

OMB Control Number: 3060-0920

August 2020

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)

SUPPORTING STATEMENT

A. Justification:

1. Form 2100, Schedule 318, Low Power FM Station Construction Permit Application (Schedule 318), is used to: (1) apply to construct a new Low Power FM (LPFM) broadcast station; (2) make changes to an authorized LPFM broadcast station; (3) amend a pending LPFM construction permit application; or (4) propose mandatory time-sharing.

Schedule 318's Online Notice (third party disclosure) Requirement: 47 CFR §73.3580, as amended in the Commission's 2020 Public Notice Second Report and Order,¹ discussed below, requires local public notice of the filing of all applications to construct a new LPFM broadcast station. Notice is given by an applicant posting notice of the application filing on its station website, its licensee website, its parent entity website, or on a publicly accessible, locally targeted website, for 30 consecutive days beginning within five business days of acceptance of the application for filing. The online notice must link to a copy of the application as filed in the Commission's LMS licensing database. In the 2020 Public Notice Second Report and Order, the Commission also clarified LPFM stations' obligations to provide local public notice, and amended section 73.801 of the rules to indicate that the local public notice rule, 47 CFR § 73.3580, applies to the LPFM service.

Revised Information Collection Requirements

I. 2019 NCE -LPFM Report and Order

This submission is being made to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's *NCE LPFM Report and Order*² adopted December 10, 2019, and released on December 11, 2019, where the Commission revised its rules and procedures for considering competing applications for new and major modifications to noncommercial educational full-service FM and full-power television (NCE), and low power FM (LPFM) broadcast stations. The changes are designed to improve the comparative selection and licensing procedures, expedite the initiation of new service to the public, eliminate unnecessary applicant burdens, and reduce the number of appeals of NCE comparative licensing decisions.

First, to improve the NCE comparative process, the *NCE LPFM Report and Order*: (1) eliminates

¹ *Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580*, Second Report and Order, MB Docket Nos. 17-254, 17-105, & 05-6, FCC 20-65 (rel. May 13, 2020). (*2020 Public Notice Second Report and Order*).

² *Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations*, Report and Order, FCC 19-127, 34 FCC Rcd 12519 (2019) (*NCE LPFM Report and Order*).

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)

the governing document requirements for established local applicants and applicants claiming diversity points; (2) establishes a uniform divestiture pledge policy; (3) expands the tie-breaker criteria and revises the procedures for allocating time in mandatory time-sharing situations; and (4) clarifies and modifies the “holding period” rule.

Second, the *NCE LPFM Report and Order* adopts the following changes to the LPFM comparative process: (1) prohibits amendments that attempt to cure past unauthorized station violations; (2) authorizes time-sharing discussions prior to tentative selectee designations; and (3) establishes procedures for remaining tentative selectees following dismissal of point aggregation time-share agreements.

Third, the *NCE LPFM Report and Order* adopts the following general changes: (1) defines which applicant board changes are major changes; (2) clarifies the reasonable site assurance requirements; (3) streamlines construction deadline tolling procedures and notification requirements; (4) lengthens the LPFM construction period; and (5) eliminates restrictions on the assignment and transfer of LPFM authorizations.

Specifically, pertaining to this Information Collection and LPFM stations, the Commission is revising the relevant rules, 47 CFR Section 73.872, the form, and corresponding instructions, as follows:

- (1) Adding a Reasonable Site Assurance Certification in the Technical Certifications Section of the form, requiring the applicant to certify that it has obtained reasonable assurance from the tower owner or authorized representative, that its specified site will be available.³

The revisions to the relevant rules, and the changes to the questions in Schedule 318 listed above affect the substance, burden hours, and costs of completing the Schedule 318. Therefore, this submission is being made to OMB for approval of revised Information Collection requirements.

II. 2020 Public Notice Second Report and Order

On May 12, 2020, the Commission adopted *Amendment of Section 73.3580 of the Commission’s Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580*, Second Report and Order, MB Docket Nos. 17-254, 17-105, & 05-6, FCC 20-65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including stations filing for new construction permits or major modifications to facilities, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of

³ The certification will require the applicant to list the name and contact information of the tower owner or authorized representative.

OMB Control Number: 3060-0920

August 2020

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)

the application for filing. Stations that are required to make on-air announcements of the filing of certain applications, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station’s Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing. The Commission also clarified LPFM stations’ obligations to provide local public notice, and amended section 73.801 of the rules (47 CFR § 73.801, listing FCC rules that apply to the LPFM service) to include the local public notice rule, 47 CFR § 73.3580.

This submission is being made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the *2020 Public Notice Second Report and Order*. The changes pertaining to this Information Collection and to 47 CFR § 73.3580 adopted in the *2020 Public Notice Second Report and Order*, which are listed below, do not necessitate changes to the Schedule 318, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application, as set forth below.

III. 2020 Improvement of Low-Power FM Technical Rules Report and Order

In April 2020, the Commission adopted a Report and Order making certain changes to the LPFM technical rules, to improve reception and increase flexibility while maintaining interference protection and the core LPFM goals of diversity and localism. *Amendments of Parts 73 and 74 to Improve the Low Power FM Radio Service Technical Rules; Modernization of Media Regulation Initiative*, Report and Order, MB Docket Nos. 19-193, 17-105, FCC 20-53 (rel. Apr. 23, 2020) (*2020 Technical Report and Order*).

