

## **INSTRUCTIONS – FORM 2100, SCHEDULE 301-FM - COMMERCIAL FM STATION CONSTRUCTION PERMIT APPLICATION**

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

### ***GENERAL INSTRUCTIONS***

Form 2100, Schedule 301-FM, is to be used to apply for authority to construct a new commercial FM broadcast station, to make major or minor changes in the existing facilities of such a station, or to apply for a construction permit for a FM broadcast auxiliary station. In the case of new station and major modification proposals, this application is filed by either the successful bidder at a broadcast frequency auction or by an applicant proposing facilities that are not mutually exclusive with any other application filed during the same window and thus not subject to the Commission's comparative bidding procedures. The form consists of the following sections:

- GENERAL INFORMATION
- FEES, WAIVERS, AND EXEMPTIONS
- APPLICANT INFORMATION
- CONTACT REPRESENTATIVES
- PARTIES TO THE APPLICATION / ADD PARTY TO THE APPLICATION\*
- ATTRIBUTABLE INTEREST\*
- ALIEN OWNERSHIP\*
- LEGAL CERTIFICATIONS
- CHANNEL AND FACILITY INFORMATION
- ANTENNA LOCATION DATA
- ANTENNA TECHNICAL DATA
- TECHNICAL CERTIFICATIONS
- CERTIFICATION

The applicant must complete all sections displayed to it. No section may be omitted. The application sections marked with an asterisk (\*) will not be displayed to applicants for modifications to existing facilities or for auxiliary facilities.

This application form makes many references to FCC 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"

FCC Rules may be purchased from the Government Publishing Office. Current prices and purchasing information may be obtained from the GPO Bookstore Website at <https://bookstore.gpo.gov/>. An up-to-date electronic version of Title 47 of the CFR may be accessed at [https://www.ecfr.gov/cgi-bin/text-idx?SID=0970bd71b3f8da40f9fc92f01b613dfd&mc=true&tpl=/ecfrbrowse/Title47/47tab\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?SID=0970bd71b3f8da40f9fc92f01b613dfd&mc=true&tpl=/ecfrbrowse/Title47/47tab_02.tpl).

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

- (1) Applicant's name
- (2) Facility ID Number
- (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)

Applicants should follow the procedures set forth in Parts 0, 1, 73, and 74 of the Commission's Rules.

A copy of the completed application and all related documents shall be made available for inspection by the public in the station's online public inspection file, pursuant to the requirements of 47 CFR § 73.3526(b).

**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 this application. This requirement continues until the FCC action on this application is no longer subject to reconsideration by the Commission or review by any court.

This application requires applicants to certify compliance with many statutory and regulatory requirements. Detailed instructions and worksheets 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.

This application 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 attachment 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.

## GENERAL INFORMATION

**Application Description:** In the space provided, give a brief (255 characters or fewer) description of the 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 your 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

**Fees:** The Commission is statutorily required to collect charges for certain regulatory services to the public. Generally, applicants seeking authority to construct a new broadcast station or modify an outstanding authorization are required to submit a fee with their application. Government entities, however, are exempt from this fee requirement. Exempt entities include possessions, states, cities, counties, towns, villages, municipal organizations, and political organizations or subparts thereof governed by elected or appointed officials exercising sovereign direction over communities or governmental programs. Also exempt are full-service NCE radio and TV broadcast licensees and permittees, **provided** that the proposed facility will be operated noncommercially. See 47 CFR § 1.1116.

When filing a fee-exempt application, an applicant must select “Yes” to the question asking if the applicant is exempt from FCC application fees. If selecting “Yes,” explain in the text box that opens the reason for the fee exemption. Select “Yes” or “No” to the question asking whether the applicant is exempt from payment of FCC annual regulatory fees, as appropriate.

The Application Fee Filing Guide for Media Bureau, obtainable at <https://www.fcc.gov/document/media-bureau-application-fee-filing-guide-1>, contains a list of the required fees and Fee Type Codes needed to complete this application. The Commission's fee collection program utilizes a U.S. Treasury lockbox bank for maximum efficiency of collection and processing.

Payment of any required fee must be made by check, bank draft, money order, credit card, or wire transfer. If payment is made by check, bank draft, money order, or wire transfer, the remittance must be denominated in U.S. dollars, drawn upon a U.S. financial institution, and made payable to the Federal Communications Commission. No postdated, altered, or third-party checks will be accepted. **DO NOT SEND CASH.** Additionally, checks dated six months or older will not be accepted.

