

## INSTRUCTIONS – FORM 2100, SCHEDULE 318 – LOW POWER FM STATION CONSTRUCTION PERMIT APPLICATION

**The following instructions track the Low Power FM Station Construction Permit Application in LMS:**

### *GENERAL INSTRUCTIONS*

**Introduction.** FCC Schedule 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 FCC Schedule 318 (Application for Construction Permit for a Low Power FM Broadcast Station). FCC Schedule 318 is the first step in the licensing process. Following completion of station construction, you must file a separate FCC Schedule 319 (Low Power FM Station License Application). Applications for new stations and major change proposals must be filed on Schedule 318 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 using Schedule 318, but may be filed at any time, unless restricted by the Commission or its staff. *See* 47 CFR §§ 73.870 and 73.875.

**FCC Rules.** FCC Schedule 318 and these instructions make 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 (CFR):

- (1) Part 0 "Commission Organization"
- (2) Part 1 "Practice and Procedure"
- (3) Part 73 "Radio Broadcast Services"
- (4) Part 74 "Experimental Radio, Auxiliary, Special Broadcast, and Other Program Distributional Services"

Copies of the Commission's rules may be purchased from the Government Publishing Office or accessed online at <https://www.govinfo.gov/help/cfr>.

**Electronic Filing of Applications.** Electronic filing of Schedule 318 is mandatory. *See* <https://enterpriseefiling.fcc.gov/dataentry/login.html>. Similarly, any amendment to a pending FCC Schedule 318 application must be filed electronically. The amendment should contain the following information to identify the associated application:

- (1) Applicant's name
- (2) Facility ID#
- (2) Call letters or specify "NEW" station
- (3) Channel number
- (4) Station location
- (5) File number of application being amended (if known)
- (6) Date of filing of application being amended (if file number is not known)

**Complete and Current Information.** Applicants should provide all information requested by Schedule 318. No section may be omitted. If any portions of Schedule 318 are not applicable, the applicant should so state. **Defective or incomplete applications will be dismissed.** Inadvertently accepted applications are also subject to dismissal.

In accordance with 47 CFR § 1.65, applicants have a continuing obligation to advise the Commission, through amendments, of any substantial and material changes in the information furnished in each pending application. This requirement continues until the FCC action on the application is no longer subject to reconsideration by the Commission or review by any court.

**Certifications.** Schedule 318 requires applicants to certify compliance with many statutory and regulatory requirements. These instructions provide additional information regarding Commission rules and policies. These materials are designed to track the standards and criteria that the Commission applies to determine compliance and to increase the reliability of applicant certifications. They are not intended to be a substitute for familiarity with the Communications Act and the Commission's regulations, policies, and precedent. While applicants are required to review all application instructions, they are not required to complete or retain any documentation created or collected to complete the application.

Schedule 318 is presented primarily in a "Yes/No" certification format. However, it contains appropriate places for submitting explanations and attachments where necessary or appropriate. Each certification 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. Thus, a "No" response to any of the certification items **will not** cause the immediate dismissal of the application provided that an appropriate exhibit is submitted.

**The applicant must electronically sign the application.** The signature will consist of the electronic equivalent of the typed name of the individual submitting the application as the applicant or applicant's authorized representative. Depending on the nature of the applicant, the application should be signed as follows: if a sole proprietorship, personally; if a partnership, by a general partner; if a corporation, by an officer; for an unincorporated association, by a member who is an 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. In such cases, counsel must separately set forth why the application is not signed by the client. In addition, as to any matter stated on the basis of belief instead of personal knowledge, counsel shall separately set forth the reasons for believing that such statements are true. *See* 47 CFR § 73.3513. The electronic signature will consist of the electronic equivalent of the typed name of the individual. *See* Report and Order in MM Docket No. 98-43, 13 FCC Rcd 23056, 23064 (1998), ¶ 17.

**Public Notice Requirements.** Applicants filing Schedule 318 must provide a public notice to inform the community about the proposal. 47 CFR § 73.3580 requires that applicants for construction permits for new broadcast stations and for major change in existing broadcast facilities (as defined in 47 CFR § 73.870) give local notice by posting notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or otherwise by posting notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing, in the form prescribed in 47 CFR § 73.3580(b)(2). With respect to major amendments, the station must broadcast announcements pursuant to 47 CFR § 73.3580(c)(2)(i), at least once per week, Monday through Friday, from 7:00 a.m. to 11:00 p.m. local time, six times over a four consecutive week period, in the form prescribed in 47 CFR § 73.3580(b)(1), unless the station is off the air, in which case it shall post online notice.

