

**FCC FACT SHEET\***

**FCC Seeks Comment on Proposed Application Limit for New Noncommercial Educational Reserved Band FM Translator Station Applications in Upcoming 2026 Filing Window**  
Public Notice – MB Docket No. 26-20

**Background:** The Commission has employed application caps or eligibility restrictions in prior reserved band full service NCE FM windows and non-reserved band FM translator windows to promote efficiency, curb speculative applications, and expedite the processing of applications and expansion of new service while preserving spectrum and future licensing opportunities. For example, in both 2007 and 2021, before the NCE FM station filing windows opened, the Commission sought comment on an application cap and subsequently established a limit of ten NCE FM new station applications filed by an applicant during each filing window. The 10-application limit proved to be an effective procedural safeguard and helped restrict the number of MX applications, prevented mass filings, and allowed the Commission to efficiently process and grant thousands of new NCE FM applications. The Commission has also imposed eligibility restrictions and limits in prior FM translator filing windows to be consistent with the mandates of Section 5 of the Local Community Radio Act of 2010 (LCRA), which require the Commission to ensure that licensing opportunities are available for all secondary services.

**What the Public Notice Proposes to Do:**

- Announce that the Commission is directing the Media Bureau to open the first-ever filing window for applications for new NCE reserved band FM translator station construction permits.
- Limit the window to only applications for new NCE reserved band (Channels 201-220) FM translator station construction permits.
- To promote efficiency, curb speculative applications, and preserve spectrum for future secondary services, establish that in the upcoming NCE reserved band FM translator filing window (1) each applicant must be the licensee or permittee of an existing NCE FM or noncommercial AM radio broadcast station or LPFM station (primary station) that the proposed FM translator station will rebroadcast, (2) each applicant entity may file no more than a total of ten applications nationally, except that Tribal LPFM applicants are limited to four applications and all other LPFM applicants to two applications nationally, and (3) a party to an application may hold attributable interests in no more than the maximum applications permitted under the rule.
- Direct that if it is determined that any applicant entity files more than the maximum applications permitted under the proposed new rule, the Bureau will retain the applications that were filed first – based on application receipt data – and dismiss all other applications that exceed the limit.
- Seek comment on whether the proposed application caps and primary station eligibility restriction are appropriate limits to enable the efficient processing of applications and initiation of new NCE reserved band FM translator service, whether different eligibility restrictions or application caps would be more appropriate, or whether the Commission should establish no limit or restrictions at all.

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\* This document is being released as part of a "permit-but-disclose" proceeding. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in MB Docket No. 26-20, which may be accessed via the Electronic Comment Filing System (<https://www.fcc.gov/ecfs/>). Before filing, participants should familiarize themselves with the Commission's *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission's meeting. See 47 CFR § 1.1200 *et seq.*



# PUBLIC NOTICE

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## **FCC SEEKS COMMENT ON PROPOSED APPLICATION LIMIT FOR NEW NONCOMMERCIAL EDUCATIONAL RESERVED BAND FM TRANSLATOR STATION APPLICATIONS IN UPCOMING 2026 FILING WINDOW\***

**MB Docket No. 26-20**

**Comment Date: (15 days after date of publication in the Federal Register)**

**Reply Comment Date: (25 days after date of publication in the Federal Register)**

### **I. INTRODUCTION.**

1. By this Public Notice, we announce that we are directing the Media Bureau (Bureau) to open the first-ever filing window for applications for new noncommercial educational (NCE) reserved band FM translator station construction permits.<sup>1</sup> The Bureau will issue a subsequent Public Notice to announce the specific dates of the 2026 window.<sup>2</sup> By this Public Notice, we also seek comment on establishing eligibility restrictions and a limit on the number of applications that each applicant may file in the upcoming window.

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\* This document has been circulated for tentative consideration by the Commission at its February 18, 2026 open meeting. The issues referenced in this document and the Commission's ultimate resolutions of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. However, the Chairman has determined that, in the interest of promoting the public's ability to understand the nature and scope of issues under consideration, the public interest would be served by making this document publicly available. The Commission's ex parte rules apply and presentations are subject to "permit-but-disclose" ex parte rules. See, e.g., 47 CFR §§ 1.1206, 1.1200(a). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission's meeting. See 47 CFR §§ 1.1200(a), 1.1203.

<sup>1</sup> Channels 201-220 are reserved for noncommercial educational FM broadcasting. *See* 47 CFR § 73.501; *see also* 47 CFR § 74.1201(c) (defining a "noncommercial FM translator" as an FM broadcast translator station which rebroadcasts the signals of a noncommercial FM or AM radio broadcast station). Only applications for new NCE reserved band FM translator stations may be filed in the upcoming filing window. The Bureau will not accept applications proposing major modifications to existing NCE reserved band FM translator stations. An applicant seeking a major modification to an existing NCE reserved band FM translator station authorization may apply for a new station and, subsequent to commencement of operations with its newly authorized facilities, surrender its old station license.

