenses under this exception must submit an explanatory exhibit in response to Question 5b demonstrating how they meet the above-stated requirements.

D. Question 4: Community-Based Criteria. Applicants must certify that they are local to be eligible for LPFM authorizations. An applicant must check "Yes" to one of the certifications set forth in Question 4 to be eligible for an LPFM license. An applicant should not submit an explanatory exhibit in connection with its Question 4 "No" responses. To be deemed "local" for purposes of the Commission's rules, an applicant must:

- (a) be physically headquartered or have a campus within 10 miles, for applicants in the top 50 urban markets, or 20 miles, for applicants outside of the top 50 urban markets, of the transmitting antenna site proposed in its Application;
- (b) have 75 percent of its board members residing within 10 miles, for applicants in the top 50 urban markets, or 20 miles, for applicants outside of the top 50 urban markets, of the transmitting antenna site proposed in its Application;

- (c) be a Tribe and have its Tribal Lands within the service area of the proposed LPFM station; or be a Tribal organization whose controlling Tribe(s) has(have) its(their) Tribal Lands within the service area of the proposed LPFM station;

or

- (d) propose a public safety radio service and have jurisdiction within the service area of the proposed station.

E. Question 5: Ownership.

Question 5(a): Ownership of Other LPFM Stations. The Commission generally prohibits common ownership of LPFM stations. However, the Commission permits common ownership of up to two LPFM stations by Tribes or Tribal organizations, *see* 47 C.F.R. Section 73.855(b), and permits common ownership of LPFM stations by nonprofit organizations and governmental entities with a public safety purpose if certain conditions are met. *See* 47 C.F.R. Section 73.855(c).

Question 5(b): Ownership of Other Media Interests. The Commission permits a party to have an attributable interest in one LPFM and up to two FM translator stations. *See* 47 C.F.R. Section 73.860(b). It permits a Tribal Applicant or a party with an attributable interest in a Tribal Applicant to have an attributable interest in up to two LPFM and four FM translator stations. *See* 47 C.F.R. Section 73.860(c). With one exception, *see* 47 C.F.R. Section 73.860(d), the Commission otherwise prohibits cross-ownership of an LPFM station and any other media interest (*i.e.*, a daily newspaper of general circulation, a cable television system; or any full power AM or FM radio station, or full or low power television station). *See* 47 C.F.R. Section 73.860(a).

If the applicant (or any party to the application) has an attributable interest in a broadcast station or other media outlet that is prohibited under the Commission's cross-ownership rule, the applicant (or the party to the application) must divest the interest prior to the commencement of operations of the LPFM station. In such circumstances, the applicant must respond "No" to the certification required by Question 5b and submit an explanatory exhibit identifying the broadcast station or other media outlet in which the applicant (or the party to the application) holds an attributable interest and setting forth the applicant's (or party's) intention to divest such interest.

If the applicant (or any party to the application) holds an attributable interest in an application for a broadcast station, and cross-ownership of that station and an LPFM station is prohibited under the Commission's cross-ownership rule, the applicant must check "No" and provide an exhibit that includes the file numbers of the

pending applications.

Question 5(c): Immediate Family Members. The applicant must certify compliance with the Commission's policies relating to the media interests of immediate family members. Worksheet 1 to this application form is provided to help applicants determine their compliance with these Commission's policies.

Question 5(d): Investor Insulation and Non-Participation of Non-Party Investors and Creditors. This question is only relevant if:

- the applicant is a limited partnership or a limited liability corporation that seeks to insulate from attribution members or partners in accordance with the Commission's rules; or
- the applicant has non-party investors, for example, creditors, secured parties, or program suppliers, and these investors have the capacity to influence the decision-making of the applicant. If these issues are relevant to the applicant you should review Worksheet 1 to this application.

F. **Question 6: Character Issues.** Question 6 only applies to those applicants or parties identified in Question 3 that have previously applied for a broadcast license. If neither the applicant nor any party to the application has previously applied for a license, you should check "Yes." Specifically, Question 6 asks an applicant to certify that neither it nor any party to the application has had any interest in or connection with an application that was or is the subject of unresolved character issues. Where the response to Question 6 is "No," the applicant must submit an exhibit that includes an identification of the party having had the interest, the call letters and location of the station or file number of the application or docket, and a description of the nature of the interests or connection, including relevant dates. The applicant should also fully explain why the unresolved character issue is not an impediment to a grant of this application.

G. **Question 7: Adverse Findings.** An applicant must disclose in response to Question 7 whether the applicant or any party to the application has been the subject of a final adverse finding with respect to certain relevant non-broadcast matters. The Commission's character policies and litigation reporting requirements for broadcast applicants focus on misconduct which involves a violation of the Communications Act of 1934, as amended, or a Commission rule or policy and on the types of non-FCC misconduct listed in the question 7 certification.

In responding to Question 7, the applicant should consider any relevant adverse finding that occurred within the past ten years. Where that adverse finding was fully disclosed to the Commission in an application filed on behalf of this

applicant or in another broadcast station application and the Commission, by specific ruling or by subsequent grant of the application, found the adverse finding not to be disqualifying, it need not be reported again and the assignee may respond "Yes" to this question. However, an adverse finding that has not been reported to the Commission and considered in connection with a prior application would require a "No" response.

Where the response to Question 7 is "No," the applicant must provide in an exhibit a full disclosure of the persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers), and the disposition of the litigation. Where the requisite information has been earlier disclosed in connection with another pending application, or as required by 47 C.F.R. Section 1.65(c), the applicant need only provide an identification of that previous submission by reference to the file number in the case of an application, the call letters of the station regarding which the application or Section 1.65 information was filed, and the date of filing.

H. **Question 8: Unlicensed Operation.** Question 8 requires the applicant to certify, under penalty of perjury, that neither the applicant nor any party to the application has engaged in any manner, individually or with other persons, groups, or organizations, in the unlicensed operation of any station in violation of Section 301 of the Communications Act of 1934, as amended, 47 U.S.C. Section 301.

Applicants checking "No" to Question 8 are ineligible for a license to operate an LPFM station. In addition, applicants are warned that submission of false or misleading statements will subject applicants to fines, revocation of license, and applicable criminal penalties.

I. **Question 9: Anti-Drug Abuse Act Certification.** This question requires the applicant to certify that neither it nor any party to the application is subject to denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.

