

**§ 73.853**

**47 CFR Ch. I (10–1–13 Edition)**

(b) All LPFM stations are required to operate at least 36 hours per week, consisting of at least 5 hours of operation per day on at least 6 days of the week; however, stations licensed to educational institutions are not required to operate on Saturday or Sunday or to observe the minimum operating requirements during those days designated on the official school calendar as vacation or recess periods.

(c) All LPFM stations, including those meeting the requirements of paragraph (b) of this section, but which do not operate 12 hours per day each day of the year, will be required to share use of the frequency upon the grant of an appropriate application proposing such share time arrangement. Such applications must set forth the intent to share time and must be filed in the same manner as are applications for new stations. Such applications may be filed at any time after an LPFM station completes its third year of licensed operations. In cases where the licensee and the prospective licensee are unable to agree on time sharing, action on the application will be taken only in connection with a renewal application for the existing station filed on or after June 1, 2019. In order to be considered for this purpose, an application to share time must be filed no later than the deadline for filing petitions to deny the renewal application of the existing licensee.

(1) The licensee and the prospective licensee(s) shall endeavor to reach an agreement for a definite schedule of periods of time to be used by each. Such agreement must be in writing and must set forth which licensee is to operate on each of the hours of the day throughout the year. Such agreement must not include simultaneous operation of the stations. Each licensee must file the same in triplicate with each application to the Commission for initial construction permit or renewal of license. Such written agreements shall become part of the terms of each station's license.

(2) The Commission desires to facilitate the reaching of agreements on time sharing. However, if the licensees of stations authorized to share time are unable to agree on a division of time, the prospective licensee(s) must

submit a statement with the Commission to that effect filed with the application(s) proposing time sharing.

(3) After receipt of the type of application(s) described in paragraph (c)(2) of this section, the Commission will process such application(s) pursuant to §§ 73.3561 through 73.3568 of this Part. If any such application is not dismissed pursuant to those provisions, the Commission will issue a notice to the parties proposing a time-sharing arrangement and a grant of the time-sharing application(s). The licensee may protest the proposed action, the prospective licensee(s) may oppose the protest and/or the proposed action, and the licensee may reply within the time limits delineated in the notice. All such pleadings must satisfy the requirements of Section 309(d) of the Act. Based on those pleadings and the requirements of Section 309 of the Act, the Commission will then act on the time-sharing application(s) and the licensee's renewal application.

(4) A departure from the regular schedule set forth in a time-sharing agreement will be permitted only in cases where a written agreement to that effect is reduced to writing, is signed by the licensees of the stations affected thereby, and is filed in triplicate by each licensee with the Commission, Attention: Audio Division, Media Bureau, prior to the time of the proposed change. If time is of the essence, the actual departure in operating schedule may precede the actual filing of the written agreement, provided that appropriate notice is sent to the Commission in Washington, DC, Attention: Audio Division, Media Bureau.

[65 FR 7640, Feb. 15, 2000, as amended at 78 FR 2106, Jan. 9, 2013]

**§ 73.853 Licensing requirements and service.**

(a) An LPFM station may be licensed only to:

(1) Nonprofit educational organizations and upon a showing that the proposed station will be used for the advancement of an educational program; and

## Federal Communications Commission

## § 73.858

(2) State and local governments and non-government entities that will provide non-commercial public safety radio services.

(3) Tribal Applicants, as defined in paragraph (c) of this section that will provide non-commercial radio services.

(b) Only local organizations will be permitted to submit applications and to hold authorizations in the LPFM service. For the purposes of this paragraph, an organization will be deemed local if it can certify, at the time of application, that it meets the criteria listed below and if it continues to satisfy the criteria at all times thereafter.

(1) The applicant, its local chapter or branch is physically headquartered or has a campus within 16.1 km (10 miles) of the proposed site for the transmitting antenna for applicants in the top 50 urban markets, and 32.1 km (20 miles) for applicants outside of the top 50 urban markets;

(2) It has 75% of its board members residing within 16.1 km (10 miles) of the proposed site for the transmitting antenna for applicants in the top 50 urban markets, and 32.1 km (20 miles) for applicants outside of the top 50 urban markets; or

(3) In the case of any applicant proposing a public safety radio service, the applicant has jurisdiction within the service area of the proposed LPFM station.

(4) In the case of a Tribal Applicant, as defined in paragraph (c) of this section, the Tribal Applicant's Tribal lands, as that term is defined in § 73.7000, are within the service area of the proposed LPFM station.

(c) A Tribal Applicant is a Tribe or an entity that is 51 percent or more owned or controlled by a Tribe or Tribes. For these purposes, Tribe is defined as set forth in § 73.7000.

[65 FR 7640, Feb. 15, 2000, as amended at 73 FR 3216, Jan. 17, 2008; 78 FR 2107, Jan. 9, 2013]

### § 73.854 Unlicensed operations.

No application for an LPFM station may be granted unless the applicant certifies, under penalty of perjury, that neither the applicant, nor any party to the application, has engaged in any manner including individually or with persons, groups, organizations or other entities, in the unlicensed operation of

any station in violation of Section 301 of the Communications Act of 1934, as amended, 47 U.S.C. 301.

[66 FR 23863, May 10, 2001]

### § 73.855 Ownership limits.

(a) No authorization for an LPFM station shall be granted to any party if the grant of that authorization will result in any such party holding an attributable interest in two or more LPFM stations.

(b) Notwithstanding the general prohibition set forth in paragraph (a) of this section, Tribal Applicants, as defined in § 73.853(c), may hold an attributable interest in up to two LPFM stations.

(c) Notwithstanding the general prohibition set forth in paragraph (a) of this section, not-for-profit organizations and governmental entities with a public safety purpose may be granted multiple licenses if:

(1) One of the multiple applications is submitted as a priority application; and

(2) The remaining non-priority applications do not face a mutually exclusive challenge.

[78 FR 2107, Jan. 9, 2013]

### § 73.858 Attribution of LPFM station interests.

Ownership and other interests in LPFM station permittees and licensees will be attributed to their holders and deemed cognizable for the purposes of §§ 73.855 and 73.860, in accordance with the provisions of § 73.3555, subject to the following exceptions:

(a) A director of an entity that holds an LPFM license will not have such interest treated as attributable if such director also holds an attributable interest in a broadcast licensee or other media entity but recuses himself or herself from any matters affecting the LPFM station.

(b) A local chapter of a national or other large organization shall not have the attributable interests of the national organization attributed to it provided that the local chapter is separately incorporated and has a distinct local presence and mission.

(c) A parent or subsidiary of a LPFM licensee or permittee that is a non-