<sup>2</sup> The Bureau will also provide detailed information about filing procedures and requirements by a separate public notice during the next several months. *See also* 47 CFR § 74.1233(b)(3) (providing that "[a]pplications for reserved band FM translator stations will be processed using filing window procedures").

## II. BACKGROUND.

2. The Commission has employed application caps or eligibility restrictions in prior reserved band full service NCE FM windows and non-reserved band FM translator windows to promote efficiency, curb speculative applications, and expedite the processing of applications and expansion of new service while preserving spectrum and future licensing opportunities.<sup>3</sup> Specifically, in the NCE context, the Commission has established by public notice a limit on the number of NCE applications filed by an applicant in a filing window.<sup>4</sup> In both 2007 and 2021, before the full service NCE FM station filing windows opened, the Commission sought comment on an application cap and subsequently established a limit of ten NCE FM new station applications filed by an applicant during each filing window.<sup>5</sup> In each window, this application limit helped restrict the number of mutually exclusive applications (including “daisy chains” of mutually exclusive applications),<sup>6</sup> and thereby minimized the delay caused by processing complicated application chains.<sup>7</sup> The ten application cap allowed the Commission to expeditiously process and grant thousands of applications to a wide range of local and diverse applicants,<sup>8</sup> therefore promoting the rapid expansion of new NCE FM service throughout the country.<sup>9</sup>

3. The Commission has also imposed eligibility restrictions and limits in prior FM translator filing windows<sup>10</sup> to be consistent with the mandates of Section 5 of the Local Community Radio Act of

<sup>3</sup> See, e.g., *FCC Adopts 10-Application Limit for NCE FM New Stations in Upcoming 2021 Filing Window*, Public Notice, 36 FCC Rcd 7754 (2021) (2021 10-Application Limit Public Notice); *Filing Instructions for Cross-Service FM Translator Auction Filing Window for AM Broadcasters*, Public Notice, 32 FCC Rcd 4663 (2017); *Media Bureau Announces January 10 - January 25, 2013 Filing Window for Auction 83 FM Translator Application Selections and Cap Showings*, Public Notice, 27 FCC Rcd 15961 (2012).

<sup>4</sup> See *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, Report and Order, 15 FCC Rcd 7386, 7422, para. 86 (2000) (NCE R&O), *aff'd and clarified*, Memorandum Opinion and Order, 16 FCC Rcd 5074, 5105, para. 92 (2001) (explaining that the Commission “reserve[s] the right to establish [an application] limit in the future by public notice, if the number of applications filed exceeds our expectations.”), *vacated in part on other grounds sub. nom National Public Radio, Inc. v. FCC*, 254 F.3d 226 (D.C. Cir. 2001).

<sup>5</sup> See *FCC Seeks Comment on Proposed Application Limit for NCE FM New Station Applications in Upcoming 2021 Filing Window*. Public Notice, 35 FCC Rcd 12090 (2020); *2021 10-Application Limit Public Notice*, 36 FCC Rcd at 7754; *FCC Seeks Comment on Proposed Application Limit for NCE FM New Station Applications in October 12-October 19, 2007, Window*, Public Notice, 22 FCC Rcd 15910 (2007); *FCC Adopts Limit for NCE FM New Station Applications in October 12-October 19, 2007 Window*, Public Notice, 22 FCC Rcd 18699 (2007).

<sup>6</sup> Conflicting NCE applications, which cannot all be granted consistent with the Commission's technical rules, are considered mutually exclusive. A mutually exclusive (MX) group consists of all applications which are MX to at least one other application in the group. A “daisy chain” occurs when two or more proposals contain service areas that do not directly overlap but are linked together into a chain by the overlapping proposals of others.

<sup>7</sup> *2021 10-Application Limit Public Notice*, 36 FCC Rcd at 7741, para. 2.

<sup>8</sup> The Bureau received over 3,600 applications during the October 2007 window, almost half of which were mutually exclusive with at least one other application. Similarly, the Bureau received 1,282 applications during the November 2021 window, 883 of which were mutually exclusive.

<sup>9</sup> See, e.g., *2021 10-Application Limit Public Notice*, 36 FCC Rcd at 7741, para. 2; *Comparative Consideration of 34 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations*, Memorandum Opinion and Order, 38 FCC Rcd 789 (2023) (comparing over 100 MX NCE FM applications from the 2021 NCE FM filing window and tentatively selecting over 30 NCE FM applications to grant); *Comparative Consideration of 52 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations Filed in the October 2007 Filing Window*, Memorandum Opinion and Order, 25 FCC Rcd 8793 (2010) (comparing over 300 MX NCE FM applications from the 2007 NCE FM filing window and tentatively selecting over 50 NCE FM applications to grant).