LPFM stations provide a secondary, noncommercial radio service with a community focus. The Commission originally designed LPFM engineering requirements to be simple so that non-profit organizations with limited engineering expertise and small budgets could readily apply for, construct, and operate community-oriented stations serving highly localized areas. LPFM organizations suggested that the service has matured and requires additional engineering options to improve reception. Thus, the *2020 Technical Report and Order* adopted the following rules:

Allow expanded LPFM use of directional antennas. All LPFM stations may use directional facilities, with either off-the-shelf or composite antennas, upon a satisfactory engineering showing. Such antennas could improve service near international borders by allowing LPFM stations to serve more listeners in the United States while continuing to protect Mexican and Canadian stations.

Redefine “Minor Changes” for LPFM stations. An LPFM station may apply for approval to relocate its transmitter site without awaiting a filing window if the change is “minor,” redefined in the *2020 Technical Report and Order* as a move of 11.2 kilometers or less. The *2020 Technical Report and Order* also allowed proposals of greater distances to qualify as minor if the existing and proposed service contours overlap.

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)

Permit LPFM Use of FM Booster Stations. FM booster stations amplify and retransmit a station's signal. The *2020 Technical Report and Order* amended rules that had prohibited LPFM stations from operating booster stations, allowing LPFM stations to operate an FM booster in lieu of an FM translator when a booster would better address unique terrain challenges.

Allow Shared Emergency Alert System (EAS) Equipment. Co-owned, co-located radio stations can share EAS equipment, but this option was not available to LPFM stations because they cannot be co-owned. The *2020 Technical Report and Order* permitted co-located LPFM stations (particularly those in time-share arrangements) to share an EAS decoder pursuant to an agreement for common access as well as common responsibility for any EAS rule violations, thus potentially reducing costs.

Facilitate Waivers of Requirement to Protect Television Stations Operating on Channel 6. Stations on the part of the FM band reserved for NCE use must currently protect adjacent television stations on Channel 6 (TV6). The *2020 Technical Report and Order* deferred to a future proceeding consideration of a proposal to eliminate the protection of digital television stations operating on TV6. The 2020 Technical Report and Order stated that until such a proceeding is resolved, the Commission will accept FM proposals that are short-spaced to TV6 if the FM applicant demonstrates no interference. Alternatively, the 2020 Technical Report and Order added language to the rules allowing reserved band radio stations to provide an agreement indicating the concurrence of all potentially affected digital TV6 stations.

Miscellaneous Changes. The *2020 Technical Report and Order* added language to 47 CFR § 73.850 requiring LPFM stations to notify the Commission if they are silent for ten days and to seek authority for silent periods over 30 days, as required for all other broadcasters, thus codifying a longstanding policy that the Bureau already applies to the LPFM service that allows it to identify and assist LPFM stations at risk of losing their licenses automatically under section 312(g) of the Communications Act. The *2020 Technical Report and Order* also made several non-substantive changes to remove duplicative and out-of-date information.

Specifically, pertaining to this Information Collection and LPFM stations, the Commission is revising the relevant rules, 47 CFR §§ 73.816, 73.850, and 73.870, the form, and corresponding instructions, as follows:

- (1) Adding an Antenna Type question in the Technical Certifications Section of the form, requiring the applicant to describe the proposed antenna type (directional or non-directional). Applicants proposing a directional antenna (as now permitted by section 73.816) must complete a data table, providing relative field values for every 10 degrees on the unit circle.
- (2) Modifying section 73.850 to clarify that LPFM stations must, like other broadcast stations, notify the Commission if they temporarily stop broadcasting. The rules require radio stations to notify the Commission within 10 days of temporarily discontinuing operations and to obtain Commission authorization if the discontinued operations last beyond 30 days.⁴

⁴ 47 CFR § 73.850 Operating Schedule.

OMB Control Number: 3060-0920

August 2020

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)

- (3) Redefining the types of LPFM facility changes that qualify as “minor” (in section 73.870), to provide additional flexibility for LPFM stations to relocate their facilities.⁵

The revisions to the relevant rules, and the changes to the questions in Schedule 318 listed above affect the substance, burden hours, and costs of completing the Schedule 318. Therefore, this submission is being made to OMB for approval of revised Information Collection requirements.

History:

On May 9, 2019, the Commission submitted a non-substantive change request to OMB for approval of minor non-substantive changes made to the CDBS based FCC Form 318.⁶ The Media Bureau is transitioning to a new on-line, electronic licensing database system called the “Licensing Management System” (LMS) in which all Media Bureau broadcast applications and reporting forms will eventually be filed. In effect, the database transition requires a corresponding design conversion of all existing CDBS forms. The Media Bureau is currently developing electronic, LMS-compatible versions of various broadcast station application and reporting forms, such as this Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application.

In general, the LMS Schedule 318 replicates the FCC Form 318. The form sections and substance of the individual questions essentially remain the same. As with the FCC Form 318, the LMS Schedule 318 requires applicants to certify compliance with statutory and regulatory requirements. The application is presented primarily in a “Yes/No” certification format and contains places for submitting explanatory exhibits where appropriate.