## GENERAL INFORMATION

**Application Description:** In the space provided, give a brief (255 characters or fewer) description of the Schedule 318 application. This is to assist you in identifying this discrete application and will be displayed only in your LMS Application workspace. It will not be made a part of the Schedule 318 application or be displayed to others.

**Uploaded Attachments:** Indicate by clicking "Yes" or "No" whether the application includes attachments other than required attachments. Required attachments are those that must be filed in response to application questions, and may only be required if certain answers are given.

## FEES, WAIVERS, AND EXEMPTIONS

**FCC Schedule 318 is a fee-exempt application.**

**Waivers:** If any waiver of the Commission's rules is requested at any part of the application, select "Yes" to this question. If selecting "Yes," complete the box that opens by stating the number of rule sections for which you request waiver. You must then submit an attachment setting forth the waiver(s) sought and the legal justification for waiver.

## APPLICANT INFORMATION

**Applicant Name and Type:** Select the Applicant Type (e.g., Unincorporated Association, Trust, Government Entity, etc.) from the drop-down menu. In the box below the drop-down menu, enter the exact legal name of the applicant entity. The name of the applicant must be stated exactly in this item. If the applicant is a corporation, the applicant should list the exact corporate name; if a partnership, the name under which the partnership does business; and if an unincorporated association, the name of an executive officer, his/her office, and the name of the association.

**Applicant Information:** Enter the applicant's postal address, telephone number, and Email address in the spaces provided. Select the applicant's Country and State from the drop-down menu.

## CONTACT REPRESENTATIVES

If the applicant is represented by a third party (such as, for example, legal counsel), that person's name, firm or company, and telephone/electronic mail address may be specified as Contact Representative. Otherwise, a party to the application or another person associated with the applicant may be designated as Contact Representative. This is the person with whom the Commission will communicate regarding the application. At least one Contact Representative must be designated. To add a Contact Representative, click the "Add Contact" button at the top right of the screen.

**Contact Type:** Select the button that best describes the contact type, whether Legal Representative (e.g., attorney), Technical Representative (e.g., engineer), or Other.

**Contact Name:** Enter the Contact Representative's first and last name and the name of the company with which he or she is affiliated. Middle Name, Suffix, and Title are optional fields.

**Contact Information:** Enter the Contact Representative's postal address, telephone number, and Email address in the spaces provided. If the representative works for a firm or company, enter that name in the Company Name space. Select the Contact Representative's Country and State from the drop-down menu.

If you have more than one Contact Representative, click the "Save & Add Another" button at the bottom of the screen and complete for the next Contact Representative. When you are finished, click "Save & Continue." You will be displayed a summary screen listing your Contact Representative(s). From this screen you may delete a Contact Representative or edit the information provided. If you have no further Contact Representative information to add or edit, click "Save & Continue."

## ADD PARTY TO THE APPLICATION

The following instructions apply to the "Applicant Party Name and Positional Interest," "Party Contact Information," and "Attributable Interest" sections of the application.

These questions are designed to identify all individuals and organizations who may be subject to various FCC rules and related statutory requirements. The applicant will be answering questions about those individuals and entities listed in response to this item when responding to other subsequent questions. 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 relation to an applicant or licensee which will confer on its holder that degree of influence or control over the applicant or license sufficient to implicate the Commission's multiple ownership rules. Although the multiple ownership rules do not limit the number of attributable noncommercial educational stations that can be owned, the attributable nature of stations is nevertheless an important one in the noncommercial educational context, especially in the use of resolving mutually exclusive applications. In responding to this question, applicants should review the Commission's multiple ownership attribution policies and standards which are set forth in the Notes to 47 CFR § 73.3555, as revised and explained in *Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, FCC 99-207, 14 FCC Rcd 12559 (1999). *See also* Report and Order in MM Docket No. 83-46, 97 F.C.C. 2d 997 (1984), *reconsideration granted in part*, 58 RR 2d 604 (1985), *further modified on reconsideration*, 61 RR 2d 739 (1986). **In the noncommercial context, individuals may not apply for an**