<sup>10</sup> Because the LPFM service rules already include strict ownership and cross-ownership restrictions, eligibility criteria, and tight controls in place to prevent the trafficking of construction permits, we have not adopted additional (continued....)

2010 (LCRA), which require the Commission to ensure that licensing opportunities are available for all secondary services and that translator licensing procedures do not foreclose or unduly limit future LPFM licensing.<sup>11</sup> For example, in both Auction 99 and Auction 100, the only new FM translator windows since passage of the LCRA, which opened pursuant to the *AM Revitalization* proceeding,<sup>12</sup> the Commission limited the scope of the window and designed strict eligibility requirements to ensure continuing licensing opportunities for all secondary services.<sup>13</sup> The Commission concluded that “a narrowly tailored filing window for such FM translators . . . could yield significant public interest benefits with little to or no detriment either to the FM translator service or to licensing opportunities for LPFM stations, especially since the filing window proposed will follow the 2013 LPFM filing window.”<sup>14</sup> Similarly, to comport with the LCRA, the Commission implemented remedial processing procedures and restrictions for the then-remaining 2003 Auction 83 FM translator applications.<sup>15</sup> The restrictions and

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application limits or eligibility restrictions in prior LPFM filing windows. *See, e.g.*, 47 CFR § 73.855 (providing that, with the exception of tribal applicants and public safety applicants, “[n]o 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.”). In contrast, with the exception of limits for LPFM station licensees and permittees, there are no restrictions on the number of FM translator stations a single entity may own. *Compare* 47 CFR § 74.1232(b) *with* 47 CFR § 73.860(b).

<sup>11</sup> *See* Pub. L. No. 111-371, 124 Stat. 4072 (2011). Section 5 of the LCRA requires that when licensing new FM translators, boosters, or LPFM stations, the Commission must ensure: (1) that licenses are available to FM translator stations, LPFM stations, and FM booster stations; (2) that licensing decisions are made based on the needs of the local community; and (3) that FM translator stations, LPFM stations, and FM booster stations remain equal in status and secondary to existing and modified full-service FM stations. *See also Creation of Low Power Radio Service, Fourth Report and Order and Third Order on Reconsideration*, 27 FCC Rcd 3364, 3373, para. 19 (2012) (*LPFM Fourth Report and Order*) (adopting “tentative conclusion that our primary focus under Section 5 must be to ensure that translator licensing procedures do not foreclose or unduly limit future LPFM licensing, because the more flexible translator licensing standards will make it much easier to license new translator stations in spectrum-limited markets than new LPFM stations.”).

<sup>12</sup> *See FCC Announces Opening of First Auction Filing Window for AM Broadcasters Seeking New FM Translators, Public Notice*, 32 FCC Rcd 5159 (2017); *Filing Instructions for Cross-Service FM Translator Auction Filing Window for AM Broadcasters To Be Open July 26-August 2, 2017*, Public Notice, 32 FCC Rcd 4663 (MB/WTB 2017) (*Auction 99*); *Filing Instructions for Second Cross-Service FM Translator Filing Window for AM Broadcasters*, Public Notice, 32 FCC Rcd 10173 (MB/WTB 2017) (*Auction 100*); *see also Revitalization of the AM Radio Service, First Report and Order, Further Notice of Proposed Rule Making*, 30 FCC Rcd 12145, 12152-54, paras. 15-17 (2015) (*AMR First Report and Order*) (announcing two 2016 cross-service FM translator modification filing windows, to be followed by two 2017 auction filing windows for new cross-service FM translators, available to AM licensees and permittees that did not participate in the 2016 modification windows).

<sup>13</sup> Auction 99 and Auction 100 included the following restrictions: (1) an applicant could only designate a non-reserved band FM channel (Channels 221 - 300, 92.1 – 107.9 MHz) for its proposed cross-service FM translator, (2) only AM station licensees or permittees could apply for a new fill-in cross-service FM translator station, (3) a cap of one translator per AM station, with each such translator permanently linked to the AM primary station that it rebroadcasts, and (4) the proposed translator could not be assigned or transferred except in conjunction with the AM primary station that licensed it. *See Auction 99*, 32 FCC Rcd at 4665, paras. 5-6; *Auction 100*, 32 FCC Rcd at 10175-76, paras. 5-7.