On December 4, 2012, the FCC released a Sixth Report and Order, Creation of a Low Power Radio Service, MM Docket No. 99-25, FCC 12-144. In the Sixth Report and Order (Order), the FCC revised Section 73.853(b) of the Commission’s rules⁷ (rules) to permit federally recognized Native American Tribes and Alaska Native Villages (Native Nations) and entities owned or controlled by Native Nations (collectively, Native Nation Applicants) to hold LPFM licenses. The FCC also revised its definition of “local” to specify that Native Nation Applicants are considered local throughout their Tribal lands. We noted that the overall number of respondents may increase because these rule changes expand the universe of applicants eligible to apply for an LPFM station. We revised the Form 318 to reflect these changes. We revised the Form 318 to specify new information collection requirements applicable to the other categories of applicants eligible to seek LPFM licenses.

⁵ 47 CFR §73.870. Processing of LPFM broadcast station applications.

⁶ Pursuant to this non-substantive change, CDBS based FCC Form 318, “Application for Construction Permit for a Low Power FM Broadcast Station” was renamed “Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application” and encompassed within the new on-line licensing database system called the Licensing Management System. Accordingly, the title of this Information Collection was also changed.

⁷ 47 CFR § 73.853(b).

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)

In the Order, the FCC also modified its ownership rules. First, the FCC revised its cross-ownership rule to permit cross-ownership of an LPFM station and up to two FM translator stations. Second, the FCC amended its rules to permit Native Nation Applicants to seek up to two LPFM construction permits to ensure adequate coverage of Tribal lands. We revised the Form 318 to reflect these changes.

The FCC further modified the point system used to select among mutually exclusive LPFM applicants and set forth in Section 73.872 of the rules.⁸ First, the FCC revised the “established community presence” criterion to extend the “established community presence” standard in rural areas. Under the earlier version of the rule, an LPFM applicant was deemed to have an established community presence if it was physically headquartered or had a campus within ten miles of the proposed LPFM transmitter site, or if 75 percent of its board members resided within ten miles of the proposed LPFM transmitter site. The FCC changed the standard from ten to twenty miles for all LPFM applicants proposing facilities located outside the top 50 urban markets, for both the distance from transmitter and residence of board member standards. Second, the FCC modified the point system to award a point to Native Nation Applicants, when they propose to provide LPFM service to Tribal communities. Third, the FCC established additional points criteria related to maintenance and staffing of a main studio, commitments to locally originate programming and maintain and staff a main studio, and new entry into the broadcasting field. We revised the Form 318 to reflect these changes to the point system. We noted that the overall number of respondents may increase because the rule changes expand the universe of applicants eligible to claim points under the established community presence criterion, and award points to Native Nations Applicants and other applicants that previously were not eligible to claim them.⁹ In addition, there were new information collection requirements set forth in Form 318 and applicable to applicants claiming points under the Native Nations and main studio criteria. We revised Form 318 to reflect these changes.

The FCC made several changes related to time-sharing. It adopted a requirement that parties submit voluntary time-sharing agreements via CDBS. It revised the Commission’s involuntary time-sharing policy. As a result of these changes, an LPFM applicant must submit the date on which it qualified as having an “established community presence.” The FCC indicated that it may require certain LPFM applicants to indicate which 8-hour and 12-hour time slots they prefer. The FCC adopted a mandatory time-sharing policy similar to that applicable to full-service noncommercial educational (NCE) FM stations. We noted that the overall number of respondents may increase because this rule change expands the universe of applicants eligible to apply for an LPFM station. We revised the Form 318 to reflect these changes.

Finally, the FCC modified the manner in which it processes second-adjacent waiver requests, modified the manner in which it handles complaints of interference caused by LPFM stations operating pursuant to second-adjacent waivers, amended the rule related to complaints about and remediation of third-adjacent channel interference, and amended the rule that sets forth the obligations of LPFM stations with respect to

⁸ 47 CFR § 73.872.

⁹ The change in the number of points awarded under the local program origination criterion will not impact the number of respondents.

OMB Control Number: 3060-0920

August 2020

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)

interference to the input signals of FM translator or FM booster stations. We revised the Form 318 to reflect these changes.

On September 30, 2013, the Commission adopted FCC 13-134. FCC 13-134 made a minor change to 47 CFR 73.827(a). 47 CFR 73.827(a)(1)-(3) provides various methods by which an LPFM station can demonstrate that it will not cause interference to the input signal. The Commission made a slight change to 47 CFR 73.827(a)(1) – instead of demonstrating no interference at multiple locations, the Commission will allow the station to show no interference at one location. This is a minor tweak in the rule where the information collection/methodology is not impacted, but we are reducing the burden of the information being collected. The modified methodology simplifies the (a)(1) “no interference” showing to the calculation of a single signal strength ratio at a defined location and by eliminating the requirement to make the calculation at locations which would be irrelevant for determining potential interference. Also, Section 73.827(a)(1) is only one of 3 methods that an LPFM application can demonstrate that no interference will occur. Thus, overall, there was not any major change in the burden reported in the supporting statement since the burden reported incorporates all 3 variables.

LPFM Rules and Related Rules with Information Collection Requirements:

47 CFR 73.807 sets forth minimum distance separation requirements for LPFM stations. LPFM stations may seek second-adjacent waivers by filing an LMS LPFM Construction Permit Form and supporting materials demonstrating that their proposed operations will not result in interference to any authorized radio service. 47 CFR 73.807 also sets forth how the FCC will handle complaints of interference caused by LPFM stations operating pursuant to second-adjacent waivers.