**FCC Form 159, dated February 2003, must be submitted with any application subject to a fee received at the Commission. All previous editions of this form are obsolete. Failure to use this version of the form or to submit all requested information may delay the processing of the application.**

For further information regarding the applicability of a fee, the fee code, the amount of the fee, or the payment of the fee, applicants should consult the "Application Fee Filing Guide for Media Bureau," which may be accessed at <https://www.fcc.gov/document/media-bureau-application-fee-filing-guide-1>.

**Waivers:** If any waiver of the Commission’s rules is requested at any part of the application, including a waiver of the Commission’s Local Radio Ownership Rule as a result of an approved incubation relationship, 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., Individual, 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 or 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; if an unincorporated association, the name of an executive officer, his/her office, and the name of the association; and, if an individual applicant, the person's full legal name.

**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 menus.

## **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 name of the Contact Representative. If the Contact Representative is the same as the applicant, you can pre-fill the Contact Name and Contact Information fields with the applicant information previously provided, by clicking the “Pre-fill From Applicant Details” button.

**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 menus.

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.”

## **PARTIES 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 sections require the disclosure of information on the applicant and all parties to the application. 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 licensee sufficient to implicate the Commission's multiple ownership rules. In responding to this item, applicants should review the Commission's multiple ownership attribution policies and standards which are set forth in the Notes to 47 CFR § 73.3555.

Generally, insulated limited partners or members of a limited liability corporation, certain investors, and certain creditors are not considered parties to the application. However, the holder of such an interest may be deemed a party to the application and, if so, must be listed in response to this item. Worksheet # XX will help to determine Investor Insulation and Non-Party Influence over Applicant. Click the "Worksheets" link in the application to access Worksheet # XX. In the event that the worksheet indicates that an individual or entity holds an attributable interest in the applicant, complete the information in this section with regard to such individual(s) or entity(ies).

**Equity/Debt Plus Attribution Standard.** Certain interests held by substantial investors in, or creditors of, the applicant may also be attributable and the investor reportable as a party to the application, if the interest falls within the Commission's equity/debt plus (EDP) attribution standard. Under the EDP standard, the interest held is attributable if, aggregating both equity and debt, it exceeds 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 or cross-ownership rules – AND the interest holder also holds (1) an attributable interest in a media outlet in the same market, or (2) supplies 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 an insulated limited partner in a limited partnership applicant would normally not be considered attributable, but, under the EDP standard, that interest would be attributable if the limited partner's interest exceeded 33 percent of the applicant's total asset value AND the limited partner also held a 5 percent voting interest in a radio or television station licensee in the same market.

The interest holder may, however, exceed the 33 percent threshold without triggering attribution where such investment would enable an eligible entity to acquire a broadcast station provided that: (1) the combined equity and debt of the interest holder in the eligible entity is less than 50 percent, or (2) the total debt of the interest holder in the eligible entity does not exceed 80 percent of the asset value of the station being acquired by the eligible entity and the interest holder does not hold any equity interest, option, or promise to acquire an equity interest in the eligible entity or any related entity. *See Promoting Diversification of Ownership in the Broadcasting Services*, Report and Order and Third Further Notice of Proposed Rule Making, 23 FCC Rcd 5922, 5936, para. 31 (2008); *2014 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Second Report and Order, 31 FCC Rcd 9864, 9976-84, paras. 271-86 (2016) (2014 Quadrennial Review Order).

Additionally, "parties to the application" include the following with respect to each of the listed applicant entities:

**INDIVIDUAL APPLICANT:** The natural person seeking to hold in his or her own right the authorization specified in this application.

**PARTNERSHIP APPLICANT:** Each partner, including all limited partners. However, a limited partner in a limited partnership is not considered a party to the application IF the limited partner is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership and the applicant so certifies in response to the non-attributable interests question. Sufficient insulation of a limited partner for purposes of this certification would be assured if the limited partnership arrangement:

(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 limited partner's interest is attributable under the Commission's EDP attribution standard described above; or 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 COMPANY APPLICANT:** 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. In such a case, the applicant should certify "Yes" in response to the non-attributable interest question.

**CORPORATE APPLICANT:** Each officer, director and owner of stock accounting for 5 percent or more of the issued and outstanding voting stock of the applicant is considered a party to the applicant. 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 exhibit 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 in this context, 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.