**authorization; an NCE broadcast station will only be licensed to a nonprofit educational organization upon a showing that the station will be used for the advancement of an educational program. See 47 CFR § 73.503(a). Also, in the noncommercial context, the interest of the applicant, its parent, its subsidiaries, and their officers and directors are attributable.** Additionally, "parties to the application" includes the following with respect to each of the listed applicant entities:

**Government or Public Educational Agency, Board, or Institution.** The members of the governing board and chief executive officers shall be considered parties to the application.

**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.

**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. 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.

**Stock Corporations.** The Commission's multiple ownership attribution policies and standards apply to NCE applicants and licensees that are stock corporations. 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 # XX can help determine whether an interest is passive in nature for purposes of the Commission's attribution policies and standards. Access Worksheet # XX by clicking "Worksheets" in Schedule 318. 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 attachment 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 percent or more of the issued and outstanding voting stock of the applicant. For example, where Corporation X owns stock accounting for 25 percent 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 percent 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 percent of its subsidiary will be considered a 100 percent owner. Where the 5 percent 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 percent or more of the votes in a corporate applicant will be treated as if held by a single entity and any stockholder holding 5 percent 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 percent 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.

**NOTE:** In the event that the applicant has more than 50 stockholders, stock subscribers, or holders of membership certificates or other ownership interests, only officers, directors, and persons or entities who are the beneficial or record owners, have the right to vote one percent or more of the capital stock, membership or ownership interest, or are subscribers to such interest, shall be considered parties to this application. If any corporation or other legal entity owns one percent or more of an applicant with more than 50 stockholders, its officers, directors and all persons or entities, who are the beneficial or record owners, have the right to vote one percent or more of the capital stock, membership or ownership interest, or are subscribers to such interest in the entity, shall also be considered parties to this application.

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 percent 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 percent of the total weekly broadcast programming hours of the station in which the interest is held. For example, the equity interest of a donor or lender would normally not be considered attributable. However, under the **EDP** standard, that interest would be attributable if the donor or lender provided more than 33 percent of the applicant's total asset value **AND** the donor or lender also held a 5 percent voting interest in a radio or television station licensee in the same market.

**Non-attributable interests.** Generally, certain investors, certain supporters and donors, certain creditors and others with similar relationships to the station are not considered parties to the application. However, as set forth in Worksheet # XX, "Non-Party Influence over Applicant" (accessed by clicking the "Worksheets" link in Schedule 340), the holder of such an interest may be deemed a party to the application in particular situations where they may influence the station and, if so, must be considered to be a party to the application. In the event that the non-party influence over applicant Worksheet requires submission of an explanatory attachment, the applicant must provide an attachment.

There are two ways in which you may enter party information. Option 1 is to manually enter information for each party. Option 2 is to upload an attachment in a Comma-Separated Values (CSV) format, using the template file you can download by clicking on "Upload a list of parties" and then clicking on the "Download a CSV template file" link that appears. Once the CSV file is saved to your computer, you can select it by using the "Browse" button.

If manually entering party information using Option 1, follow these instructions:

**Applicant Party Name and Positional Interest.** For each applicant and attributable interest holder, the following information must be provided:

- Positional Interest: Select one from the pull-down menu (e.g., Director, General Partner, Investor or Creditor, etc.)
- Citizenship: Select from the pull-down menu
- Percentage of Ownership, Voting Stock, or Membership: Fill in to up to two decimal places
- Director or Member of Governing Board: Select "Yes" or "No"
- Percentage of Total Assets (equity plus debt): Fill in to up to two decimal places
- First Name / Middle Name / Last Name / Suffix / Title: Complete for natural person applicants or natural person attributable interest holders. Middle Name, Suffix, and Title are optional fields.
- Company Name: Complete for applicants and attributable interest holders that are entities.