47 CFR 73.809(b) states that an LPFM station will be provided an opportunity to demonstrate in connection with the processing of the commercial or NCE FM application that interference as described in paragraph (a) of this section is unlikely. If the LPFM station fails to so demonstrate, it will be required to cease operations upon the commencement of program tests by the commercial or NCE FM station.

47 CFR 809(c) states complaints of actual interference by an LPFM station subject to paragraphs (a) and (b) of this section must be served on the LPFM licensee and the FCC, attention Audio Division. The LPFM station must suspend operations within 24 hours of the receipt of such complaint unless the interference has been resolved to the satisfaction of the complainant on the basis of suitable techniques. An LPFM station may only resume operations at the direction of the FCC. If the FCC determines that the complainant has refused to permit the LPFM station to apply remedial techniques that demonstrably will eliminate the interference without impairment of the original reception, the licensee of the LPFM station is absolved of further responsibility for the complaint.

47 CFR 73.809(e) states that in each instance where suspension of operation is required, the licensee shall submit a full report to the FCC, after operation is resumed, containing details of the nature of the interference, the source of the interfering signals, and the remedial steps taken to eliminate the interference.

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)

47 CFR 73.810 requires a new LPFM station that is constructed on a third-adjacent channel and satisfies the third-adjacent channel minimum distance separations set forth in Section 73.807 to broadcast periodic announcements during the first year after licensing. It also sets forth requirements related to complaints about interference caused by the operation of an LPFM station on a third-adjacent channel.

47 CFR 73.827(a) states that, when an LPFM station proposes to operate near an FM translator station, the FM translator station is receiving its primary station signal off-air and the LPFM station proposes to operate on a third-adjacent channel to the primary station, the FCC will not authorize such LPFM operations unless the LPFM station proposes to locate its transmitter at least 2 kilometers from the FM translator station. In cases where the LPFM station is located within +/- 30 degrees of the azimuth between the FM translator station and its primary station, the FCC will not authorize such LPFM operations unless the LPFM station proposes to locate its transmitter at least 10 kilometers from the FM translator station. In cases where an LPFM station proposes to locate its transmitter within the “potential interference area,” 47 CFR 73.827(a) permits the LPFM station to demonstrate that it will not cause interference to the input signal of the FM translator station at issue.

47 CFR 73.827(c) states that complaints of actual interference by an LPFM station to the direct reception off-air of the signal of an FM station on a third-adjacent channel by an FM translator or FM booster station must be served on the LPFM licensee and the FCC, attention Audio Division. The LPFM station must suspend operations upon receipt of such complaint unless the interference has been resolved to the satisfaction of the complainant on the basis of suitable techniques. An LPFM station may only resume operations at the direction of the FCC. If the FCC determines that the complainant has refused to permit the LPFM station to apply remedial techniques that demonstrably will eliminate the interference without impairment of the original reception, the licensee of the LPFM station is absolved of further responsibility for the complaint.

47 CFR 73.850 permits the filing of share time applications. It also requires the submission to the Commission of agreements reached between share time applicant and current LPFM licensee, or a statement that the share time applicant and current LPFM licensee cannot reach agreement. Upon the Commission’s issuance of a notice proposing a share time arrangement and grant of the share time application, the affected LPFM licensee may protest the proposed action, the share time applicant may oppose the protest and/or the proposed action, and the LPFM licensee may reply within the time limits delineated in the notice.

47 CFR 73.865 allows a change in the name of an LPFM licensee where no change in ownership or control is involved to be accomplished by a written notification by the licensee to the FCC. This section also prohibits assignment of an LPFM authorization or transfer of control of an LPFM permittee or licensee if (a) consideration exceeds the depreciated fair market value of the physical equipment and facilities, and/or (b) the transferee or assignee is incapable of satisfying all eligibility criteria that apply to a LPFM licensee. Transfers of control involving a sudden change of more than 50 percent of an LPFM’s governing board shall not be deemed a substantial change in ownership or control, subject to the filing of an FCC Form 316.

47 CFR 73.870 and 73.871 allow licensees and permittees to file minor change applications and minor amendments to pending construction permit applications by requesting authority for transmitter site relocation of up to 5.6 kilometers. LPFM applicants with mutually exclusive applications to file minor

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)

amendments and minor changes that reflect changes to time-sharing agreements, including universal agreements that supersede involuntary arrangements.

47 CFR 73.870 and 73.871 allow voluntary time-share applicants¹⁰ to relocate an LPFM transmitter to a central location by filing amendments to their pending construction permit applications.

47 CFR 73.870 and 73.871 allow a licensee or permittee to file a minor change application to relocate an LPFM transmitter to a common location or a location within 500 meters of another station operating on a third-adjacent channel in order to remediate interference to the other station.

47 CFR 73.870(d) states petitions to deny the tentative selectee from a group of mutually exclusive LPFM applications may be filed within 30 days of the release of a public notice designating one of the mutually exclusive applicants as the tentative selectee. 47 CFR 73.870(d) specifies that such petitions be filed in accordance with the procedures set forth at Section 73.3584. A copy of any petition to deny must be served on the applicant.