**ANY OTHER APPLICANT:** Each executive officer, member of the governing board and owner or holder of 5 percent or more of the votes in the applicant is considered a party to the applicant.

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, you will be displayed the "Add Party to the Application" page. Follow these instructions:

### **ADD PARTY TO THE APPLICATION**

**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.

- ZIP Code
- 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.

**Other Authorizations.** Select “Yes” or “No” to indicate whether the applicant or any party to the application holds an attributable interest in any other broadcast station(s). If selecting “Yes,” submit an attachment identifying such other authorization(s) and station(s) by call sign, community of license, and Facility Identification Number.

**Broadcast 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 CFR § 121.201.

The FCC’s attribution standards and policies are set forth in the Notes to 47 CFR § 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 applicant must respond "Yes" to the Broadcast Incubator Program question, and the incubation proposal must be uploaded by the proposed permittee as an attachment. When uploading the proposal, select "Incubation Proposal" as the Attachment Type.

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.

**Broadcast 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 requesting a reward waiver must respond "Yes" to the Broadcast Incubator Program question, and must also attach 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, select "Fees, Waivers and Exemptions" as the Attachment Type. 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.

**Multiple Ownership.** This item consists of several questions/certifications regarding compliance with the Commission's broadcast ownership rules, including restrictions on investor insulation and participation of non-party investors and creditors.

The applicant must answer "Yes" or "No" as to whether any party to the application holds an attributable Joint Sales Agreement or Time Brokerage Agreement in the same market as the station that is the subject of the application. If

answering “Yes,” a radio applicant must submit an attachment including a copy(ies) of any such agreement(s) for radio stations. See Note 2 to 47 CFR § 73.3555.

The applicant must certify that the proposed facility, if granted, would comply with the Commission’s multiple ownership rules, found in the Notes to 47 CFR § 73.3555. Worksheet # XX is designed to assist applicants in determining compliance with the multiple ownership rules. Click the “Worksheets” link in the application to access Worksheet # XX. For radio applicants, if selecting “Yes” to this question, you must upload an attachment with the required information, demonstrating compliance with section 73.3555 and the Notes. For all applicants, if selecting “No” to this question, you must upload an attachment containing information relevant to an exemption or waiver from section 73.3555 and the Notes.

The applicant must also certify that the proposed facility (a) does not present an issue under the Commission’s policies relating to media interests of immediate family members; (b) complies with the Commission’s policies relating to future ownership interests; and (c) complies with the Commission’s restrictions relating to the insulation and non-insulation of non-party investors and creditors. If responding “No” to this question, submit an explanatory attachment. See Worksheets XX, XXI, and XXII, in connection with these ownership restrictions.

The applicant must also certify whether it is claiming status as an “eligible entity.” The Commission defines an “eligible entity” as any entity that qualifies as a small business under the Small Business Administration’s size standards for its industry grouping, as set forth in 13 CFR § 121.201, and holds (1) 30 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet; or (2) 15 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet, provided that no other person or entity owns or controls more than 25 percent of the outstanding stock or partnership interests; or (3) more than 50 percent of the voting power of the corporation that will own the media outlet if such corporation is a publicly traded company.

In the event the applicant claims status as an eligible entity, the applicant must select "Yes" to this question and submit an explanatory attachment demonstrating proof of status as an eligible entity. The Applicant must retain and provide on request, material documentation, including, for example, annual financial statements or tax returns, etc., used to establish the basis for the applicant's response.

## **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% 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% 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% statutory benchmark. However, if Corporation A held a controlling 60% 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% 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 applicant 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%, 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

**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 either of the Character Issues questions 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. 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.

**Program Service Certification.** Applicants for broadcast construction permits need no longer file a specific program service proposal. Nevertheless, prior to making the Program Service Certification, the applicant should familiarize itself with its obligation to provide programming responsive to the needs and interests of the residents of its community of license. See *Request for Declaratory Ruling Concerning Programming Information in Broadcast Applications for Construction Permits, Transfers and Assignments*, Memorandum Opinion and Order, 3 FCC Rcd 5467 (1988). Responding "No" to this question will open a pop-up box prompting the applicant to provide an explanatory attachment.