**Party Contact Information:** For each applicant and attributable interest holder listed under "Applicant Party Name and Positional Interest," provide the following:

- Country: Select from the pull-down menu.
- PO Box / Address Line 1: Complete at least one of these two fields
- Address Line 2: Optional. Complete if needed
- City
- State: Select from pull-down menu
- Phone: Include area code and country code if applicable
- Email

If you have more than one Party to the application to report, click the "Save & Add Another" button at the bottom of the screen and complete for the next Party. When you are finished, click "Save & Continue." You will be displayed a summary screen listing all Parties to the application you have entered. From this screen you may delete a Party or edit the information provided. If you have no further Party information to add or edit, click "Save & Continue."

## **ATTRIBUTABLE INTEREST**

**Equity and Financial Interests:** By selecting “Yes” to this item, the applicant certifies that any individuals or entities not listed in response to the “Applicant Party Name and Positional Interest” section do not hold attributable interests in the applicant pursuant to the Notes to 47 CFR § 73.3555. If there remain parties with attributable interests, please enter their information in the “Applicant Party Name and Positional Interest” and “Party Contact Information” sections. If you select “No” to this question, submit an explanatory attachment.

## ALIEN OWNERSHIP

All applications must comply with Section 310 of the Communications Act, as amended. Specifically, Section 310 proscribes issuance of a construction permit or station license to an alien, a representative of an alien, a foreign government or the representative thereof, or a corporation organized under the laws of a foreign government. This proscription also applies with respect to any entity of which more than 20% of the capital stock is owned or voted by aliens, their representatives, a foreign government or its representative, or an entity organized under the laws of a foreign country. The Commission may also deny a construction permit or station license to a licensee directly or indirectly controlled by another entity of which more than 25 percent of the capital stock is owned or voted by aliens, their representatives, a foreign government or its representative, or another entity organized under the laws of a foreign country. Any such applicant seeking Commission consent to exceed this 25 percent benchmark in Section 310(b)(4) of the Act must do so by filing a petition for declaratory ruling pursuant to Section 1.5000-04.

Compliance with Section 310 is determined by means of a two-pronged analysis, one pertaining to voting interests and the second to ownership interests. *See, e.g., BBC License Subsidiary L.P.*, 10 FCC Rcd 10968 (1995). The voting interests held by aliens in a licensee through intervening domestically organized entities are determined in accordance with the multiplier guidelines for calculating indirect ownership interests in an applicant as set forth in the "Corporate Applicant" Instructions above. For example, if an alien held a 30-percent voting interest in Corporation A which, in turn, held a non-controlling 40-percent voting interest in Licensee Corporation B, the alien interest in Licensee Corporation B would be calculated by multiplying the alien's interest in Corporation A by that entity's voting interest in Licensee Corporation B. The resulting voting interest (30% x 40% = 12%) would not exceed the 25 percent statutory benchmark. However, if Corporation A held a controlling 60 percent voting interest in Corporation B, the multiplier would not be utilized and the full 30 percent alien voting interest in Corporation A would be treated as a 30 percent interest in Licensee Corporation B, i.e., an impermissible 30% indirect alien voting interest in the licensee. If Partnership A held a 40 percent voting interest in Licensee Corporation B, that voting interest would be similarly impermissible if any general partner or any non-insulated limited partner of partnership A was an alien, regardless of his or her partnership interest. *See also Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees Under Section 310(b)(4) of the Communications Act of 1934, as Amended*, Report and Order, 31 FCC Rcd 11272, paras. 67-72 (2016) (*2016 Foreign Ownership Order*).

Applicants must also comply with the separate alien equity ownership benchmark restrictions of Section 310. Under the second prong of the analysis, an assignee must determine the *pro rata* equity holdings of any alien investor in a licensee entity or its parent. In calculating alien ownership, the same voting interest multiplier rules apply.

In order to complete this two-pronged analysis, an applicant must determine the citizenship of each entity holding either a voting or equity interest or explain how it determined the relevant percentages. Corporate applicants and licensees whose stock is publicly traded must determine the citizenship of interest holders who are known or should be known to the company in the ordinary course of business, including: (1) registered shareholders; (2) officers, directors, and employees; (3) interest holders reported to the Securities and Exchange Commission; (4) beneficial owners identified in annual or quarterly reports and proxy statements; and (5) any other interest holders that are actually known to the company, such as through transactions, litigation, proxies, or any other source. Statistical sampling surveys are no longer necessary. Although direct inquiry and publicly available resources may be used to determine citizenship of known or should-be-known interest holders, street addresses are not sufficient for this purpose. For more detailed information on identifying and calculating foreign interests, *see 2016 Foreign Ownership Order*, paras. 44-72.

If the combined total foreign ownership (foreign voting interests and foreign equity interests) identified under this methodology does not exceed 25 percent, a declaratory ruling is not necessary to grant the application. A subsidiary or affiliate of a licensee already named in a foreign ownership declaratory ruling may rely on that ruling, and by certifying

compliance with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments, certifies that it and the licensee named in the declaratory ruling are in compliance with the terms and conditions of the original foreign ownership declaratory ruling. See 47 CFR § 1.5004(b). Questions 6-9 of this item ask whether the applicant has received a foreign ownership declaratory ruling and whether the applicant complies with the terms of that prior declaratory ruling. Alternatively, it asks whether the applicant is filing for a foreign ownership declaratory ruling in connection with this application.

## LEGAL CERTIFICATIONS

**Eligibility Certifications.** 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 of the three radio buttons for this question indicating the category under which it is eligible. An applicant must submit an explanatory exhibit in connection with its response.

### (a) Nonprofit Educational Organizations

An applicant may be eligible for an LPFM station authorization under 47 CFR § 73.503 of the Commission's rules, which applies to LPFM stations pursuant to 47 CFR § 73.801. 47 CFR § 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 application 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 application dismissal.

### (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 CFR §§ 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 application dismissal.

### (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. § 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. § 309(j)(2)(A); *see also* 47 CFR §§ 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 application dismissal.

**Community-Based Criteria.** Applicants must certify that they are local to be eligible for LPFM authorizations. An applicant must select “Yes” to one of the certifications set forth to be eligible for an LPFM license. An applicant should not submit an explanatory exhibit in connection with any “No” responses. To be deemed “local” for purposes of the Commission’s rules, an applicant must:

- (1) 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;
- (2) 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;
- (3) 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

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

**Ownership.** This series of certifications involves compliance with LPFM restrictions on ownership or attribution of other media interests by the applicant or by parties to the application.

#### (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 CFR § 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 CFR § 73.855(c).

#### (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 CFR § 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 CFR § 73.860(c). With one exception, *see* 47 CFR § 73.860(d), the Commission otherwise prohibits cross-ownership of an LPFM station and any other media interest (*i.e.*, a cable television system or any full power AM or FM radio station, or full or low power television station). *See* 47 CFR § 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 select "No" 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.

### **(c) Pending Applications**

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 select "No" and provide an exhibit that includes the file numbers of the pending applications.

### **(d) Immediate Family Members**

The applicant must certify compliance with the Commission's policies relating to the media interests of immediate family members. Worksheet #XX to Schedule 318 is provided to help applicants determine their compliance with these Commission policies.

### **(e) Investor Insulation and Non-Participation of Non-Party Investors and Creditors**

This question is only relevant if: (1) the applicant is a limited partnership or a limited liability corporation that seeks to insulate members or partners from attribution in accordance with the Commission's rules; or (2) 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 #XX to Schedule 318.

**Character Issues/Adverse Findings.** The Character Issues question requires the 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. An applicant must disclose in response to the Adverse Findings question 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 violates the Communications Act or a Commission rule or policy and on certain specified non-FCC misconduct. In responding to these questions, applicants should review the Commission's character qualifications policies, which are fully set forth in *Character Qualifications*, 102 FCC 2d 1179 (1985), *reconsideration denied*, 1 FCC Rcd 421 (1986), *as modified*, 5 FCC Rcd 3252 (1990) and 7 FCC Rcd 6564 (1992).

**NOTE:** As used in these questions, 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 relation to an applicant or licensee which will confer on its holder that degree of influence or control over the applicant or licensee sufficient to implicate the Commission's multiple ownership rules. *See* Report and Order in MM Docket No. 83-46, 97 FCC 2d 997 (1984), *reconsideration granted in part*, 58 RR 2d 604 (1985), *further modified on reconsideration*, 61 RR 2d 739 (1986).

**Character Issues.** Where the response to the Character Issues question is "No," the applicant must submit an attachment 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 interest 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.

**Adverse Findings.** In responding to the Adverse Findings question, the applicant should consider any relevant adverse finding involving the applicant or any party to the application. Where that adverse finding was fully disclosed to the Commission in an application filed on behalf of this station 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 applicant may respond "Yes" to this item. 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 the Adverse Findings question is "No," the applicant must provide in an attachment 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 CFR § 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. The applicant should also fully explain why the adverse finding is not an impediment to a grant of this application.

**Unlicensed Operation.** This question 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. § 301. **Applicants answering "No" 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.

## **POINT SYSTEM FACTORS/TIE BREAKERS**

**General.** 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. Applicants for minor changes in existing LPFM stations need not address this section of Schedule 318.

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 CFR § 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 CFR § 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 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 CFR § 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 CFR § 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, 27 FCC Rcd 15402 (2012).

Applicants may not enhance their comparative position after the close of the filing window during which they filed their applications. *See* 47 CFR § 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, 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.

**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 attachment to their application. 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 CFR § 1.16.

**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.

**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.

**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.

**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 CFR § 1.65 to update their applications if they acquire an attributable interest in another broadcast station.

**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 CFR § 73.872(b)(6).

**Involuntary Time-Share Information.** 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.

**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.

## ***LPFM ENGINEERING***

**General Instructions.** The applicant must accurately specify the requested facilities in this section of Schedule 318. 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.

Applicants are not required to provide specific transmitter make and model information in Schedule 318. Rather, the permit authorizing construction will require installation of a FCC certified transmitter in compliance with the provisions of 47 CFR § 73.1660. Applicants also are not required to list the specific antenna make, manufacturer, model number and number of bays for FM antennas. That data is submitted following the completion of construction in Schedule 319 (Low Power FM Station License Application).

**Notifications.** All applicants must comply with the requirements of 47 CFR § 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 CFR § 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 CFR § 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 CFR § 73.1030. The Commission need not be informed of the date of any notification.

## **CHANNEL AND FACILITY INFORMATION**

The proposed channel must be between 201 and 300. *See* 47 CFR § 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 on the FCC's website at <https://www.fcc.gov/media/radio/lpfm-channel-finder>.

Enter the State (by pull-down menu) and City of the proposed community of license. Select a Channel from the pull-down menu; the frequency associated with that channel will populate that field based on the channel selected. The Station Class is pre-selected as “LP100.”

## ANTENNA LOCATION DATA

**Antenna Structure Registration:** If you have obtained an Antenna Structure Registration number (ASRN), select “Yes” and then enter the ASRN in the box that pops up. Most towers greater than 61 meters (200 feet) in height, or those located near airports require antenna registration numbers. *See* 47 CFR § 17.4. If the tower does not require registration, select “No”; if the FAA has not yet ruled on a proposed structure, select “Filed with the FAA.”

**Coordinates (NAD 83):** If you have an ASRN for the proposed tower, you may click the “Pre-fill Coordinates From ASR” button next to the box in which you entered the ASRN, and LMS will pre-fill the coordinates of the tower as registered. If you are manually completing the coordinates, the proposed antenna site must be specified using North American Datum 83 (NAD 83) coordinates. Please indicate North or South Latitude, and East or West Longitude. **Note: This is a change from past Media Bureau practice, in which latitude and longitude coordinates were specified using North American Datum 27 (NAD 27).** To use prior-specified coordinates, you must convert them from NAD 27 to NAD 83, using the NGS Coordinate Conversion and Transformation Tool (NCAT) available here: <https://www.ngs.noaa.gov/NCAT/>. Degrees and Minutes should be expressed in whole numbers; Seconds should be expressed to one decimal point only.

**Structure Type:** Select from the pull-down menu the structure type that corresponds to the structure on which the antenna is to be mounted (e.g., Building with antenna on top, Oil or other rig, Monopole array, etc.).

**Overall Structure Height:** All heights must be in meters. Overall structure height refers to the height above ground level (AGL) of the total structure on which the antenna is mounted, including any appurtenances (e.g. masts, lighting).

**Support Structure Height:** All heights must be in meters. Support structure height refers to the height of any structure, such as a building, on top of which the antenna or a mast supporting the antenna is erected, AGL.

**Ground Elevation (AMSL):** All heights must be in meters. This refers to the elevation above mean sea level of the ground at the base of the tower or other support structure on which the antenna is mounted.

**Antenna Data: Height of Radiation Center Above Ground Level:** Enter the height above ground of the center of the antenna, in meters. Once this is entered, click on the “Calculate ERP” button. LMS will then calculate the Height Above Average Terrain (HAAT) of the antenna’s radiation center, and will also calculate the maximum and minimum Effective Radiated Power (ERP), in watts, for the proposed station.

## ANTENNA TECHNICAL DATA

**Antenna Type:** Select the radio button corresponding to the antenna type (Directional or Non-Directional). If “Directional” is selected, the directional antenna must comply with 47 CFR § 73.816. Applicants proposing a directional antenna must complete the table in this item. Exceptions to this requirement to complete the table include: (1) public safety and transportation permittees and licensees eligible pursuant to §73.853(a)(2) using directional antennas in connection with operation of Travelers’ Information Service stations; (2) LPFM permittees and licensees proposing a waiver of the second-adjacent channel spacing requirements of §73.807 for the sole purpose of justifying such a waiver; and (3) LPFM permittees and licensees using directional antennas solely for the purpose of meeting the international border zone distance requirements of §73.807(g). Applicants proposing directional antennas for any other reason must enter relative field values (0.001-1.000) for every 10 degrees on the unit circle from 0 to 350. Up to five azimuths may be added at the bottom of the table for additional accuracy.

## TECHNICAL CERTIFICATIONS

**Environmental Effect.** This question requires the applicant to state whether grant of a construction permit for the proposed facility would be an action that may have a significant environmental effect under 47 CFR § 1.1306.

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 contain either an environmental assessment that will serve as the basis for further Commission review and action, or an indication that operation of the station will not have a significant environmental impact. See 47 CFR § 1.1307(b). In this regard, applicants are required to look at eight environmental factors. These factors are relatively self-explanatory, except for the evaluation of whether the station adequately protects the public and workers from potentially harmful radiofrequency (RF) electromagnetic fields. In addition, if the applicant proposes a new tower that will exceed 450 feet in height, it must submit an Environmental Assessment as described below. Worksheet # XX includes both a general environmental evaluation and specific sub-sections for RF exposure analysis. Click the “Worksheets” link in the application to access this worksheet. These worksheets are designed to facilitate and substantiate the certification called for in Schedule 302. Their use is voluntary, but strongly encouraged.

**New RF Exposure Requirements.** In 1996, the Commission adopted new guidelines and procedures for evaluating environmental effects of RF emissions. All applications subject to environmental processing filed on or after October 15, 1997, must demonstrate compliance with the new requirements. These new guidelines incorporate two tiers of exposure limits:

- General population/uncontrolled exposure limits apply to situations in which the general public may be exposed or in which persons who are exposed as a consequence of their employment may not be made fully aware of the potential for exposure or cannot exercise control over their exposure. Members of the general public are always considered under this category when exposure is not employment-related.
- Occupational/controlled exposure limits apply to human exposure to RF fields when persons are exposed as a consequence of their employment and in which those persons who are exposed have been made fully aware of the potential for exposure and can exercise control over their exposure. These limits also apply where exposure is of a transient nature as a result of incidental passage through a location where exposure levels may be above the general populations/uncontrolled limits as long as the exposed person has been made fully aware of the potential for exposure and can exercise control over his or her exposure by leaving the area or some other appropriate means.

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 <https://www.fcc.gov/general/radio-frequency-safety-0#block-menu-block-4>. Additional information may be obtained from the RF Safety Group at [rfsafety@fcc.gov](mailto:rfsafety@fcc.gov) or (202) 418-2464 or from the FCC Call Center at 1-888-CALL FCC (225-5322).

Worksheets ## XX and XX will enable certain categories of stations to determine whether or the proposed facility will have a significant environmental impact as defined by Section 1.1307. All applicants can use the General Environmental worksheet. Some, but not all, stations will be able to use the RF worksheet. Generally, the RF worksheet can only be used in the following situations: (1) single use tower; (2) single tower with several FM/FM translators; or (3) a multiple tower AM array with no other user co-located within the array. Additionally, in order to be eligible to use the RF worksheet, access to AM stations must be restricted by a fence or other barrier that will preclude casual or inadvertent access to the site and warning signs must be posted at appropriate intervals describing the potential for RF exposure. Click the “Worksheets” link in the application for more detail on eligibility.

If after using the worksheets the applicant finds that levels will exceed the RF guidelines, 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 attachment 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, or describing 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.

If the applicant is not eligible to use the worksheets, it is not an indication that the proposed facility will cause excessive exposure. Generally, applicants that are not able to use the worksheets will need to utilize more complex calculations or measurements to demonstrate compliance. For this reason, applicants who are not eligible to use the Commission's Web worksheets should consider seeking the assistance of a qualified consulting engineer in determining whether the proposed facility will meet the RF exposure guidelines.

Should the applicant be unable to conclude that its proposal will have no significant impact on the quality of the human environment, or if it proposes a new tower exceeding 450 feet in height, 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.

**NOTE:** Even if the applicant concludes that human RF electromagnetic exposure is consistent with the Commission's guidelines, each site user must also meet requirements with respect to "on-tower" or other exposure by workers at the site (including RF exposure on one tower caused by sources on another tower or towers). These requirements include, but are not limited to, the reduction or cessation of transmitter power when persons have access to the site, tower, or antenna. Such procedures must be coordinated among all tower users. *See* OET Bulletin 65 for details. *See also* 47 CFR § 1.1306.

**Interference.** The applicant must certify that the proposal complies with the spacing provisions contained in 47 CFR §§ 73.807 and 73.825. If the proposed facility will be fully-spaced under both of those rule sections, the applicant should check "Yes" to the question. If the proposed facility will be short-spaced under either rule section, the applicant should check "No" to the question.

If an applicant responds "No" and seeks a waiver of the second-adjacent channel minimum distance separation requirements, the applicant must 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.

**Reasonable Site Assurance.** All applicants for broadcast facilities must have a reasonable assurance that the specified site will be available **at the time they file the FCC application.** *See William F. and Anne K. Wallace*, 49 FCC 2d 1424, 1427 (Rev. Bd. 1989); *Genesee Communications, Inc.*, 3 FCC Rcd 3595 (1988). Applicants filing this FCC Schedule 318 must certify that the site specified in the application is available for its intended use. If reasonable assurance is not based on the applicant's ownership of the proposed site or structure, the applicant must certify that it has obtained reasonable

assurance of the site's availability by contacting the owner or person possessing control of the site or structure. The applicant must specify the name of the person contacted, the person's telephone number, and whether the contact is the tower owner, agent, or authorized representative.

## **CERTIFICATION**

**General Certification Statements.** Each applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of such frequency(ies) or spectrum, whether by authorization or otherwise.

Each applicant is responsible for the information that the application instructions convey. As a key element in the Commission's streamlined licensing process, a certification is required that these materials have been reviewed and that each question response is based on the applicant's review.

This question also requires the applicant to certify that neither it 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. § 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. The applicant, by electronically signing the application, certifies that neither it 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.

**NOTE:** With respect to this certification, the term "party to the application" includes, if the applicant is an individual, that individual; if the applicant is a corporation or unincorporated association, all officers, directors, or persons holding five 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 five percent or more interest in the partnership. *See* 47 CFR § 1.2002(b)-(c).

**Authorized Party to Sign. The applicant must electronically sign the application.** Depending on the nature of the applicant, the application should be signed as follows: if a partnership, by a general partner; if a corporation, by an officer; for an unincorporated association, by a member who is an 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. In such cases, counsel must separately set forth why the application is not signed by the client. In addition, as to any matter stated on the basis of belief instead of personal knowledge, counsel shall separately set forth the reasons for believing that such statements are true. *See* 47 CFR § 73.3513. The electronic signature will consist of the electronic equivalent of the typed name of the individual. *See* Report and Order in MM Docket No. 98-43, 13 FCC Rcd 23056, 23,064 (1998), ¶ 17.

Applicant must also check the box to certify that it has submitted with the application all required and relevant attachments.

Click the "Submit Application" button to submit the application. **The application is not considered to be submitted unless and until you click the "Submit Application" button.**

## **FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT**

If you do not provide the information requested in this application, 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 application 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](mailto:pra@fcc.gov) or send them to the Federal Communications Commission, AMD-PERF, 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.**