47 CFR 73.872(b) requires a party claiming eligibility for a point or points under the established community presence criterion and/or the Native Nations criterion to submit the documentation specified at the time of filing their applications. It also requires a party claiming eligibility for a point under the main studio criterion to specify the address and telephone number of the proposed main studio at the time of filing its applications.

47 CFR 73.872(c) states if mutually exclusive applications have the same point total¹¹, any two or more of the tied applicants may propose to share use of the frequency by submitting, within 90 days of the release of a public notice announcing the tie, a time-share proposal. Such proposals shall be treated as minor amendments to the time-share proponents' applications and shall become part of the terms of the station authorization. Where such proposals include all of the tied applications, all of the tied applications will be treated as tentative selectees; otherwise, time-share proponents' points will be aggregated to determine the tentative selectees.

(1) Time-share proposals shall be in writing and signed by each time-share proponent, and shall satisfy the following requirements:

¹⁰ Voluntary time-share applicants are LPFM applicants who have the same point total and enter into an agreement together to share use of the frequency by submitting a time-share proposal within 30 days of the release of a public notice announcing the tie.

¹¹ For mutually exclusive applications, the FCC will give each applicant points to determine who should receive the license. The FCC will announce the list of mutually exclusive applicants, and their point totals, including tied applicants. Applicants can cooperate with each other to remove the conflicts in two ways. First, if all the mutually exclusive applicants agree, virtually any proposal to allocate the licenses can be submitted to the FCC. Second, any number of tied applicants can pool their points if they agree to a time-sharing proposal that grants at least 10 hours per week to each applicant. Applicants will have 30 days, measured from the day the FCC makes the announcement, to submit their written time-sharing agreement to the FCC. The FCC will put the announcement on its website. It may or may not give applicants individual notice.

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)

- (i) The proposal must specify the proposed hours of operation of each time-share proponent;
- (ii) The proposal must not include simultaneous operation of the time-share proponents; and
- (iii) Each time-share proponent must propose to operate for at least 10 hours per week.

(2) Where a station is authorized pursuant to a time-sharing proposal, a change of the regular schedule set forth therein will be permitted only where a written agreement signed by each time-sharing permittee or licensee and complying with requirements in paragraphs (c)(1)(i) through (iii) of this section is filed with the FCC, attention Audio Division, prior to the date of the change.

47 CFR 73.872(d)(2) states that, if a mutually exclusive group has three or fewer tied, grantable applications, the Commission will simultaneously grant these 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, as defined in Section 73.853(b), for the longest uninterrupted period of time, then assigning hours to the applicant that has been local for the next longest uninterrupted period of time, and finally assigning hours to any remaining applicant. The Commission will offer applicants an opportunity to voluntarily reach a time-sharing agreement. In the event that applicants cannot reach such agreement, the Commission will require each applicant subject to involuntary time-sharing to simultaneously and confidentially submit their preferred time slots to the Commission. The Commission will give preference to the applicant that has been local for the longest uninterrupted period of time. In the event an applicant neglects to designate its preferred time slots, staff will select a time slot for that applicant.

47 CFR 73.872(d)(3) states that groups of more than three tied, grantable applications will not be eligible for licensing under this section. Where such groups exist, the Commission will dismiss all but the applications of the three applicants that have been local, as defined in 47 CFR 73.853(b), for the longest uninterrupted periods of time. The Commission then will process the remaining applications as set forth in paragraph (d)(2) of 47 CFR 73.872.

47 CFR 73.877 requires each LPFM station to maintain a station log. Each log entry must include the time and date of observation and the name of the person making the entry. This log must contain entries of the information specified in this section.

47 CFR 73.878 requires licensees to make available to FCC representatives during regular business hours, the station records and logs. Upon request of the FCC, the licensee must mail (by either registered mail, return receipt requested, or certified mail, return receipt requested) the station records and logs. The licensee must retain the return receipt until such records are returned to the licensee.

Unattended operation. The Report and Order in MM Docket 99-25 requires that LPFM stations that will operate unattended will be required to advise the Commission by letter of the unattended operation and provide an address and telephone number where a responsible party can be reached during such times.¹²

¹² *Report and Order*, 15 FCC Rcd at 2251.

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)

47 CFR 73.318 requires LPFM stations to resolve all complaints received on blanketing interference occurring within the immediate vicinity of the antenna site for one year after commencement of transmissions with new or modified facilities. Licensee shall provide technical information, notifications or assistance to complainants on remedies for blanketing interference.

47 CFR 73.1030 requires LPFM stations to coordinate, notify, and provide protection to the radio quiet zones at Green, West Virginia and at Boulder, Colorado. In addition, LPFM applicants in Puerto Rico will need to coordinate and notify Cornell University regarding the radio coordination zone on that island. This requirement is necessary to ensure that research work at these installations will not be disrupted.

47 CFR 73.1207 requires that licensees of broadcast stations obtain written permission from an originating station prior to retransmitting any program or any part thereof. A copy of the written consent must be kept in the station's files and made available to the FCC upon request. 47 CFR Section 73.1207 also requires stations that use the National Bureau of Standards (NBS) time signals to notify the NBS semiannually of use of time signals.