Section 5301 of the Anti-Drug Abuse Act of 1988 provides federal and state court judges the discretion to deny federal benefits to individuals convicted of offenses consisting of the distribution or possession of controlled substances. Federal benefits within the scope of the statute include FCC authorizations. A "Yes" response to Question 9 constitutes a certification that neither the applicant nor any party to this application has been convicted of such an offense or, if it has, it is not ineligible to receive the authorization sought by this application because of Section 5301.

With respect to this question only, the term "party to the application" includes: if the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5 percent or more of the outstanding stock

or shares (voting and/or non-voting) of the applicant; all members if a membership association; and if the applicant is a partnership, all general partners and all limited partners, including both insulated and non-insulated limited partners, holding a 5 percent or more interest in the partnership.

SECTION III: POINT SYSTEM FACTORS

- A. The Commission uses a point system to select among conflicting, *i.e.*, “mutually exclusive,” LPFM applications filed in the same window. This section allows applicants for new LPFM stations and for major changes to existing LPFM authorizations to claim points under this selection procedure.

LPFM new and/or major change applications are treated as mutually exclusive where the applications are filed in the same window and the simultaneous operation of the two proposed stations would result in one (or both) stations causing objectionable interference to the other. The Commission makes this determination on the basis of the LPFM station-to-station distance separation requirements set forth at 47 C.F.R. Section 73.807. This rule establishes minimum distance separation requirements to all other stations, including minimum distance separations between LPFM stations. In the case of LPFM-LPFM separations, 47 C.F.R. Section 73.807 specifies a minimum distance separation between stations operating on the same frequency (also called co-channel) and also between those stations operating on first-adjacent channels. For example, if an LPFM station application specifies a frequency of 94.7 MHz, the Commission will determine whether co-channel proposals on 94.7 or first-adjacent channel proposals on 94.5 and 94.9 MHz meet the minimum separation requirements of 24 and 14 kilometers, respectively. Applications that do not meet these minimums will be treated as mutually exclusive to each other and to any application that is directly or indirectly mutually exclusive to it or the other application. In these cases, the Commission will use the point system selection procedure to select one or more applications for grant.

Mutually exclusive applications will be awarded a point for each of the six criteria set forth below. Applicants may claim the point(s) for which they qualify by certifying “Yes” in response to the question and, in connection with Questions 1 and 3 only, by submitting the documentation or information set forth below. The applicant with the highest point total in its mutually exclusive group will be the tentative selectee, unless the mutual exclusivity is resolved by settlement pursuant to 47 C.F.R. Section 73.872(e). Applicants tied for the highest point total in a mutually exclusive group will be subject to voluntary and involuntary timesharing. For more information, see 47 C.F.R. Section 73.872; *Creation of a Low Power Radio Service*, Report and Order, 15 FCC Rcd 2205, 2260-64, at ¶¶ 139-151, *Creation of a Low Power Radio Service*,

Memorandum Opinion and Order on Reconsideration, 15 FCC Rcd 19208, 19246-47, at ¶¶ 97-100 (2000); *Creation of a Low Power Radio Service*, Fifth Order on Reconsideration and Sixth Report and Order, 57 Comm. Reg. (P & F) 143 (2012).

Applicants may not enhance their comparative position after the close of the filing window during which they filed their applications. See 47 C.F.R. Section 73.871(b). The Commission will not accept a showing or a comparative pledge made after the close of such filing window as a basis for awarding a point or points. For instance, if an applicant certifies that it does not qualify for a point or points under one of the point system factors by answering “No” to one of the questions in Section III, it cannot later amend its application to respond “Yes” to that question. This is the case even if the applicant actually would have qualified for the point or points it is seeking at the time it filed the application. Similarly, if an applicant certifies that it qualifies for a point or points under one of the point system factors but fails to submit the required documentation prior to the close of the filing window during which it filed the application, the applicant will not be awarded a point under that factor and will not be permitted to submit the required documentation in an amendment.

- B. **Question 1: Established Community Presence.** To qualify for a point under this criterion, the applicant must have an established community presence of at least two years’ duration in the community that it proposes to serve. A nonprofit educational organization applicant must be able to certify that, during the two years prior to application, (a) it has been in existence as a nonprofit educational organization, **and** (b) has been physically headquartered, has had a campus, or has had 75 percent of its governing board members residing within 10 miles, for applicants in the top 50 urban markets, or 20 miles, for applicants outside of the top 50 urban markets, of the coordinates of the proposed transmitting antenna. A Tribal Applicant **only** must be able to certify that it is a Tribe and that its Tribal Lands are within the service area of the proposed LPFM station; or that it is a Tribal organization whose controlling Tribe(s) has its(their) Tribal Lands within the service area of the proposed LPFM station. Tribal organizations created by a Tribe (or Tribes) to apply for a LPFM construction permit need not have been in existence for two years. A public safety radio service applicant **only** must be able to certify that during the two years prior to application it had jurisdiction within the service area of the proposed LPFM station.

Nonprofit educational organizations claiming a point for this criterion must submit evidence of their qualifications as an exhibit to their application forms. This evidence must demonstrate the date of commencement of the applicant’s existence and the location(s) of the applicant’s headquarters, campus, or governing board members’

residences (or, for governmental public safety radio service applicants, the area of jurisdiction) during the two years prior to the application filing. For example, such evidence may consist of copies of corporate charters, articles of incorporation, association, or partnership, or other written instruments filed with the appropriate governmental agency (e.g., Secretary of State) documenting the applicant's period of existence. The location of an applicant's headquarters, campus, or governing board members' residences may be demonstrated by the submission of statements supported by the affidavit or declaration of a person or persons with personal knowledge thereof. See 47 C.F.R. Section 1.16.

- C. **Question 2: Local program origination.** To qualify for a point under this criterion, applicants must pledge to originate locally at least eight hours of programming per day. Local origination is the production of programming by the licensee, within ten miles of the coordinates of the proposed transmitting antenna. Local origination includes licensee produced call-in shows, music selected and played by a disc jockey present on site, broadcasts of events at local schools, and broadcasts of musical performances at a local studio or festival, whether recorded or live. Local origination does not include the broadcast of repetitive or automated programs or time-shifted recordings of non-local programming whatever its source. In addition, local origination does not include a local program that previously has been broadcast twice, even if the licensee broadcasts the program on a different day or makes small variations in the program thereafter.

Applicants that claim points for this criterion will be required to adhere to their pledges. The Commission will use random audits to verify such adherence, and also will consider written complaints. The Commission staff may issue letters of inquiry requiring submission of documentation in connection with such audits. Applicants that fail to fulfill their pledges will be subject to administrative sanctions including the possibility of monetary forfeitures and revocation proceedings.