<sup>14</sup> *Revitalization of the AM Radio Service, Notice of Proposed Rule Making*, 28 FCC Rcd 15221, 15229, para. 18 (2013). Similarly, the 2026 NCE reserved band FM translator filing window follows the 2023 LPFM filing window, which afforded LPFM applicants prior access to available spectrum. *See, e.g.*, *Media Bureau Announces Filing Procedures and Requirements for November 1 – November 8, 2023, Low Power FM Filing Window*, Public Notice, 38 FCC Rcd 6660 (MB 2023).

<sup>15</sup> Congress enacted the LCRA in 2011, eight years after the Auction 83 window opened. *See FM Translator Auction Filing Window, Public Notice*, 18 FCC Rcd 1565 (2003). Based on the high volume of translator applications filed in the Auction 83 window, and in order to preserve spectrum for future LPFM station licensing, the Commission adopted remedial processing measures, including limiting the number of filed applications that (continued....)

procedures adopted for these prior FM translator filing windows were designed to strike a balance between the stated goals of the specific proceeding<sup>16</sup> and the overall goal of preserving spectrum for secondary services.<sup>17</sup>

### III. DISCUSSION

4. Given the success of both the October 2007 and November 2021 NCE FM filing windows, as well as the Auction 99 and Auction 100 cross-service FM translator windows, we tentatively conclude that we should establish eligibility restrictions and an application limit in the upcoming NCE reserved band FM translator filing window.<sup>18</sup> We believe eligibility restrictions and an application cap would deter speculative filings, permit the expeditious processing of the applications filed in the window, and provide interested applicants with a meaningful opportunity to file for and obtain new NCE reserved band FM translator station licenses while still preserving spectrum for future secondary services, consistent with the LCRA. In contrast, we tentatively conclude that the failure to establish eligibility restrictions and a limit on the number of new NCE reserved band FM translator applications that an applicant may file in the window could lead to a large number of speculative filings, create the potential for extraordinary procedural delays, and unduly deplete spectrum for future secondary services.<sup>19</sup>

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applicants could continue to prosecute and requiring applicant-filed preclusion studies to demonstrate market-by-market availability of LPFM channels. *See generally LPFM Fourth Report and Order*, 27 FCC Rcd at 3382-88, paras. 38-49; *Creation of a Low Power Radio Service*, Fifth Order on Reconsideration and Sixth Report and Order, 27 FCC Rcd 15402, 15404-07, paras. 4-13 (2012).

<sup>16</sup> For example, in Auction 99 and Auction 100, the principal interest was to enable AM stations to expand and improve the service they provide to their communities. *See AMR First Report and Order*, *supra* note 12.

<sup>17</sup> *See, e.g., Capstar TX, LLC*, Memorandum Opinion and Order, 37 FCC Rcd 11073, 11076, para. 8 (2022).

<sup>18</sup> We note that in the 2010 NCE FM filing window, the Commission did not impose application caps. *See Media Bureau Announces Filing Window for Vacant FM Allotments Reserved for Noncommercial Educational Use*, Public Notice, 24 FCC Rcd 12621, 12625 (MB 2009). Unlike the 2007 and 2021 NCE FM windows, and the upcoming 2026 window, the 2010 NCE FM window was for a limited number of vacant allotments on the non-reserved band (channels 221-300) that had been reserved for NCE FM use, and applications were subject to additional pre-application criteria, which curbed the number of applications filed and further made an application cap unnecessary. *See, e.g. Comparative Consideration of 37 Groups of Mutually Exclusive Applications*, Memorandum Opinion and Order, 26 FCC Rcd 7008, 2009, para. 3 (2011) (explaining that a reserved allotment applicant must demonstrate that it is technically precluded from using a reserved band channel, and that it would provide first and/or second NCE radio service to at least ten percent of the population within the 60 dBu contour of its proposed station, and that such population is at least 2,000 people). In the 2010 window, the Commission received approximately 300 applications, significantly less than the 3,600 plus applications received in the 2007 NCE FM window, and the 1,200 plus applications filed in the 2021 NCE FM window. Similarly, Auction 99 and Auction 100 (the 2017 and 2018 cross-service FM translator filing windows) had restrictive eligibility requirements and were very limited in scope, curbing application filings. *See Auction 99 and Auction 100*, *supra* note 12. In the 2017 and 2018 FM translator filing windows combined, the Commission received approximately 1,900 applications. We expect the upcoming 2026 NCE reserved band FM translator window to be substantially similar in volume to the 2007 and 2021 NCE FM filing windows, which necessitated application caps.