47 CFR 73.1212 requires a broadcast station to identify the sponsor of any matter for which consideration is provided. For matter advertising commercial products or services, generally the mention of the name of the product or service constitutes sponsorship identification. In addition, when an entity rather than an individual, sponsors the broadcast of matter that is of a political or controversial nature, licensee is required to retain a list of the executive officers, or board of directors, or executive committee, etc., of the organization paying for such matter. Sponsorship announcements are waived with respect to the broadcast of "want ads" sponsored by an individual but the licensee shall maintain a list showing the name, address and telephone number of each such advertiser. These lists shall be made available for public inspection.

47 CFR 73.1300 allows broadcast stations to be operated either attended or unattended. Regardless of which method is employed, licensees must employ written procedures and have them in the station's files to ensure compliance with the rules governing the Emergency Alert System.

47 CFR 73.1350 requires licensees of LPFM broadcast stations operating by remote control points at places other than the main studio or transmitter site locations to send written notifications containing the remote locations to the FCC within three days after commencing remote control operations from such points.

47 CFR 73.1610 requires the permittee of a new broadcast station to notify the FCC of its plans to conduct equipment tests for the purpose of making adjustments and measurements as may be necessary to assure compliance with the terms of the construction permit and applicable engineering standards.

47 CFR 73.1620 requires that upon completion of construction of a LPFM station, the licensee may begin program tests upon notification to the FCC.

47 CFR 73.1750 requires a broadcast licensee to notify the FCC of permanent discontinuance of operation and to forward the station license and other instruments of authorization immediately after discontinuance of operation.

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)

47 CFR 73.1943 requires licensees of broadcast stations to keep and permit public inspection of a complete record of all requests for broadcast time, together with an appropriate notation showing the disposition made by the licensee of such request.

47 CFR 73.3525 requires applicants for a construction permit for a broadcast station to obtain approval from the FCC to withdraw, dismiss or amend its application pursuant to a settlement agreement when that application is in conflict with another application pending before the FCC. This request for approval to withdraw, dismiss or amend an application should contain a copy of the agreement and an affidavit of each party to the agreement. In the event that the proposed withdrawal of a conflicting application would unduly impede achievement of a fair, efficient and equitable distribution of radio service, the FCC must issue an order providing further opportunity to apply for the facilities specified in the application(s) withdrawn.

47 CFR 73.3550 requests for call sign assignment for a LPFM station must be made using the FCC's electronic call sign system.

47 CFR 73.3598 allows an LPFM permittee unable to complete construction within the timeframe specified in the original construction permit may apply for an 18 month extension upon a showing of good cause.

47 CFR 11.61(ii) states Direct Broadcast Satellite (DBS) providers, analog and digital class D non-commercial educational FM stations, and analog and digital LPTV stations are required to log the receipt of emergency alert system transmissions.

To determine whether this information collection would affect individuals or households and thus have privacy impacts, the Commission conducted a Privacy Threshold Analysis (PTA). The PTA determined that the Media Bureau will collect information about individuals, *i.e.*, personally identifiable information or PII from individuals or households, who submit complaints of interference caused by low power FM stations. This information will include an individual's home address, home telephone number, and/or other PII. However, because of the way that the information will be structured, the information in the interference complaints, *i.e.*, PII from individuals who submit these complaints, will be stored under the call signs and/or the facility ID numbers of the LPFM stations that are the subjects of the complaints. There will not be the ability to retrieve information by an individual's name or other personal identifier. Therefore, the PII collected here is not being handled in a manner that meets the Privacy Act's definition of a "system of records."¹³ There will be no impacts under the Privacy Act.

The statutory authority for this collection is contained in Sections 154(i), 303, 303, 308 and 325(a) of the Communications Act of 1934, as amended.

2. Agency Use of Information: FCC staff uses the data to determine whether an applicant meets basic statutory and regulatory requirements to become a Commission licensee and to ensure that the public interest would be served by grant of the application. In addition, the information contained within this information

¹³ See 5 U.S.C. § 552a(a)(5).

OMB Control Number: 3060-0920

August 2020

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)

collection ensures that (1) the integrity of the FM spectrum is not compromised, (2) unacceptable interference will not be caused to existing radio services, (3) statutory requirements are met, and (4) the stations operate in the public interest.

3. **Consideration Given to Information Technology:** The Commission requires applicants to file LMS Schedule 318 electronically.

4. **Effort to Identify Duplication and Use Similar Information:** This agency does not impose a similar collection on the respondents. There is no similar data available.

5. **Effort to Reduce Small Business Burden:** This information collection will not have a significant economic impact on a substantial number of small entities/businesses.

6. **Less Frequent Data Collection:** The frequency for filing the LMS Schedule 318 for new stations and for major changes in existing stations will be limited to the FCC opening a filing window. For the filing of minor changes to existing facilities, the frequency of filing is determined by the respondents. However, no new or modified LPFM facility construction permits can be obtained without using the LMS Schedule 318. If this information is not collected, the FCC cannot authorize new LPFM station construction permits.

With regard to the recordkeeping and notification requirements, the frequency for these collections of information is determined by respondents, as necessary.

7. **Information Collection Circumstances:** This collection of information is consistent with the guidelines in 5 CFR § 1320.5(d)(2).

8. **Comments Received from the Public:** The Commission last published a Federal Register Notice seeking public comment on the information collection requirements contained in this supporting statement (85 FR 34440) on June 4, 2020. REC Networks (REC) filed comments on June 11, 2020; The Law Office of Dan J. Alpert (Alpert) filed comments on August 3, 2020.