- D. **Question 3: Main studio.** To qualify for a point under this criterion, applicants must pledge to maintain a publicly accessible main studio that has local program origination capability, is reachable by telephone, is staffed at least 20 hours per week between 7 a.m. and 10 p.m., and is located within 10 miles of the proposed site for the transmitting antenna for applicants in the top 50 urban markets or 20 miles for applicants outside the top 50 urban markets.

Applicants claiming a point under this criterion must specify the address and telephone number for the proposed main studio in response to this question.

- E. **Question 4: Local program origination and main studio.** To qualify for a point under this criterion, an

applicant must certify that it qualifies for a point under both the local program origination and the main studio criteria. The applicant must have answered "Yes" to Questions 2 and 3 of Section III.

- F. **Question 5: Diversity of ownership.** To qualify for a point under this criterion, an applicant must certify that neither it nor any party to the application holds an attributable interest in any other broadcast station. We remind applicants of their obligations under 47 C.F.R. Section 1.65 to update their applications if they acquire an attributable interest in another broadcast station.
- G. **Question 6: Tribes or Tribal organizations serving Tribal lands.** To qualify for a point under this criterion, an applicant must be a Tribe proposing to locate its transmitting antenna site on its Tribal Lands, or a Tribal organization proposing to locate its transmitting antenna site on the Tribal Lands of the Tribe or Tribes that own or control more than 51 percent of the organization. See 47 C.F.R. Section 73.872(b)(6).

SECTION IV: INVOLUNTARY TIME-SHARE INFORMATION

- A. If a tie among mutually exclusive LPFM applications remains after the Commission conducts a points analysis, the Commission offers the tied applicants the opportunity to enter into a voluntary time-share agreement. If those applicants do not enter into a voluntary time-share agreement, the Commission will review the tied applications to determine if they are acceptable for filing.

If there are three or fewer tied and grantable applications, the Commission will grant these three applications, assigning an equal number of hours per week to each applicant. The Commission will determine the hours assigned to each applicant by first assigning hours to the applicant that has been local for the longest uninterrupted period of time, then assigning hours to the applicant has been local for the next longest uninterrupted period of time, etc.

If there are more than three tied and grantable applications, the Commission will dismiss all but the applications of the three applicants that have been local for the longest uninterrupted periods of time. The Commission then will process the remaining three applications as discussed above.

- B. **Question 1: Established Community Presence.** In order to allow the Commission to determine which applicants have been local for the longest uninterrupted periods of time, applicants must indicate the date on which they first qualified as local. An applicant also must certify that it has remained local at all times since the date indicated in response to Question 1.

SECTION VI: LPFM ENGINEERING AND

PREPARER'S CERTIFICATION

- A. **General Instructions for Section V.** The engineering section contains a "Tech Box" in which the applicant specifies all technical data required for engineering review. In the event that there are any discrepancies between data in the "Tech Box" and data submitted elsewhere in the application, the data in the "Tech Box" will be controlling.

Applicants are not required to provide specific transmitter make and model information on FCC Form 318. Rather, the permit authorizing construction will require installation of a FCC certified transmitter in compliance with the provisions of 47 C.F.R. Section 73.1660. Applicants also are not required to list the specific antenna make, manufacturer, model number and number of bays for FM antennae on FCC Form 318. That data is submitted following the completion of construction in an application for covering license (FCC Form 319).

- B. **Notifications.** All applicants must comply with the requirements of 47 C.F.R. Section 73.1030. Specifically, applicants within affected areas must notify United States Government radio astronomy installations, radio receiving installations, and FCC monitoring stations of the proposed facility and its possible impact on their operations. *See* 47 C.F.R. Section 73.1030. Affected facilities requiring written notification at the time the LPFM application is filed include radio astronomy observatories located in Arecibo, Puerto Rico, and Green Bank, West Virginia, and the Table Mountain Radio Receiving Zone in Boulder County, Colorado. The written notification should be sent to the appropriate address listed in 47 C.F.R. Section 73.1030 and should include antenna height and coordinates, frequency and power. The staff will coordinate applications with the Commission's Enforcement Bureau when there is the potential for an adverse effect on an FCC monitoring station. However, prior notice to the Enforcement Bureau is suggested when an applicant believes its facility may affect a monitoring station in the manner described in 47 C.F.R. Section 73.1030. The Commission need not be informed of the date of any notification.

- C. **Tech Box.** The applicant must accurately specify the requested facilities in Questions 1 through 7 of the Tech Box. Conflicting data found elsewhere in the application will be disregarded. All Questions must be completed. The response "on file" is not acceptable. The response "not applicable" is not acceptable unless otherwise noted below.

Question 1: Channel. The proposed channel must be between 201 and 300. *See* 47 C.F.R. Section 73.805. Applicants can determine which frequencies, if any, are available at any specific set of coordinates within the United States and its territories by using a simple computer program available at the Audio Division web-page <http://www.fcc.gov/encyclopedia/low-power-fm-lpfm-channel-finder>.

Question 2: Antenna Location Coordinates. The proposed antenna site must be specified using North American Datum 27 (NAD 27) coordinates. Indicate North or South Latitude, and East or West Longitude. Applicants can determine coordinates with a 7.5 minutes series U.S. Geological Survey topographic quadrangle map.

The latitude and longitude coordinates for all points in the United States for this LPFM service are based upon the 1927 North American Datum (NAD 27). The National Geodetic Survey is in the process of replacing NAD 27 with the more accurate 1983 North American Datum (NAD 83) and updating current topographic maps. In addition, coordinates determined by use of the satellite-based Global Positioning System already reflect the NAD 83 datum. To prevent intermixing of data from these two sources, the Commission has announced that, until further notice, all LPFM applicants are to furnish coordinates based on NAD 27 datum on all submissions and the Commission will continue to specify NAD 27 coordinates in its data bases and authorizations. Applicants may access a simple computer program to convert NAD 83 coordinates to NAD 27 coordinates at <http://www.ngs.noaa.gov/cgi-bin/nadcon.prl>.

Question 3: Antenna Structure Registration Number. The Antenna Structure Registration number should be entered here. Most towers greater than 61 meters (200 feet) in height and those located near airports require antenna registration numbers. *See* 47 C.F.R. Section 17.4. If the tower does not require registration, indicate that registration is "Not Applicable," or if the FAA has not yet determined whether a proposed structure would be a hazard, indicate whether the FAA Notification has been filed with the FAA. For more information regarding the Commission's antenna structure registration requirements, applicants may review the Wireless Telecommunications Bureau's Antenna Structure Registration web site at <http://wireless.fcc.gov/antenna/index.htm?job=home>.

