

**NON-SUBSTANTIVE CHANGE REQUEST FOR
OMB CONTROL NUMBER 3060-0027**

The Federal Communications Commission (FCC or Commission) is submitting a non-substantive change request for OMB control number 3060-0027, Application for Construction Permit for Commercial Broadcast Station, FCC Form 301. The Commission is making non-substantive changes to the instructions for FCC Form 301 to incorporate information collection requirements that OMB approved for the Commission's broadcast incubator program on April 15, 2019. See OMB, Notice of Office of Management and Budget Action, ICR 201902-3060-009, OMB Control No. 3060-1260 (Apr. 15, 2019). These requirements provide clear instructions for FCC Form 301 respondents that seek to participate in the broadcast incubator program or seek to use a reward waiver under the program. These information collection requirements have already been approved by OMB under OMB control number 3060-1260. The Commission is merely incorporating this information (shown below) into the instructions for FCC Form 301.

These changes are minor and non-substantive do not impact the burden hours or cost for FCC Form 301.

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Text Proposed to be Added to the Instructions for FCC Form 301:

N. Incubator Program – Applications (AM and FM stations). The FCC's broadcast incubator program is designed to support new and diverse entrants in the broadcasting industry by encouraging larger, experienced broadcasters to assist small, aspiring or struggling broadcasters that lack the financing or operational expertise needed to own and operate a full-service AM or FM station. See *Rules and Policies to Promote New Entry and Ownership Diversity in the Broadcasting Services*, Report and Order, 33 FCC Rcd 7911 (2018) (*Incubator Order*); approved by OMB control number: 3060-1260. Through the incubator program, an established broadcaster (i.e., the incubating entity) will provide a small, aspiring or struggling station owner (i.e., the incubated entity) with the training, financing, and access to resources that would be otherwise unavailable to the incubated entity. At the end of a successful incubation relationship, the incubated entity will own and operate a full-service AM or FM station independently and the incubated station will be on a firmer footing if the station was struggling at the start of the relationship. In return for successfully incubating a small, aspiring or struggling broadcaster, the incubating entity will be eligible to apply to receive a waiver of the Commission's Local Radio Ownership Rule following the successful conclusion of the incubation relationship.

Eligibility. The incubator program is available for full-service AM and FM radio stations. A potential incubated entity must meet the following eligibility requirements and must have met these requirements continuously for the preceding three years:

- (1) Numerical Cap. The potential incubated entity has an attributable interest in no more than three full-service AM and FM radio stations and no TV stations (including licensed stations and unbuilt construction permits); and
- (2) Revenue Cap. The potential incubated entity qualifies as a “small business” under the Small Business Administration’s size standard for the radio industry, as set forth in 13 C.F.R. Section 121.201.

The FCC’s attribution standards and policies are set forth in the Notes to 47 C.F.R. Section 73.3555. In addition, the potential incubated entity must submit a written statement certifying that it would not be able to acquire a full-service broadcast station or continue operating its struggling station without the support that the proposed incubation relationship will provide.

Filing Requirements. Before commencing a qualifying incubation relationship, the potential incubated entity and the potential incubating entity must first submit an incubation proposal to the Media Bureau for approval. See *Incubator Order*, 33 FCC Rcd at 7941-44. The incubation proposal must demonstrate that the potential incubated entity and the potential incubating entity are both eligible to participate in the incubator program and that their proposed incubation relationship meets FCC requirements for qualifying incubation relationships. The incubation proposal must include the following documents:

- (1) a written incubation contract demonstrating that the proposed incubation relationship meets FCC requirements for the incubator program (see *Incubator Order*, 33 FCC Rcd at 7942-43);
- (2) a certified statement from the potential incubated entity demonstrating that it has the requisite background and qualifications and that it truly needs the incubator program (see *Incubator Order*, 33 FCC Rcd at 7943-44);
- (3) a certified statement from the potential incubating entity demonstrating that it is committed and has the resources and experience necessary to make the incubation relationship successful (see *Incubator Order*, 33 FCC Rcd at 7943-44). This statement should also specify the size tier of the incubated station’s market under the Local Radio Ownership Rule and the number of independent owners of full-service, commercial and noncommercial radio stations in that market (see *Incubator Order*, 33 FCC Rcd at 7937-38); and
- (4) a request for a temporary waiver of the Local Radio Ownership Rule if the incubation proposal would cause the proposed incubating entity to exceed the local radio ownership limits (see *Incubator Order*, 33 FCC Rcd at 7940).

Additional filing requirements will apply during the term of an incubation relationship. See *Incubator Order*, 33 FCC Rcd at 7944-46. If the proposed facility is the subject of an incubation proposal, the incubation proposal must be submitted by the

proposed permittee as an attachment to item 4.d of Section II of this application. When uploading, the Commission suggests that filers tag the submission for tracking purposes by including “Incubation Proposal” in the description of the attachment.

Approved by OMB control number: 3060-1260. We have estimated that each response to this collection of information will take 4 to 16 hours. Please refer to the notice on the last page of the instructions for additional information required by the Paperwork Reduction Act.

O. Incubator Program – Reward Waiver Requests (AM and FM stations). After successfully completing an approved incubation relationship, the incubating entity will be eligible to apply to receive a waiver of the Commission’s Local Radio Ownership Rule. Generally, the waiver request and licensing application must be filed within three years after the date the incubation relationship ends. However, if the incubation relationship required a temporary waiver of the Local Radio Ownership Rule and the incubating entity seeks to use its reward waiver to acquire the incubated station (or to retain an attributable interest in the station), then the reward waiver request and licensing application must be filed contemporaneously with the final joint certified statement. *See Incubator Order*, 33 FCC Rcd at 7945-46; approved by OMB control number: 3060-1260.

The waiver request must demonstrate that the incubated entity completed a successful incubation relationship, *see Incubator Order*, 33 FCC Rcd at 7940-41, and that the incubating entity seeks to use the waiver in the same market as the incubated station or a comparable market, *see Incubator Order*, 33 FCC Rcd at 7937-39. An applicant seeking a reward waiver must also attach to its request a copy of the Bureau document(s) approving the successful incubation relationship, including any document(s) approving an extension of the original term of the relationship. If the incubation relationship was approved in conjunction with an assignment or transfer of a station, or the grant of a new construction permit, the reward waiver request must also include the file number of the relevant licensing application. When uploading, the Commission suggests that filers tag the submission for tracking purposes by including “Reward Waiver Request” in the description of the attachment.

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