REC contends that the detailed directional antenna information required in the updated Schedule 318, as set forth in revised 47 CFR § 73.816(d)(3), is not necessary, owing to the difference in the way that LPFM stations protect other radio stations, compared to FM full-power or FM translator station protection methods. It therefore asks that the tabulation of the composite antenna pattern be omitted in Schedule 318 for LPFM stations proposing directional antennas.

Commission staff cannot delete the directional antenna pattern tabulation from Schedule 318. In the *2020 Technical Report and Order* the Commission adopted rule section 73.816(d)(3), which specifically states that “[a]n application that specifies the use of a directional antenna must provide the information identified in §73.316(c) of this subpart.” Section 73.316(c)(1) requires that applications for construction permit proposing the use of a directional antenna must include a tabulation of the composite antenna pattern. Commission staff may not alter the express requirements of a rule adopted by the Commission, but must

OMB Control Number: 3060-0920

August 2020

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)

implement those requirements exactly as adopted. Here, the Commission specifically directed that the application must include the directional antenna pattern tabulation.

Moreover, to the extent that REC identifies specific situations in which an LPFM station would use a directional antenna, and urges that the pattern tabulation should be unnecessary in those situations, revised rule section 73.816(d)(3) as adopted by the Commission in the *2020 Technical Report and Order*, now specifically exempts applicants in such situations from having to complete the pattern tabulation. “An application that specifies the use of a directional antenna must provide the information identified in §73.316(c) of this subpart except that such information shall not be required of (i) 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; (ii) 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 (iii) LPFM permittees and licensees using directional antennas solely for the purpose of meeting the international border zone distance requirements of §73.807(g).”¹⁴ Thus, having failed to acknowledge the three scenarios expressly exempted from the rule’s requirements, REC mischaracterizes the potential burden on the majority of LPFM applicants resulting from the rule and Schedule 318 revisions.

Finally, with respect to REC’s contentions regarding the dissimilarities between the LPFM service and other FM services, such as the variances in frequency allocation and station spacing, these are substantively beyond the scope of comments to a Paperwork Reduction Act notice. Its claims would have been more properly addressed in a petition for reconsideration of the *2020 Technical Report and Order*. REC did not request reconsideration of that order, and its concerns will not be considered here.

Alpert states that the summary of the new Schedule 318 requirements provided in the Federal Register Notice omits the requirement, set forth in the *2020 Technical Report and Order*, that the applicant provide the name and telephone number of the individual providing assurance that the proposed transmitter site is available, and whether that person is a tower owner, agent, or authorized representative. The revised version of Schedule 318 in fact includes fields and radio buttons in which the applicant must provide the information noted by Alpert.

9. Payment or Gift: No payment or gift was provided to respondents.

10. Confidentiality of Information: The information collection does not address any confidential information.

11. Justification for Sensitive Questions: This collection of information does not address any private matters of a sensitive nature.

¹⁴ The Instructions to Schedule 318 have been modified to reflect the revised section 73.816(d)(3) requirements and reiterate the three exemptions to those rule requirements.

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)

12. Estimate of Burden and Burden Hour Cost: We assume that the respondents will complete the LMS Schedule 318 themselves. The respondents have an average salary of \$100,000/year (\$48.08/hour). Also, the respondents would use a station engineer to complete the portions of this information collection pertaining to rules included in this collection. The station engineers would have an average salary of \$100,000/year (\$48.08/hour). Section 73.3580 online notices are required upon submission of construction permit applications for New & Major Changes. We estimate that it will take the respondent approximately one-half hour to fulfill the online notice requirement. The annual burden to the respondent is as follows:

<u>Applications or Rule Sections</u>	<u>Number of Responses</u>	<u>Respondent's Burden</u>	<u>Total Annual Burden Hours</u>	<u>Total Hourly In-House Cost</u>	<u>Annual In-House Cost</u>
New LPFM Applications	3,500 ¹⁵	6 hours	21,000 hours	\$48.08	\$1,009,680
LPFM Major Change Applications	100	6 hours	600 hours	\$48.08	\$28,848.00
LPFM Minor Change Applications ¹⁶	80	1 hour	80 hours	\$48.08	\$3,846.40
Waiver requests	50 ¹⁷	1 hour	50 hours	\$48.08	\$2,404.00
73.809(b)	10	2 hours	20 hours	\$48.08	\$961.60
73.809(c)	30	0.5 hours	15 hours	\$48.08	\$721.20
73.809(e)	3	1 hour	3 hours	\$48.08	\$144.24
73.807	50	0.5 hours	25 hours	\$48.08	\$1,202.00
	50	0.5 hours	25 hours	\$48.08	\$1,202.00
73.810					
73.827(a)	200	0.5 hours	100 hours	\$48.08	\$4,808.00
73.827(c)	50	0.5 hours	25 hours	\$48.08	\$1,202.00
73.850	100	1.5 hours	150 hours	\$48.08	\$7,212.00
73.865	50	4 hours	200 hours	\$48.08	\$9,616.00
73.870(d)	15	2 hours	30 hours	\$48.08	\$1,442.40
73.872(b)	2,850	0.5 hours	1,425 hours	\$48.08	\$68,514.00
73.872(c)	200	2 hours	400 hours	\$48.08	\$19,232.00
73.872(d)(2)	15	1 hour	15 hours	\$48.08	\$721.20

¹⁵ This reflects the number of LPFM applications the FCC expects to be filed during an upcoming window filing period. Each respondent will file its application once during the filing period.