Questions 4-6: Elevation and Heights. All heights must be in meters, rounded to the nearest whole number.

Question 7: Power and Height Limitations. The staff will determine an LPFM station's antenna height above average terrain (HAAT) from the Tech Box data for coordinates, site elevation, and antenna radiation center above ground level. The effective radiated power (ERP) specified on the LPFM construction permit authorization will be given in a range that, when considered with the staff-calculated HAAT, would allow operation within the maximum and minimum ERP for LPFM stations. *See* 47 C.F.R. Section 73.811.

- D. **Certifications.** Questions 8-10 set forth a series of certifications concerning the Commission's technical standards and operational requirements for LPFM stations.

Question 8(a): Interference. The applicant must certify that the proposal complies with the spacing provisions contained in 47 C.F.R. Section 73.807. If the proposed facility will be fully-spaced under 47 C.F.R. Section 73.807, the applicant should respond “Yes” to Question 8.a. If the proposed facility will be short-spaced under Section 73.807, the applicant should respond “No” to Question 8.a.

If an applicant responds “No” to Question 8.a. and seeks a waiver of the second-adjacent channel minimum distance separation requirements, the applicant should include an exhibit that provides sufficient information to demonstrate that the proposed facility complies with the second-adjacent channel waiver standard. In other words, the applicant must demonstrate that the proposed LPFM facility will not cause interference to any authorized radio service. An applicant may do so by showing a “lack of population” in the area of predicted interference and may use an undesired/desired signal strength ratio methodology to define the area of potential interference. An applicant seeking a second-adjacent waiver also may use a directional antenna to show compliance with the second-adjacent channel waiver standard. If an applicant proposes to use a directional antenna, it must include an exhibit that tabulates the Relative Field pattern of the directional antenna for 36 evenly-spaced radials.

Question 8(b): Interference to Translator or Booster Input Signals. In cases where 47 C.F.R. Section 73.827(a) is applicable, the applicant must certify that the proposal complies with distance separation requirements or demonstrate that “no actual interference” would occur based on either the signal strength ratio showing or minimum distance separation formula set forth in the rule. In cases where 47 C.F.R. Section 73.827(a) is not applicable, applicants should certify “N/A.”

Question 9: TV Channel Six Interference. If the proposed facility specifies operation on Channels 201-220, the applicant must certify that the proposal complies with the Channel Six spacing provisions contained in 47 C.F.R. Section 73.825.

Question 10: National Environmental Policy Act:

a. Environmental Impact. The National Environmental Policy Act of 1969 requires all federal agencies to ensure that the human environment is given consideration in all agency decision-making. Since January 1, 1986, applications for new broadcast stations, modifications of existing stations, and license renewals must include either an environmental assessment that will serve as the basis for further Commission review and action, or a certification that operation of the station will not have a significant environmental impact. See 47 C.F.R. Section 1.1307.

In this regard, applicants are required to consider eight environmental factors. These factors are listed in the attached General Environmental Worksheet (Worksheet 2).

Should the applicant be unable to conclude that its proposal will have no significant impact on the quality of the human environment, it must submit an Environmental Assessment containing the following information:

- (1) A description of the facilities as well as supporting structures and appurtenances, and a description of the site as well as the surrounding area and uses. If high-intensity white lighting is proposed or utilized within a residential area, the EA must also address the impact of this lighting upon the residents.
- (2) A statement as to the zoning classification of the site, and communications with, or proceedings before and determinations (if any) by zoning, planning, environmental and other local, state, or federal authorities on matters relating to environmental effects.
- (3) A statement as to whether construction of the facilities has been a source of controversy on environmental grounds in the local community.
- (4) A discussion of environmental and other considerations that led to the selection of the particular site and, if relevant, the particular facility; the nature and extent of any unavoidable adverse environmental effects; and any alternative sites or facilities that have been or reasonably might be considered.
- (5) If relevant, a statement why the site cannot meet the FCC guidelines for RF exposure with respect to the public and workers.

b. RF Exposure Guidelines. In 1996, the Commission modified its guidelines and procedures for evaluating environmental effects of RF emissions. All LPFM station applications subject to environmental processing must demonstrate compliance with the new requirements. The new guidelines are explained in more detail in OET Bulletin 65, entitled Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields, Edition 97-01, released August, 1997, and Supplement A: Additional Information for Radio and Television Broadcast Stations (referred to here as "OET Bulletin 65" and "Supplement A," respectively). Both OET Bulletin 65 and Supplement A can be viewed and/or downloaded from the FCC Internet site at <http://transition.fcc.gov/oet/rfsafety/>. Copies can

also be purchased from the Commission's duplicating/research contractor, International Transcription Services, Inc., 1231 20th Street, N.W., Washington, D.C. 20036 (telephone: (202) 857-3800; fax: (202) 857-3805). Additional information may be obtained from the RF Safety Group at rf-safety@fcc.gov or (202) 418-2464 or from the FCC Call Center at 1-888-CALL FCC (225-5322).

- c. **Worksheets.** Worksheets 2 and 3 are designed to facilitate and substantiate the certification called for in Section V, Question 10. The General Environmental Worksheet (Worksheet 2) should be used by all applicants. The RF Exposure Worksheet (Worksheet 3) will assist the applicant in completing the required radiofrequency (RF) electromagnetic field calculations to determine whether the proposed station adequately protects the public and workers from potentially harmful RF fields.

Some, but not all, stations will be able to use the RF Exposure Worksheet. The RF Exposure Worksheet allows the applicant to determine if its LPFM station would meet the Commission's RF guidelines based upon the facility's antenna height above ground level. Section One of the RF Exposure Worksheet is applicable to an LPFM station that is the only RF source on the only supporting structure in the area. Such a facility may not exceed the Commission's RF limit. Section Two of the RF Exposure Worksheet applies to an LPFM station that is one of several RF sources at a site. In this case, the LPFM is excluded from a detailed showing of compliance if it does not contribute more than 5% of the Commission's RF limit.