**Local Public Notice.** 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 § 73.3573(a)(1) (FM); 47 CFR § 73.3571(a) (AM); 47 CFR § 73.3572(a) (TV)) give local notice in a newspaper of general circulation in the community to which the station is licensed. This publication requirement also applies with respect to major amendments as defined in 47 CFR §§ 73.3573(b) (FM), 73.3571(b) (AM), or 73.3572(b) (TV). This publication requirement also applies with respect to applications for minor modification to existing AM and FM facilities in which the applicant seeks to change the existing facility's community of license. Local notice may also be required to be broadcast over the station, if operating.

Completion of publication may occur within 30 days before or after the tender of the application to the Commission. Compliance or intent to comply with the public notice requirements must be certified by the applicant. The required content of the local notice is described in 47 CFR § 73.3580(f). Proof of publication need not be filed with this application.

**Equal Employment Opportunity.** Applicants seeking authority to construct a new commercial broadcast station are required to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. *See* 47 CFR § 73.2080. Pursuant to these requirements, an applicant who proposes to employ five or more full-time employees in its station employment unit must establish a program designed to assure equal employment opportunity for women and minority groups (that is, Blacks not of Hispanic origin, Asian or Pacific Islanders, American Indians or Alaskan Natives, and Hispanics). An “employment unit” is a station or group of commonly owned stations in the same market that share at least one employee. This program is submitted to the Commission as the Model EEO Program Report on the FCC Schedule 396-A, “Broadcast Equal Employment Opportunity Model Program Report,” which should be filed simultaneously with this application. If an applicant proposes to employ fewer than five full-time employees in its station employment unit, an EEO program does not need to be implemented, and Schedule 396-A need not be filed.

General guidelines for developing an Equal Employment Opportunity program are set forth in the Broadcast Equal Employment Opportunity Model Program Report.

**Auction Authorization.** The Commission's Part 1 auction rules require all winning bidders for construction permits or licenses to include certain attachments with their long-form applications. **If this application is being submitted to obtain a construction permit for which the applicant was a winning bidder in an auction**, then the applicant must, pursuant to 47 CFR § 73.5005(a), include an attachment containing the information required by the following Part 1 auction rules, if applicable.

- (1) Section 1.2107(d) requires the applicant to provide a detailed explanation of the terms, conditions, and parties involved in any bidding consortium, joint venture, partnership, or other agreement or arrangement it had entered into relating to the competitive bidding process. *See* 47 CFR § 1.2107(d).
- (2) Section 1.2110(j) requires applicants claiming designated entity status to describe how they satisfy the requirements for eligibility for such status, and to list and summarize all agreements that affect designated entity status, such as partnership agreements, shareholder agreements, management agreements, and any other agreements, including oral agreements, which establish that the designated entity will have both *de facto* and *de jure* control of the entity. *See* 47 CFR § 1.2110(j).
- (3) Section 1.2112(a) requires that each long-form application fully disclose the real party or parties in interest and disclose specified ownership information, including identifying any party holding a 10 percent or greater interest in the applicant. *See* 47 CFR § 1.2112(a).

**Tribal Priority – Threshold Qualifications.** An applicant applying in a Tribal Threshold Qualifications window for an allotment added to the FM Table of Allotments using the Tribal Priority (Tribal Allotment), who was not the original proponent of the Tribal Allotment at the rulemaking stage, must demonstrate that it would have been qualified in all respects to add the particular Tribal Allotment for which it is applying. *See Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, First Report and Order, 25 FCC Rcd 1583 (2010) (*Rural First R&O*), modified Second Report and Order, 26 FCC Rcd 2556 (2011) (*Rural Second R&O*), modified, Third Report and Order, 26 FCC Rcd 17642 (2011) (*Rural Third R&O*). To qualify for the Tribal Priority, and thus qualify to have added the Tribal Allotment, an applicant (a) must be a Tribe, a consortium of Tribes, or an entity at least 51 percent owned or controlled by a Tribe or Tribes, at least a portion of whose Tribal Lands lie within the principal community contour of the facility proposed in the Tribal Allotment (although the 51 or greater percent Tribal control threshold need not consist of a single Tribe, the qualifying entity must be 51 percent or more owned or controlled by Tribes at least a portion of whose Tribal Lands lie within the proposed station’s principal community contour); (b) (1) at least 50 percent of the area within the proposed station’s principal community contour must cover that Tribe’s Tribal Lands, or (2) the proposed station’s principal community contour must (i) encompass 50 percent or more of that Tribe’s Tribal Lands, (ii) serve at least 2,000

people living on Tribal Lands, (iii) the total population on Tribal Lands residing within the proposed station's service contour must constitute at least 50 percent of the total covered population (and, in the case of either (b)(1) or (b)(2), the proposed station's principal community contour must not cover more than 50 percent of the Tribal Lands of a Tribe that is not a party to the application); (c) the proposed community of license must be located on Tribal Lands; and (d) the proposed station must constitute first or second aural (reception) service, or first local Tribal-owned commercial transmission service at the proposed community of license. For purposes of this item, the definition of "Tribal Lands" is the same as that set forth at footnote 15 of the *Rural First R&O*, and as further set forth at paragraphs 8-10 and 59 of the *Rural Second R&O*. An applicant responding "Yes" to this question must submit an attachment setting forth its qualifications for a Tribal Priority for the requested allotment.

**Petition for Rulemaking / Counterproposal to Add New FM Channel to FM Table of Allotments:** If the applicant is filing this application concurrently with a petition for rulemaking or counterproposal in a rulemaking proceeding in which it proposes to add a new FM channel allotment to the FM Table of Allotments (47 CFR § 73.202), it must click "Yes" to certify that, if the FM channel allotment proposed herein is allotted, it will apply to participate in the auction of the channel allotment requested and specified in this application.

## CHANNEL AND FACILITY INFORMATION

**Proposed Community of License:** Facility ID Number. If this is an application for a new FM station, LMS will assign a Facility ID Number to the proposed facility. If this is an amendment to a pending application or an application to modify existing facilities, either enter the correct Facility ID Number or verify that the pre-filled Facility ID Number is correct. Radio Facility ID Numbers can be obtained at the FCC's Licensing and Management System (LMS) Search Page at <https://enterpriseefiling.fcc.gov/dataentry/public/tv/publicFacilitySearch.html> or by calling (202) 418-2700. Further, the Facility ID Number is included on all Radio authorizations.

State / City. Select the State from the pull-down menu. Enter the city or community name in the box provided. If the State and City are pre-filled, verify that they are correct.

Channel. The proposed channel must be between 200 and 300. If pre-filled, verify that it is correct. The frequency will be that corresponding to the proposed channel, and will be automatically filled in by LMS. See 47 CFR § 73.201.

Facility Type: "Commercial" will be pre-filled. Applications for noncommercial educational stations are not filed on Schedule 301.

Station Class. The applicant must select the class of station proposed or verify that the pre-filled station class is correct. Station class will be determined by one or more of the following: the channel allotment (47 CFR § 73.202); the Zone in which the proposed station is to be located (47 CFR § 73.205); and/or the ERP and antenna height above average terrain (HAAT) (see 47 CFR §§ 73.210 – 73.211).

## 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 text box that opens. 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." Answering "Yes" and then clicking the "Lookup ASR Number" link will open a new window with the Wireless Telecommunications Bureau's ASR Registration Search page, which will enable you to locate the ASR number for the station tower.

**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 / Above Average Terrain / Above Mean Sea Level: All heights must be in meters. These three items request the height of both the center of horizontal and vertical radiation of the antenna above ground level, above average terrain, and above mean sea level. Calculation of height above average terrain is defined in 47 CFR § 73.310.

**Antenna Data:** Height of Radiation Center Above Ground Level / Above Average Terrain / Above Mean Sea Level: All heights must be in meters, rounded to the nearest whole number. These three items request the height of both the center of horizontal and vertical radiation of the antenna above ground level, above average terrain, and above mean sea level. Calculation of height above average terrain is defined in 47 CFR § 73.310. Height of Radiation Center Above Mean Sea Level will be automatically calculated by adding the entered Ground Elevation (AMSL) to the entered Height of Radiation Center Above Ground Level.

**Effective Radiated Power.** The effective radiated power must be entered in kilowatts, and rounded pursuant to 47 CFR § 73.212.

## **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 § 73.316. Applicants proposing a directional antenna must complete the table that opens in this item. Relative field values (0.001-1.000) must be entered 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.

**Broadcast Facility:** The applicant must certify that the proposed facility complies with the Commission's engineering standards and assignment requirements for FM stations. See 47 CFR §§ 73.203, 73.207, 73.213, 73.315, 73.509, 73.515, and 73.525. If responding "Yes," an explanatory attachment is required to demonstrate compliance with these rules (for example, contour maps demonstrating principal community coverage or interference areas). If responding "No," the attachment must explain noncompliance with any of these rule sections.

**Contour Protection:** If the applicant is proposing a spacing less than that specified in section 73.207 but wishes to be processed under the contour protection standards of section 73.215, the applicant should (1) select the "Yes" button under "Contour Protection," (2) list in an attachment all stations for which it proposes to employ contour protection, and (3) supply an attachment demonstrating that the proposal complies with section 73.215.

**Community of License Change – Section 307(b):** Section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. § 307(b)) provides that the Commission shall, in considering modifications of licenses, “make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.” If this application is being submitted to change an existing FM facility’s community of license, then the applicant must include an attachment containing information demonstrating that the proposed change of community of license will result in a preferential arrangement of allotments or assignments under section 307(b), compared to the existing allotment or assignment. The attachment may include any and all information the applicant deems relevant to the Commission’s consideration, but should include at a minimum the following:

- (1) If new technical facilities are proposed, the area and population within the proposed 70 dbμ and 60 dbμ contours of the station.
- (2) The number of stations licensed to the proposed new community of license.
- (3) The number of stations providing protected service to the proposed community of license.
- (4) The population (according to the latest Census data) of the proposed community of license.
- (5) Where relevant to establish the precondition of a licensable community, a description of the civic, cultural, religious, social and commercial attributes of the proposed community of license.
- (6) In the case of an FM station proposal for first local transmission service under Priority (3), where relevant to demonstrate that the proposed facility at the new community of license “could not be modified” to cover 50 percent or more of an Urbanized Area, a certification: (a) that there could be no rule-compliant minor modification on the proposed channel to provide a principal community signal over 50 percent or more of an Urbanized Area, in addition to covering the proposed community of license; and (b) that there are no existing towers in the area to which, at the time of filing, the applicant’s antenna could be relocated pursuant to a minor modification application to serve 50 percent or more of an Urbanized Area. In making these certifications, the applicant must consider all existing registered towers in the Commission’s Antenna Structure Registration database, in addition to any unregistered towers currently used by licensed radio stations, and must consider widely-used techniques, such as directional antennas and contour protection, when certifying that its proposal could not be modified to provide a principal community signal over the community of license and 50 percent or more of an Urbanized Area.
- (7) Where (a) the community of license of the proposed facility is located in an Urbanized Area, or (b) the proposed facility places, or could be modified to place (using the criteria listed in (6) above) a principal community signal over 50 percent or more of an Urbanized Area, and to the extent the applicant wishes to rebut the Urbanized Area service presumption, a showing (a) that the proposed community is truly independent of the urbanized area, (b) of the community’s specific need for an outlet for local expression separate from the Urbanized Area and (c) the ability of the proposed station to provide that outlet. *See Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, Second Report and Order, 26 FCC Rcd 2556, 2572-74, 2577, paras. 30, 38 (2011) (*Rural Second R&O*).
- (8) In the case of an FM station proposal under Priority (4), a description of all populations gaining or losing third, fourth, or fifth reception service, and the percentage of the population in the station’s current protected contour that will lose third, fourth, or fifth reception service.
- (9) In the case of an FM station proposal under Priority (4), the sizes of the populations gaining and losing service under the proposal, a detailed summary of the numbers of services those populations will receive if the application is granted, and an explanation as to how the proposal advances the revised section 307(b) priorities in the *Rural Second R&O*. For example, an applicant might detail that 50,000 people would receive 20 or more services, 10,000 would receive between 15 and 20 services, 7,000 would receive

between 10 and 15 services, etc., under the proposed new service. The showing should state what service the modified facility would represent to the majority of the population gaining new service, e.g., the 16<sup>th</sup> service to 58 percent of the population, and the corresponding service that the majority of the population losing service would lose, e.g., 60 percent of the current coverage population would lose the ninth reception service. New service or service losses to underserved listeners should be detailed. The applicant must also provide a rationale to explain how the service changes described represent a preferential arrangement of allotments or assignments.

(10) Any other information deemed relevant.

*See, e.g., Revision of FM Assignment Policies and Procedures, Second Report and Order, 90 F.C.C.2d 88 (1982).*

## **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 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, 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**

We have estimated that each response to this collection of information will take from 3 to 6.25 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 form 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 Email them to [pra@fcc.gov](mailto:pra@fcc.gov) or send them to the Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-0027), 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 3060-0027.

**THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.**