¹⁶ The burdens for Sections 73.870 and 73.871 are included under these filings.

¹⁷ These new waiver filings are pursuant to 47 CFR § 73.807 and 47 CFR § 73.809.

OMB Control Number: 3060-0920

August 2020

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)

<u>Applications or Rule Sections</u>	<u>Number of Responses</u>	<u>Respondent's Burden</u>	<u>Total Annual Burden Hours</u>	<u>Total Hourly In-House Cost</u>	<u>Annual In-House Cost</u>
73.872(d)(3)	15	1 hour	15 hours	\$48.08	\$721.20
73.877	1,200	12 hours	14,400 hours	\$48.08	\$692,352.00
73.878	10	1 hour	10 hours	\$48.08	\$480.80
11.61	1,200	0.5 hours x 12 months	7,200 hours ¹⁸	\$48.08	\$346,176.00
73.318	25	2 hours	50 hours	\$48.08	\$2,404.00
73.1030	10	0.5 hours	5 hours	\$48.08	\$240.40
73.1207	50	0.5 hours	25 hours	\$48.08	\$1,202.00
	50	2 hours	100 hours	\$48.08	\$4,808.00
73.1212	12,000 ¹⁹	0.1 hours	1,200 hours	\$48.08	\$57,696.00
	1,200 ²⁰	0.0025 hours	3 hours	\$48.08	\$144.24
73.1230	1,200	0.085 hours	102 hours	\$48.08	\$4,904.16
73.1300	20	1 hour	20 hours	\$48.08	\$961.60
73.1350	1	0.5 hours	0.50 hours	\$48.08	\$24.04
73.1610	10	0.5 hours	5 hours	\$48.08	\$240.40
73.1620	1,200	0.5 hours	600 hours	\$48.08	\$28,848.00
73.1750	50	0.5 hours	25 hours	\$48.08	\$1,202.00
73.1943	200	0.25 hours	50 hours	\$48.08	\$2,404.00
73.3525	500	4 hours	2,000 hours	\$48.08	\$96,160.00
73.3550	1,200	0.75 hours	900 hours	\$48.08	\$43,272.00
73.3598	200	1 hour	200 hours	\$48.08	\$9,616.00
Unattended operation letters	<u>30</u>	0.5 hours	<u>15 hours</u>	\$48.08	<u>\$721.20</u>
Subtotals	27,724 (responses)		51,088.50 (51,089 hours rounded)		\$2,456,335.08

Online Notices (Third Party Disclosure) Requirement; 47 CFR § 73.3580

Online Notices with	3,600	0.5 hours	1,800	\$48.08	\$86,544.00
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¹⁸ This burden was calculated as follows: 1,200 responses x 0.5 hrs./month x 12 months = 7,200 hours.

¹⁹ The total number of responses was calculated as follows: 1,200 responses x 10 broadcast/station = 12,000 responses.

²⁰ The total number of responses was calculated as follows: 1,200 responses x 1 broadcast/station = 1,200 responses.

OMB Control Number: 3060-0920

August 2020

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)

LPFM New &
Major applications
(Schedule 318)

TOTALS	31,324 (responses)	52,889 hours	\$2,542.879.08
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Total Number of Annual Respondents: 24,606 respondents (w/multiple responses)

Total Number of Annual Responses: 31,324 (responses)

Total Annual Burden Hours: 52,889 hours (rounded)

Total Annual “In-House” Cost: \$2,542,879.08

These estimates are based on FCC staff's knowledge and familiarity with the availability of the data required.

13. Annual Cost Burden:

We assume that the respondent would use a consulting engineer (\$250/hour) to complete some of the information collections. The consulting engineers' burden estimates have been adjusted to reflect the modifications to the technical questions in the Schedule 318, as described above. The rule and application sections involved include the following:

Section 73.318	25 responses x 4 hours x \$250/hour =	\$25,000
Section 73.809	10 responses x 4 hours x \$250/hour =	\$10,000
	3 responses x 3 hours x \$250/hour =	\$ 2,250
Section 73.816	50 responses x 2 hours x \$250/hour =	\$25,000
Section 73.1030	10 responses x 1 hour x \$250/hour =	\$ 2,500
Reasonable Site Assurance Certification	3,680 responses x 1 hour x \$250/hour =	\$920,000
	Annual Cost Burden:	\$984,750

Online Notice Posting Fee: An LPFM applicant must give local public notice of the filing of its Schedule 318 construction permit application for a new station or for a major change in facilities. This notice will generally be accomplished by posting the notice on an applicant-owned or affiliated website, or on a free-to-post locally targeted, publicly accessible website. We estimate that 85 percent of applicants will be able to post online notice on an applicant-affiliated website or other free-to-post local website. The remaining 15 percent will have to pay to post on a local website, which in most cases will be the website of a local newspaper that will charge the applicant for a printed notice, with the online posting included in the price. For an applicant forced to pay to post online notice, the notice must be posted on a locally targeted, publicly accessible website for at least a 24-hour period once a week for four consecutive weeks, beginning when the

OMB Control Number: 3060-0920

August 2020

Title: Form 2100, Schedule 318 – Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii)