



# PUBLIC NOTICE

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## Low Power FM Filing Window

**FCC to Accept Window 4 and Window 5 Low Power FM Applications from June 11 through June 15, 2001. Window to Open for proposed facilities in Alabama, Arizona, Arkansas, Florida, Guam, Iowa, Kentucky, Massachusetts, Montana, Nebraska, New Jersey, New Mexico, North Carolina, North Dakota, Oregon, Pennsylvania, Tennessee, Texas, U.S. Virgin Islands, Vermont, Washington, and West Virginia.**

The Mass Media Bureau (MMB) announces an application filing window for construction permits for Low Power FM (LPFM) stations in the states and territories listed above. The window will open on June 11, 2001 and close on June 15, 2001.

The Commission established the new LPFM service on January 20, 2000 to create new broadcasting opportunities for locally-based organizations to serve their communities.<sup>1</sup> An LPFM station will serve an area with a radius of approximately 3.5 miles, with a maximum power level of 100 watts.

On March 27, 2000, the Commission conducted a lottery to determine the order in which applications would be accepted for LPFM stations from applicants in each of five pre-defined groups of states and territories. In a Public Notice announcing the results of that lottery, the Commission indicated that it would announce successive filing windows for each group of states and territories. MMB is consolidating the filing window for states in Groups 4 and 5 to speed the filing process for applicants in these remaining states. However, to

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<sup>1</sup> See Creation of Low Power Radio Service, Report and Order, MM Docket No. 99-25, FCC 00-19 (released January 27, 2000) ("LPFM Report and Order"), and Memorandum Opinion and Order, FCC 00-349 (released September 28, 2000) and Second Report and Order, FCC 01-100 (released April 2, 2001).

accommodate those applicants for states and territories originally included in Window 5, we are providing 60 days, rather than the typical 30, to prepare applications.

Applicants should be aware that the Commission recently codified two Congressionally-mandated rule changes. Section 73.807, as modified, now requires that LPFM stations meet prescribed minimum distance separations to full service FM and FM translator stations operating on third adjacent channels. Section 73.854 now prohibits an applicant from obtaining an LPFM license if that applicant, or any party to the application has engaged in any manner in the unlicensed operation of any station in violation of Section 301 of the Communications Act.

**Scope.** The window will be for new LPFM station applications that specify LP100 stations that would operate with 50-100 watts effective radiated power. The Commission will accept applications proposing transmitter locations within the following U.S. states and territories: Alabama, Arizona, Arkansas, Florida, Guam, Iowa, Kentucky, Massachusetts, Montana, Nebraska, New Jersey, New Mexico, North Carolina, North Dakota, Oregon, Pennsylvania, Tennessee, Texas, U.S. Virgin Islands, Vermont, Washington, and West Virginia. The remedial filing window for Window 1 and 2 applicants that violate the third-adjacent spacing requirements will be announced within the next several months.

**Filing Requirements.** LPFM applications filed during this window must protect all FM, FM Translator, FM Booster, and TV Channel 6 authorizations. LPFM applications also must protect pending broadcast applications in these services that were filed prior to the date of this Notice, along with LPFM applications filed in the previous filing windows. Finally, LPFM applications must protect existing vacant FM allotments. See 47 C.F.R. §§ 73.807 and 73.825. An LPFM application that fails to protect these authorizations, applications, and allotments will be dismissed with no opportunity to correct the deficiency. Each applicant must be a nonprofit educational organization, a nonprofit educational institution or must propose a noncommercial public safety radio service. Please note, when completing FCC Form 318, the name of the organization or institution must be entered in Section I, Question 1, in the box marked “Legal Name of the Applicant.” Applicants also must be community-based. See 47 C.F.R. § 73.853.

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

Applications must be filed during the window. Applications filed earlier in the window will not receive any preference over those filed later in the window. Applications filed before June 11, 2001 or after June 15, 2001 will be returned. Incomplete and patently defective applications will be dismissed without any opportunity to amend. Applications specifying transmitter locations in jurisdictions not included in this filing window will be dismissed.

**Electronic Filing.** Applicants must file Form 318 electronically. Each applicant filing electronically will benefit from “error checks” in the Form 318 computer software program

and obtain immediate confirmation of the receipt of its application by the Commission. In addition, electronic filing will expedite the Commission's application review process.

Applicants are encouraged to familiarize themselves with the Bureau's electronic filing system prior to the opening of the window and to file as early in the window as possible. Applications will not be made publicly available until after the close of the window. Moreover, electronically filed applications may be accessed and amended at any point prior to the close of the window through the Consolidated Database System (CDBS) online electronic forms filing system, located at the following site: <http://www.fcc.gov/mmb>.

Electronic filing instructions are available in the CDBS User's Guide. The Guide can be accessed from the MMB web site, above, by clicking on the "CDBS" link. This action will take the user to the Mass Media Bureau CDBS Electronic Filing System site. The user should then click on the "Go to CDBS User's Guide" link. Internet access to the CDBS online electronic forms filing system requires, at a minimum, a browser such as Netscape version 3.04 or Internet Explorer version 3.51, or later. The Commission must receive electronically filed applications no later than 11:59 PM EDT on June 15, 2001.

**Finding an LPFM Station Channel.** Applicants may use the MMB LPFM Channel Finder to help determine if a proposed transmitter site would meet minimum LPFM station spacing requirements. This internet-based utility is available on the FCC web site at: <http://www.fcc.gov/mmb/asd/lpfm>. The LPFM Channel Finder incorporates the technical changes implemented by the LPFM Second Report and Order (released April 2, 2000). The site also provides additional information on the new LPFM service, including the text of the LPFM Report and Order, specific rule requirements for LPFM applicants, and methods to determine the coordinates of an applicant's proposed transmitter site.

**Application Limitation.** Nonprofit educational institutions and organizations may not file more than one application in this window. Governmental, public safety, and not-for-profit transportation entities proposing to operate public safety or emergency services may apply for more than one LPFM construction permit. However, such applicants must designate a "priority" application if multiple applications are submitted. Non-priority applications will be dismissed if competing applications are filed in the window. Accordingly, a second application filed by such an applicant in this window would be treated as a "conflicting" application subject to dismissal under Section 73.3518. See also Section 73.801 (making Section 73.3518 applicable to LPFM stations). This restriction applies even where more than one frequency is available to an applicant at its proposed transmitter site.

For additional information, contact the Commission's Consumer Information Bureau at (888) CALL-FCC, or visit the Commission's website at: <http://www.fcc.gov/lpfm>.

Copies of this Public Notice are available in accessible formats (Braille, large print and audio cassette) by contacting Brian Millin at (202) 418-7426 (voice); 418-7365 (TTY).

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