Applicants that fail to meet these antenna height requirements will need to utilize more complex calculations or measurements to demonstrate compliance and may require the assistance of a qualified consulting engineer to determine whether the proposed facility will meet the RF exposure guidelines. RF levels may still be acceptable based on a more detailed evaluation of a number of variables, *e.g.*, antenna radiation patterns or measurement data. In that case, the applicant must submit an exhibit to the application that explains why the proposed facility does not exceed the RF radiation exposure guidelines at locations where humans are likely to be present, and/or describes measures or circumstances which will prevent or discourage humans from entering those areas where the RF exposure exceeds the guidelines, *e.g.*, fencing or remote location. The guidelines are explained in more detail in OET Bulletin 65.

- E. **Preparer's Certification.** When someone other than the applicant has prepared the engineering section of the FCC Form 318, Section V requires that person to certify, to the best of his/her knowledge and belief, the veracity of the

technical data supplied. The Section VI preparer's certification need not be completed if the engineering portion of the application has been prepared by the applicant. In that event, the applicant's Section V, page 5 certification will cover the information provided in both the legal and engineering sections of the application.

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT

If you do not provide the information requested on this form, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Your response is required to obtain the requested authorization.

We have estimated that each response to this collection of information will take 45 minutes to 6 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually complete and review the form or response. If you have any comments on this burden estimate, or on how we can improve the collection and reduce the burden it causes you, please e-mail them to pra@fcc.gov or send them to the Federal Communications Commission, AMD-PER, Paperwork Reduction Project (3060-0920), Washington, DC 20554. Please DO NOT SEND COMPLETED APPLICATIONS TO THIS ADDRESS. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0920.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. 3507.

WORKSHEETS FOR FCC FORM 318
APPLICATION FOR CONSTRUCTION PERMIT FOR A LOW POWER FM BROADCAST STATION

WORKSHEET #1a - FAMILY RELATIONSHIPS

This worksheet is for use in connection with Section II, Question 5c of FCC Form 318, which requires the applicant to certify that the applicant and the parties to the application are in compliance with the Commission's policies relating to media interests of immediate family members (i.e., husband, wife, father, mother, sister, brother, son and/or daughter). This worksheet need not be submitted with the application and retention of this worksheet is not required. However, an applicant's ability to produce a copy upon request may prove helpful in determining compliance with the Commission's rules and policies.

The Commission does not presume that media interests of immediate family members should be attributed to the applicant and the parties to the application. This presumption, however, is rebuttable. Accordingly, the applicant should examine the media interests of the principals' immediate family members to determine whether or not those media interests will be independent and not subject to common influence or control. See *Policy Statement, Clarification of Commission's Policies Regarding Spousal Attribution*, 7 FCC Rcd 1920 (1992); *Sevier Valley Broadcasting, Inc.*, 10 FCC Rcd 9795 (1995). **An applicant should review this worksheet if the answer to the following question is "Yes":**

Does any member of the immediate family (i.e., husband, wife, father, mother, sister, brother, son and/or daughter) of any party to the application have any interest in or connection with any other broadcast station, pending broadcast application, or daily newspaper in the same area? Yes No

For purposes of this policy, a low power FM and a full-service broadcast station are in the same area if the entire proposed area of service of the low power FM station is encompassed by the full-service station's principal community coverage contour (2 mV/m contour for AM stations; 1 mV/m (60 dBu) for FM stations, including FM translator stations and FM booster stations; Grade A contour for TV stations, including TV translator stations and LPTV stations). A low power FM station and a daily newspaper are in the same area if the low power FM station's proposed area of service encompasses the entire community in which the daily newspaper is published. (A daily newspaper is one that is published four or more days per week, is in the dominant language in the market, and is circulated generally in the community of publication. A college newspaper is not considered to be circulated generally. See 47 C.F.R. Section 73.3555(d) and Note 6.) Two low power FM stations are considered to be in the same area if their transmitting antennas are located within seven miles of one another.

If the answer to the above-stated question is "Yes," answer the following questions for each such relationship:

1. Has the family member who is not included as a party to the application been involved in negotiations for the construction of the station? Yes No
2. Has the family member who is not included as a party to the application provided financing or otherwise been involved in the process of making financial arrangements for the construction of the station? Yes No
3. Is this the first broadcast ownership interest of the family member who is a party to the application? Yes No
4. Are the family members involved together in the management or operation of any other media Yes No
5. Are there any agreements, arrangements or understandings, either written or oral, between the family members with same-area media interests for the participation of one family member in the financial affairs, commercial practices, programming, or employment practices of the other family member's media entity. Consider, for example, joint sales agreements, local marketing agreements, and arrangements to share facilities or personnel. Yes No

If the applicant answers "No" to questions 1 through 5 above, the applicant may conclude that it is in compliance with the Commission's policies relating to media interests of immediate family members. If the applicant answers "Yes" to any one of questions 1 through 5 above, the applicant must answer "No" to Section II, Question 5c of FCC Form 318, and must submit an explanatory exhibit providing a detailed statement regarding the business or media relationship involved between family members.

WORKSHEET #1b - INVESTOR INSULATION AND NON-PARTY INFLUENCE OVER ASSIGNEE/APPLICANT

This section of the worksheet may be used in connection with Section II, question 5d of FCC Form 318, which requires the applicant to certify that it complies with the Commission's restrictions relating to the insulation and non-participation of non-party investors and creditors. *See Review of the Commission's Regulations and Policies Affecting Investment in the Broadcast Industry*, 14 FCC Rcd 12559 (1999). It indicates the kinds of contractual relationships that may, in the Commission's view, exceed the authority of a properly insulated investor or demonstrate some indicia of de facto control by a creditor.

I. Investor Insulation

If an applicant is a limited partnership or a limited liability company ("LLC") that seeks to insulate partners or members in accordance with the Commission's attribution rules, the applicant shall ensure that each such limited partner or LLC member is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership or LLC. To ensure that each such limited partner or LLC member is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership or LLC, the applicant must answer the following inquiries. Do the limited partnership or LLC enabling documents:

- a. specify that any exempt limited partner/LLC member (if not a natural person, its directors, officers, partners, etc.) cannot act as an employee of the limited partnership/LLC member if his or her functions, directly or indirectly, relate to the media enterprises of such entity? Yes No
- b. bar any exempt limited partner/LLC from serving, in any material capacity, as an independent contractor or agent with respect to the partnership/LLC's media enterprises? Yes No
- c. restrict any exempt limited partner/LLC member from communicating with the limited partnership/LLC, the general partner, or any LLC management committee on matters pertaining to the day-to-day operations of its business? Yes No
- d. empower the general partner/LLC management committee to veto any admissions of additional general partners/LLC members admitted by vote of the exempt limited partners/LLC members? Yes No
- e. prohibit any exempt limited partner/LLC member from voting on the removal of a general partner/LLC member or limit this right to situations where the general partner/LLC member is (i) subject to bankruptcy proceedings, as described in Section 402(4)-(5) of the Revised Uniform Limited Partnership Act, (ii) is adjudicated incompetent by a court of competent jurisdiction, or (iii) is removed for cause, as determined by an independent party? Yes No
- f. bar any exempt limited partner/LLC member from performing any services to the limited partnership/LLC materially relating to its media activities, with the exception of making loans to, or acting as a surety for, the business? Yes No
- g. state, in express terms, that any exempt limited partner/LLC member is prohibited from becoming actively involved in the management or operation of the media businesses of the limited partnership/LLC? Yes No

If the answer is "Yes" to **each** of these conditions with regard to every limited partner and LLC member that the applicant seeks to insulate **and** the relevant state statute authorizing the LLC permits a LLC member to insulate itself in accordance with the Commission's criteria, the applicant may certify that it complies with the Commission's restrictions regarding insulation of non-party investors. If "No" to the foregoing, the applicant must respond "No" to Section II, Item 5d of FCC Form 318 and submit an explanatory exhibit detailing the rights of any non-party investor and setting forth the applicant's reasons for not treating the investor as a party to the application.

II. Non-Party Influence Over Applicant

A. Non-party investors, *i.e.*, investors with nonattributable interests, may have very limited powers over the operations of a licensee. Accordingly, with respect to any agreement, arrangement or understanding involving insulated parties or other investors with nonattributable interests, including creditors, secured parties, program suppliers, and any other persons not disclosed as parties to this application, does such agreement:

1. give any non-party investor the right to vote on any matters decided by the applicant's board of directors, partnership committee or other management group; Yes No
2. give any non-party investor the right to attend, or appoint an observer to attend, applicant board, partnership or other management meetings; Yes No
3. place any limitation on applicant programming discretion; Yes No
4. give any non-party investor the right to vote on, approve or restrict applicant's actions on any matter relating to programming, personnel or finances; Yes No
5. give any non-party creditor or any bond, debenture or warrant holder the right to vote on, approve or restrict the applicant's actions on any matter relating to programming, personnel or finances; Yes No
6. give any non-party investor that holds a non-voting convertible interest the right to convert such an interest and acquire control of the applicant based on the applicant's actions relating to programming, personnel and finances; Yes No
7. give any non-party investor, creditor, or bond, debenture or warrant holder the right to vote on, approve or deny the selection or removal of a general partner of an applicant partnership or a member of the applicant's governing body; and Yes No
8. give any non-party investor, creditor, or bond, debenture or warrant holder the right to convert, tender or require the tendering of stock pursuant to a put-or-call agreement based on the actions of the applicant relating to programming, personnel or financing. Yes No

If the answer to all of these conditions is "No" with regard to every non-party investor and creditor, **and there are no other provisions that cede de facto control to a non-party**, applicant may certify that it complies with the Commission's restrictions regarding non-participation of non-party investors and creditors. If the answer to any of these inquiries is "Yes," the applicant must respond "No" to Section II, Item 5d of FCC Form 318 and submit an exhibit detailing the rights of any non-party investor and setting forth the applicant's reasons for not treating the investor as a party to the application.

Yes No

B. With respect to any loan agreement, has the applicant ensured that such agreement:

1. includes an unconditional promise by the applicant to pay on demand or on a specific date a sum certain; Yes No
2. contains a fixed or defined variable rate of interest on the loan; and Yes No
3. does not prohibit the redemption of the loan by the applicant, or permit redemption at the option of the lender only? Yes No

If the answer to each of these inquiries is "Yes," and if there are no other provisions that may give non-party investors control, the applicant may conclude that it complies with the Commission's restrictions regarding non-participation of non-party investors and creditors. If not, the applicant must respond "No" to Section II, Item 5d of FCC Form 318 and submit an exhibit detailing the rights of the lender and the obligations of the applicant for each loan agreement.

FOR
FCC
USE
ONLY

FCC 318

APPLICATION FOR CONSTRUCTION PERMIT FOR A LOW POWER FM BROADCAST STATION

FOR COMMISSION USE ONLY
FILE NO.

Section I - General Information

| | | | |
|----|--------------------------------------|---------------------------------------|----------|
| 1. | Legal Name of the Applicant | | |
| | Mailing Address | | |
| | City | State or Country (if foreign address) | ZIP Code |
| | Telephone Number (include area code) | E-Mail Address (if available) | |
| | Call Sign | Facility ID Number | |

| | | |
|----|--|--|
| 2. | Contact Representative (if other than applicant) | Firm or Company Name |
| | Mailing Address | |
| | City | State or Country (if foreign address) ZIP Code |
| | Telephone Number (include area code) | E-Mail Address (if available) |

3. **Application Purpose.**

- | | |
|--|--|
| <input type="checkbox"/> New station | <input type="checkbox"/> Major modification of construction permit |
| <input type="checkbox"/> Major change in licensed facility | <input type="checkbox"/> Minor modification of construction permit |
| <input type="checkbox"/> Minor change in licensed facility | <input type="checkbox"/> Amendment to pending application |

a. File number of original construction permit: _____ N/A

b. Station location:

| | |
|------|-------|
| City | State |
|------|-------|

If an amendment, **submit as an Exhibit** a listing by section and question number of the portions of the pending application that are being revised.

| |
|-------------|
| Exhibit No. |
|-------------|

NOTE: The failure to include an explanatory exhibit providing full particulars in connection with a "No" response may result in dismissal of the application. See General Instructions, Paragraph I for additional information regarding the completion of explanatory exhibits.

Section II - Legal

New LPFM station applicants must complete all questions in Section II. Major and minor change applicants must complete only questions 1, 4, 6, 7 and 9.

1. **Certification.** Applicant certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Applicant further certifies that where it has made an affirmative certification below, this certification constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application, instructions, and worksheets. Yes No
2. **Eligibility.** Each applicant must answer "Yes" to one and "No" to two of the three following certifications. An applicant should **not** submit an explanatory exhibit in connection with these Question 2 "No" responses.

The applicant certifies that:

- a. it is a nonprofit educational organization; Yes No
or
- b. it is a Tribe or Tribal organization; Yes No
or
- c. it is a state or local government or a non-government entity that proposes a noncommercial public safety radio service to protect the safety of life, health, or property. Yes No

If the answer to 2c is "Yes" and the applicant is submitting multiple applications, is this application the "priority" application? *See Creation of a Low Power Radio Service, Memorandum Opinion and Order on Reconsideration, 15 FCC Rcd 19208, 19239-40, 79-80 (2000).* Yes No
 N/A

Note: An applicant that answers "Yes" to 2a. must include an exhibit that describes the applicant's educational program and how its proposed station will be used to advance its educational program. If the applicant is incorporated, the exhibit must include the state and date of applicant's incorporation. If the applicant is unincorporated, the exhibit must include the state in which it is registered or otherwise recognized and the date of such registration or recognition.

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| Exhibit No. |
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An applicant answering "Yes" to 2b. must include an exhibit that specifies whether the applicant is a Tribe or Tribal organization, and describes its proposed noncommercial service. If the applicant is a Tribal organization and is incorporated, the exhibit also must state which Tribe or Tribes own or control the applicant, and specify the state and date of applicant's incorporation. If the applicant is a Tribal organization and is not incorporated, the exhibit must state which Tribe or Tribes own or control the applicant, and specify the state in which the applicant is registered or otherwise recognized and the date of such registration or recognition.

An applicant that answers "Yes" to 2c. must include an exhibit that describes the applicant's public safety radio program and how the proposed station will be used to protect the safety of life, health or property. If the applicant is a non-governmental entity and is incorporated, the exhibit must include the state and date of applicant's incorporation. If the applicant is a non-governmental entity and is not incorporated, the exhibit must include the state in which it is registered or otherwise recognized and the date of such registration or recognition.

3. **Parties to the Application.**

a. List separately each party to the application including, as applicable, the applicant, its officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other persons and entities with attributable interests. If a corporation or partnership holds an attributable interest in the applicant, list separately, as applicable, its officers, directors, five percent or greater stockholders, non-insulated partners, and board members. Create a separate row for each individual or entity. Attach additional pages if necessary.

(1) Name and address of party.

(2) Citizenship.

(3) Positional Interest: Officer, director, general partner, limited partner, LLC member, or investor/creditor attributable under the Commission's equity/debt plus standard.

(4) Percentage of votes.

(5) Percentage of total assets (equity plus debt).

| (1) | (2) | (3) | (4) | (5) |
|-----|-----|-----|-----|-----|
| | | | | |

b. Applicant certifies that equity and financial interests not set forth above are non-attributable.

Yes No
 N/A

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| See Explanation in Exhibit No. |
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4. **Community-Based Criteria.** The applicant certifies that:

- a. it is a nonprofit educational organization that is physically headquartered or has a campus within 16.1 kilometers (10 miles), if applicant is in the top 50 urban markets, or 32.1 kilometers (20 miles) if applicant is outside the top 50 urban markets, of the proposed transmitting antenna site specified in this application. Yes No
- b. it is a nonprofit educational organization that has 75 percent of its board members residing within 16.1 kilometers (10 miles), if applicant is in the top 50 urban markets, or 32.1 kilometers (20 miles) if applicant is outside the top 50 urban markets, of the proposed transmitting antenna site specified in this application. Yes No
- c. it is a Tribe and its Tribal Lands, as that term is defined in Section 73.7000 of the Commission's rules, are within the service area of the proposed LPFM station; or it is a Tribal organization owned or controlled by a Tribe (or Tribes) and such Tribe's (or Tribes') Tribal Lands, as that term is defined in Section 73.7000 of the Commission's rules, are within the service area of the proposed LPFM station. *See* 47 C.F.R. Sections 73.853(c) and 73.7000. Yes No
- d. it proposes a public safety radio service and has jurisdiction within the service area of the proposed LPFM station. Yes No

Note: An applicant should **not** submit an explanatory exhibit in connection with these Question 4 "No" responses.

5. **Ownership.**

- a. Applicant certifies that it and all parties to the application comply with the multiple ownership limits set forth in Section 73.855 of the Commission's rules. *See* 47 C.F.R. Section 73.855. Yes No

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| See Explanation in Exhibit No. |
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- b. Applicant certifies that it and all parties to the application comply with the cross-ownership limits set forth in Section 73.860 of the Commission's rules. *See* 47 C.F.R. Section 73.860. Yes No

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| See Explanation in Exhibit No. |
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- c. Applicant certifies that it and all parties to the application comply with the Commission's policies relating to media interests of immediate family members; and Yes No
- d. Applicant certifies that it and all parties to the application comply with the Commission's policies relating to investor insulation and the non-participation of non-party investors or creditors. Yes No

6. **Character Issues.** The applicant certifies that neither the applicant nor any party to the application has or has had any interest in, or connection with:

Yes No

See Explanation
in Exhibit No.

- a. any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or party to the application; or
- b. any pending broadcast application in which character issues have been raised.

7. **Adverse Findings.** The applicant certifies that no adverse finding has been made and no adverse final action has been taken by any court or administrative body as to the applicant, any party to this application, or any non-party equity owner in the applicant, in a civil or criminal proceeding brought under the provisions of any law related to the following: any felony; mass media related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination?

Yes No

If the answer is "No," attach as an Exhibit a full disclosure concerning the persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers), and a description of the disposition of the matter. Where the requisite information has been earlier disclosed in connection with another application or as required by 47 C.F.R. Section 1.65, the applicant need only provide: (i) an identification of that previous submission by reference to the file number in the case of an application, the call letters of the station regarding which the application or Section 1.65 information was filed, and the date of filing; and (ii) the disposition of the previously reported matter.

Exhibit No.

8. **Unlicensed Operation.** The applicant certifies, under penalty of perjury, that neither the applicant nor any party to the application has engaged in any manner, individually or with other persons, groups, organizations, or other entities, in the unlicensed operation of any station in violation of Section 301 of the Communications Act of 1934, as amended, 47 U.S.C. Section 301.

Yes No

9. **Anti-Drug Abuse Act Certification.** Applicant certifies that neither the applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.

Yes No

Section III - Point System Factors

New station and major change applicants must complete the following questions.

Point system factors are used only for selection among mutually exclusive applications for new LPFM stations and major modification of authorized LPFM stations. Mutually exclusive applicants will be awarded a point for each of the following:

1. Established community presence.

- a. **Nonprofit educational organizations.** The applicant certifies that, for a period of at least two years prior to the date of this application, it has existed as a nonprofit educational organization and has been physically headquartered, has had a campus, or has had seventy-five percent of its board members residing within 16.1 kilometers (10 miles), for the top 50 urban markets, or 32.1 kilometers (20 miles), outside the top 50 urban markets, of the coordinates of the proposed transmitting antenna. Yes No

An applicant claiming a point under 1a. must submit an exhibit documenting its established community presence. See instructions.

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| Exhibit NO. |
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- b. **Tribes and Tribal organizations.** The applicant certifies that it is a Tribe and that its Tribal Lands are within the service area of the proposed LPFM station; or that it is a Tribal organization owned or controlled by a Tribe (or Tribes) and its (or their) Tribal Lands are within the service area of the proposed LPFM station. Yes No

- c. **Public safety radio service.** The applicant certifies that, for a period of at least two years prior to the date of this application, it has had jurisdiction within the service area of the proposed public safety radio service LPFM station. Yes No

2. **Local program origination.** The applicant pledges to originate locally at least eight hours of programming per day. Yes No

3. **Main studio.** The applicant pledges to maintain a publicly accessible main studio that has local program origination capability, is reachable by telephone, is staffed at least 20 hours per week between 7 a.m. and 10 p.m., and is located within 16.1 kilometers (10 miles) of the proposed site for the transmitting antenna for applicants in the top 50 urban markets and 32.1 kilometers (20 miles) for applicants outside the top 50 urban markets. Yes No

An applicant claiming a point under 3. must provide the proposed address and telephone number for the main studio.

Address: _____

Telephone: _____

4. **Local program origination and main studio.** The applicant certifies that it qualifies for a point under both the local program origination and the main studio criteria. Yes No

5. **Diversity of ownership.** The applicant certifies that neither it nor any party to the application holds an attributable interest in any other broadcast station. Yes No

6. **Tribes or Tribal organizations.** The applicant certifies it is a Tribe proposing to locate its transmitting antenna site on its Tribal Lands, or a Tribal organization proposing to locate its transmitting antenna site on the Tribal Lands of the Tribe or Tribes that own or control more than 51 percent of the organization. Yes No

Section IV - Involuntary Time-Share Information

New station and major change applicants must complete the following questions.

This information will be used only for selection among mutually exclusive applications for new LPFM stations and major modification of authorized LPFM stations and only in the event that two or more applications are tied after the point analysis. See 47 C.F.R. Section 73.872.

1. **Established Community Presence:** Provide the date on which the applicant qualified _____ as local. See 47 C.F.R. Section 73.853(b).

Applicant certifies that it has remained local at all times since this date.

Yes No

Section V - Certification

The applicant certifies that the statements in this application are true, complete, and correct to the best of its knowledge and belief, and are made in good faith.

The applicant acknowledges that all certifications and attached Exhibits are considered material representations.

The applicant acknowledges that the submission of false or misleading statements will subject the applicant to fines, revocation of license(s), and applicable criminal penalties.

The applicant hereby waives any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by licensee or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

| | |
|---|--|
| Typed or Printed Name of Person Signing | Typed or Printed Title of Person Signing |
| Signature | Date |

Section VI - LPFM Engineering, Tech Box

TECHNICAL SPECIFICATIONS Applicants must list technical specifications accurately. Contradictory data found elsewhere in this application will be disregarded. All items must be completed. The response "on file" is not acceptable.

TECH BOX

1. Channel: _____

2. Antenna Location Coordinates: (NAD 27)
 _____⁰ _____' _____" N S Latitude
 _____⁰ _____' _____" E W Longitude

3. Antenna Structure Registration Number: _____
 Not applicable FAA Notification Filed with FAA

4. Antenna Location Site Elevation Above Mean Sea Level: _____ meters

5. Overall Tower Height Above Ground Level: _____ meters

6. Height of Antenna Radiation Center Above Ground Level: _____ meters

7. **Power and height limitations.** By checking "Yes", the applicant acknowledges that it will be authorized to operate within the parameters defined in 47 C.F.R. Section 73.81 1 as calculated based on the data specified herein. Yes No

An explanatory exhibit providing full particulars must be submitted for each question for which a "No" response is provided.

8. a. **Interference.** The applicant certifies that the proposed facility complies with all pertinent distance separation requirements of 47 C.F.R. Section 73.807. Yes No See Explanation in Exhibit No.

Note: New station applications that fail to meet all of the co-channel and first-adjacent channel separation requirements set forth in 47 C.F.R. Section 73.807 will be returned and will not be provided an opportunity to file a curative amendment.

An applicant seeking a waiver of second-adjacent channel minimum distance separation requirements must submit an exhibit demonstrating that the proposed station operations will not result in interference to any authorized radio service. *See instructions for additional information.*

b. **Interference to Translator or Booster Input Signals.** The applicant certifies that the proposed facility complies with all pertinent requirements of 47 C.F.R. Section 73.827(a). Yes No N/A See Explanation in Exhibit No.

Note: Where Section 73.827(a) is applicable, an applicant must certify that the proposed facility complies with the distance separation requirements set forth in that section or demonstrate that "no actual interference" would occur based on either the signal strength ratio showing or minimum distance separation formula set forth in 47 C.F.R. Section 73.827(a) or an alternative technical arrangement agreed to by both the applicant and the affected FM translator or FM booster station.

9. **TV Channel 6 Interference (Channel 201-220).** The applicant certifies that the proposed facility complies with 47 C.F.R. Section 73.825.

Yes No

See Explanation
in Exhibit No.

N/A

10. **National Environmental Policy Act.** The applicant certifies, based on its completion of Worksheets 2 and 3 and its review of the instructions to this application, that the proposed facility is excluded from environmental processing under 47 C.F.R. Section 1.1306 (i.e., the facility will not have a significant environmental impact and complies with the maximum permissible radio frequency electromagnetic exposure limits for controlled and uncontrolled environments). Unless the applicant can determine compliance through the use of the attached General Environmental and RF Exposure Worksheets, an **Exhibit is required.**

Yes No

See Explanation
in Exhibit No.

THE FOLLOWING PREPARER'S CERTIFICATION MUST BE COMPLETED AND SIGNED.

PREPARER'S CERTIFICATION

I certify that I have prepared Section V (Engineering Data) on behalf of the applicant, and that after such preparation, I have examined and found it to be accurate and true to the best of my knowledge and belief.

| | | | |
|--------------------------------------|---------------------------------------|---|----------|
| Name | | Relationship to Applicant (e.g., Consulting Engineer) | |
| Signature | | Date | |
| Mailing Address | | | |
| City | State or Country (if foreign address) | | ZIP Code |
| Telephone Number (include area code) | | E-Mail Address (if available) | |

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).