<sup>19</sup> In 2003, the Commission received more than 13,000 applications in Auction 83, the filing window for FM translator stations in the non-reserved band, an “extraordinary volume” considering that there were approximately 3,800 FM translator and booster stations licensed at the time. *Creation of a Low Power Radio Service*, Second Order on Reconsideration and Further Notice of Proposed Rulemaking, 20 FCC Rcd 6763, 6777, para. 31 (2005). Many of those applications were filed by “a relatively small number of non-local filers without any apparent connection to the communities specified in the application.” *Id.* Over four years after the window closed, approximately 7,000 applications still remained pending. *See Creation of a Low Power FM Radio Service*, Third Report and Order and Second Further Notice of Proposed Rulemaking, 22 FCC Rcd 21912, 21933, para. 52 (2007) (*LPFM Third Report and Order*). As noted previously, in accordance with the dictates of Section 5 of the LCRA, the Commission subsequently adopted remedial processing measures to preserve spectrum for future LPFM station licensing. *See supra* note 15.

5. Further, in the NCE context, the Commission has stated that application limits should be considered “[i]f the number of mutually exclusive applications received under the new [point] system exceeds our expectations.”<sup>20</sup> Consistent with the Commission’s predictions in connection with establishing an application cap before opening the October 2007 and November 2021 NCE FM windows, we expect there will be a large volume of NCE reserved band FM translator applications filed in the forthcoming window that will require establishing an application cap before the window opens. There are several factors that could contribute to a large volume of NCE reserved band FM translator applications in the forthcoming window: (a) there is no application filing fee; (b) there are generally no ownership limits in the reserved band; (c) there has never been a filing window for new NCE reserved band FM translator applications; (d) low power FM station licensees are now permitted to own up to two FM translator stations,<sup>21</sup> and this window marks the first opportunity for such applicants to file for new FM translator station licenses; and (e) the Commission simplified and clarified its rules and procedures for filing applications for new NCE applications and considering competing applications.<sup>22</sup> Accordingly, we tentatively conclude that establishing an application limit before the window opens will provide certainty to potential applicants and allow for expeditious processing of applications. We seek comment on this approach.

6. Accordingly, consistent with our mandate under section 5 of the LCRA and to promote efficiency in this window, we tentatively conclude that a general ten-application cap is a reasonable limit. The Commission has successfully used an identical ten-application cap in previous full service NCE windows to ensure our licensing procedures do not foreclose or unduly limit future licensing and to prevent mass filings by speculators, while still allowing legitimate applicants a meaningful opportunity to obtain new station licenses. We believe that a ten-application limit will permit the efficient and expeditious processing of window-filed applications while at the same time supporting the goals of localism and diversity reflected in the NCE point system<sup>23</sup> and our mandate under Section 5 of the LCRA. As noted above, in previous windows where we have not imposed an application cap, we have experienced extensive delays due to speculative applications.<sup>24</sup> We believe the action we propose herein will avoid those problems in this window.<sup>25</sup> Moreover, in order to further constrain speculative applications and to ensure this window provides additional flexibility to existing broadcasters, we tentatively conclude that imposing a requirement that each applicant be the licensee or permittee of an existing NCE FM<sup>26</sup> or noncommercial AM radio broadcast station or LPFM station (primary station), which the proposed FM translator will rebroadcast, will further these goals. Finally, in accordance with

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<sup>20</sup> *NCE R&O*, 15 FCC Rcd at 7422, para. 86.

<sup>21</sup> See 47 CFR § 73.860(b).

<sup>22</sup> See *Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations*, Report and Order, 34 FCC Rcd 12519 (2019) (adopted changes designed to reduce confusion among future applicants, expedite the initiation of new service to the public, and eliminate unnecessary applicant burdens), *aff’d* Order on Reconsideration, 35 FCC Rcd 10180 (2020). On channels reserved for noncommercial use, the Commission will grant the application of a translator providing fill-in service over one that extends the area of the primary station. See 47 CFR § 74.1233(e)(1). In the event of conflicting mutually exclusive applications of the same type (fill-in or non-fill-in), the Commission applies the NCE point system to select one application for grant. See *id.* §§ 74.1233(b)(4), 74.1233(e)(3).

<sup>23</sup> See 47 CFR § 73.7000 *et seq.*

<sup>24</sup> See *supra* note 19.

<sup>25</sup> We anticipate the ten-application cap will help restrain applications to a reasonable level similar to our 2021 NCE window where we received slightly more than 1,000 applications leading to efficient processing and timely authorization of new construction permits.

<sup>26</sup> The primary NCE FM station can be licensed in the reserved or non-reserved band.

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the section 73.860 LPFM cross-ownership restrictions,<sup>27</sup> we tentatively propose to separately impose a four-application cap for Tribal LPFM applicants<sup>28</sup> and a two-application cap for all other LPFM applicants.<sup>29</sup> As such, we propose the following eligibility restriction and application limits:

In the 2026 new NCE reserved band FM translator station construction permit filing window: (1) each applicant must be the licensee or permittee of an existing NCE FM or noncommercial AM radio broadcast station or LPFM station (primary station) that the proposed FM translator station will rebroadcast; (2) each applicant entity may file no more than a total of ten applications nationally, except that (i) each Tribal LPFM applicant entity that is subject to § 73.860(c) may file no more than a total of four applications nationally, and (ii) each other LPFM applicant entity that is subject to § 73.860(b) may file no more than a total of two applications nationally;<sup>30</sup> and (3) a party to an application may hold attributable interests, as defined in § 73.7000, in no more than the maximum applications permitted under this rule. If it is determined that any applicant entity filed more than the maximum applications permitted under this rule, or any party to an application has an attributable interest in more than the maximum permitted, the Media Bureau will retain the applications that were filed first—based on application receipt data—and dismiss all other applications that exceed the limit.<sup>31</sup>

7. We seek comment on this proposed eligibility restriction and application cap. We specifically seek comment on whether the proposed general ten application cap and primary station eligibility restriction are appropriate limits to enable the efficient processing of applications and initiation of new NCE reserved band FM translator service, while still preserving secondary service spectrum, whether different eligibility restrictions or application caps would be more appropriate, or whether we should establish no limit or restrictions at all. In particular, we note that our goal is to give interested parties the opportunity to apply for NCE reserved band FM translator outlets, subject to the apparent need for eligibility restrictions and an application cap for the reasons described above.

#### IV. PROCEDURAL MATTERS

8. *Legal Authority.* This public notice is issued pursuant to the authority set forth in 47 U.S.C. §§ 151, 152(a), 154(i) and (j), 301, 303(g) and (r), 308(b), and 309(j).<sup>32</sup>

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<sup>27</sup> See 47 CFR § 73.860.

<sup>28</sup> See *id.* § 73.860(c) (“A party that is a Tribal Applicant, as defined in § 73.853(c), may hold attributable interests in no more than … four FM translator stations.”).

<sup>29</sup> See *id.* § 73.860(b) (“A party that is not a Tribal Applicant, as defined in § 73.853(c), may hold attributable interests in … no more than two FM translator stations…”).

<sup>30</sup> Tribal LPFM licensees and permittees may hold attributable interests in no more than four FM translator stations; all other LPFM licensees and permittees may hold attributable interests in no more than two FM translator stations. See 47 CFR § 73.860(b), (c). We will dismiss any additional applications if/when the FM translator ownership limit is reached. Specifically, with the exception of a situation where a window-filed application requests grant of an application contingent on the surrender or cancellation of an existing FM translator station permit or license currently held by the LPFM applicant, we will neither grant any applications nor issue any FM translator authorizations which result in the LPFM licensee or permittee holding more than the maximum FM translator authorizations permitted under section 73.860 of our Rules. Rather, any such application, whose grant would cause the LPFM licensee or permittee to exceed the section 73.860 ownership limit, will be automatically dismissed.

<sup>31</sup> We note that there are currently four previously-filed, pending applications for new NCE reserved band FM translator stations. See BNPFT-20000327AAH, 20000327AAI, and 20000327AAJ (all filed by Smile FM), and BNPFT-20000418AAH (filed by Four Rivers Community Broadcasting Corporation). These applications will be considered and counted toward these applicant’s application limit in the 2026 new NCE reserved band FM translator filing window.

<sup>32</sup> Pursuant to Executive Order 14215, 90 Fed. Reg. 10447 (Feb. 20, 2025), this regulatory action has been determined to be not significant under Executive Order 12866, 58 Fed. Reg. 68708 (Dec. 28, 1993).

9. *Filing Requirements—Comments and Replies.* Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
  - Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. **All filings must be addressed to the Secretary, Federal Communications Commission.**
  - Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
  - Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

10. *Ex Parte Restrictions.* The proceeding this Public Notice initiates shall be treated as a “permit but disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>33</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b), 47 CFR § 1.1206(b). Written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

11. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),<sup>34</sup> requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings,

<sup>33</sup> See generally 47 CFR §§ 1.1200-1.1216.

<sup>34</sup> See 5 U.S.C. §§ 601 *et seq.*, as amended by the Small Business Regulatory Enforcement and Fairness Act (SBREFA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

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unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”<sup>35</sup> Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the potential rule and policy changes contained in this Public Notice. The IRFA is set forth in Appendix B. The Commission invites the general public, in particular small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the Public Notice indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

12. The Commission’s Office of the Secretary, **SHALL SEND** a copy of this *Public Notice*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy.

13. *Paperwork Reduction Act.* This document contains proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA).<sup>36</sup> The Commission has OMB approval to collect these applications under OMB Control Number 3060-0405.

14. *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 1-888-835-5322 (tty).

15. For further information, contact James Bradshaw, [James.Bradshaw@fcc.gov](mailto:James.Bradshaw@fcc.gov); Lisa Scanlan, [Lisa.Scanlan@fcc.gov](mailto:Lisa.Scanlan@fcc.gov), or Amy Van de Kerckhove, [Amy.Vandekerckhove@fcc.gov](mailto:Amy.Vandekerckhove@fcc.gov), of the Media Bureau, Audio Division, (202) 418-2700.

Action by the Commission, MONTH \_\_, 2026.

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<sup>35</sup> *Id.* § 605(b).

<sup>36</sup> See 44 U.S.C. § 3501 *et seq.*

**APPENDIX A**  
**Proposed Rule Changes**

**Part 74 of Chapter 1 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:**

1. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 307, 309, 310, 325, 336 and 554.

2. Section 74.1233 is amended by adding a new paragraph (b)(5) to read as follows:

**§ 74.1233 Processing FM translator and booster station applications.**

\* \* \* \* \*

(b)(5) *Eligibility and Application Limits.* In the 2026 new NCE reserved band FM translator station construction permit filing window (1) each applicant must be the licensee or permittee of an existing NCE FM or noncommercial AM radio broadcast station or LPFM station (primary station) that the proposed FM translator station will rebroadcast; (2) each applicant entity may file no more than a total of ten applications nationally, except that (i) each Tribal LPFM applicant entity that is subject to § 73.860(c) may file no more than a total of four applications nationally, and (ii) each other LPFM applicant entity that is subject to § 73.860(b) may file no more than a total of two applications nationally; and (3) a party to an application may hold attributable interests, as defined in § 73.7000, in no more than the maximum applications permitted under this rule. If it is determined that any applicant entity filed more than the maximum applications permitted under this rule, or any party to an application has an attributable interest in more than the maximum permitted, the Media Bureau will retain the applications that were filed first - based on application receipt data - and dismiss all other applications that exceed the limit.

**APPENDIX B****Initial Regulatory Flexibility Analysis**

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> the Federal Communications Commission (Commission) has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the *Public Notice* assessing the possible significant economic impact on a substantial number of small entities. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified on the first page of the *Public Notice*. The Commission will send a copy of the *Public Notice*, including this IRFA, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy.<sup>2</sup> In addition, the *Public Notice* and IRFA (or summaries thereof) will be published in the Federal Register.<sup>3</sup>

**A. Need for, and Objectives of, the Proposed Rules**

2. The Commission has determined that, absent eligibility restrictions and a limit on the number of applications that an entity may file in the filing window described in the *Public Notice*, some applicants may file a large number of speculative applications, including applications that are mutually exclusive with each other. Accordingly, the Commission has tentatively determined that a general limit of ten applications for new noncommercial educational (NCE) reserved band FM translator station construction permits in the filing window, as well as imposing a requirement that each applicant be the licensee or permittee of an existing NCE FM or noncommercial AM radio broadcast station or low power FM (LPFM) station (primary station) that the proposed FM translator will rebroadcast, are appropriate procedural safeguards. We also tentatively propose to separately impose a four-application cap for Tribal LPFM applicants and a two-application cap for all other LPFM applicants. The Commission tentatively concludes that an application limit and eligibility restrictions will deter speculation, permit the expeditious processing of the NCE reserved band FM translator applications filed in the window, and provide interested applicants with a meaningful opportunity to file for and obtain new NCE reserved band FM translator station licenses while still preserving spectrum for future secondary services. The Commission believes that the proposed eligibility restriction and application limit will benefit small entities, as defined below.

**B. Legal Basis.**

3. The proposed action is authorized pursuant to authority set forth in 47 U.S.C. §§ 151, 152(a), 154(i) and (j), 301, 303(g) and (r), 308(b), and 309(j) of the Communications Act of 1934, as amended.

**C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.**

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.<sup>4</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small

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<sup>1</sup> 5 U.S.C. §§ 601 *et seq.*, as amended by the Small Business Regulatory Enforcement and Fairness Act (SBREFA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

<sup>2</sup> *Id.* § 603(a).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* § 603(b)(3).

organization,” and “small governmental jurisdiction.”<sup>5</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>6</sup> A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.<sup>7</sup> The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.<sup>8</sup>

5. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions.<sup>9</sup> In general, a small business is an independent business having fewer than 500 employees.<sup>10</sup> These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses.<sup>11</sup> Next, “small organizations” are not-for-profit enterprises that are independently owned and operated and not dominant in their field.<sup>12</sup> While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees.<sup>13</sup> Finally, “small governmental jurisdictions” are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand.<sup>14</sup> Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.<sup>15</sup>

6. The rules proposed in the *Public Notice* will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS)<sup>16</sup>

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<sup>5</sup> *Id.* § 601(6).

<sup>6</sup> *Id.* § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

<sup>7</sup> 15 U.S.C. § 632.

<sup>8</sup> 13 CFR § 121.903.

<sup>9</sup> 5 U.S.C. § 601(3)-(6).

<sup>10</sup> See SBA, Office of Advocacy, *Frequently Asked Questions About Small Business* (July 23, 2024), [https://advocacy.sba.gov/wp-content/uploads/2024/12/Frequently-Asked-Questions-About-Small-Business\\_2024-508.pdf](https://advocacy.sba.gov/wp-content/uploads/2024/12/Frequently-Asked-Questions-About-Small-Business_2024-508.pdf).

<sup>11</sup> *Id.*

<sup>12</sup> 5 U.S.C. § 601(4).

<sup>13</sup> See SBA, Office of Advocacy, *Small Business Facts, Spotlight on Nonprofits* (July 2019), <https://advocacy.sba.gov/2019/07/25/small-business-facts-spotlight-on-nonprofits/>.

<sup>14</sup> 5 U.S.C. § 601(5).

<sup>15</sup> See U.S. Census Bureau, 2022 Census of Governments –Organization, <https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html>, tables 1-11.

<sup>16</sup> The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. See [www.census.gov/NAICS](http://www.census.gov/NAICS) for further details regarding the NAICS codes identified in this chart.

codes and corresponding SBA size standard.<sup>17</sup> Based on currently available U.S. Census data regarding the estimated number of small firms in each identified industry, we conclude that the proposed rules will impact a substantial number of small entities. Where available, we also provide additional information regarding the number of potentially affected entities in the industries identified below.

**Table 1. 2022 U.S. Census Bureau Data by NAICS Code**

Regulated Industry (Footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS Code	SBA Size Standard	Total Firms <sup>18</sup>	Total Small Firms <sup>19</sup>	% Small Firms
Radio Broadcasting Stations <sup>20</sup>	516110	\$47 million	2,616	2,136	81.65%

**Table 2. Broadcast Entity Data**

Broadcast Station Owners (as of August 8, 2025)	SBA Size Standard (\$47 Million)		
Affected Entity	# Commercial Licensed <sup>21 22</sup>	Small Firms	% Small Entities
Radio Stations (AM & FM) Groups	2,881	2,863	99.38

**D. Description of Economic Impact and Projected Reporting, Recordkeeping, and**

<sup>17</sup> The size standards in this chart are set forth in 13 CFR § 121.201, by six digit North American Industrial Classification System (NAICS) code.

<sup>18</sup> U.S. Census Bureau, “Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2022.” Economic Census, ECN Core Statistics Economic Census: Establishment and Firm Size Statistics for the U.S., Table EC2200SIZEREVFIRM, 2025.

<sup>19</sup> *Id.*

<sup>20</sup> Affected Entities in this industry include FM Translator Stations and Low Power FM Stations, Educational Broadcasting Services (Radio), and NCE FM and AM and Public Broadcast Stations (Radio).

<sup>21</sup> According to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on August 8, 2025.

<sup>22</sup> As of December 31, 2025, there were 1,389 licensed commercial television stations. There were 4,342 licensed commercial AM radio stations and 6,589 licensed commercial FM radio stations, for a combined total of 10,931 commercial radio stations. Additionally, there were 4,755 licensed noncommercial (NCE) FM radio stations, 1,994 low power FM (LPFM) stations, 8,867 FM translators and boosters, 1,760 LPTV stations, and 3,092 TV translator stations. *Broadcast Station Totals as of December 31, 2025*, Public Notice, DA 26-49 (rel. Jan. 13, 2026) (*January 2026 Broadcast Station Totals PN*), <https://docs.fcc.gov/public/attachments/DA-26-49A1.pdf>.

### Other Compliance Requirements for Small Entities

7. The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.<sup>23</sup>

8. The *Public Notice* seeks comment on establishing eligibility restrictions and a limit on the number of applications that each applicant may file in the upcoming window. We anticipate that none of the changes adopted as a result of the *Public Notice* would result in an increase to the reporting and recordkeeping requirements of broadcast stations or applicants for NCE reserved band FM translator authorizations. Small entity applicants would be required to comply with application requirements, including submitting no more than a total of ten applications nationally. Small Tribal LPFM applicants may file no more than four applications nationally, and other LPFM applicants subject to section 73.860(b) of the Commission's rules may file no more than a total of two applications nationally. Applicants may hold attributable interests in no more than the maximum applications permitted as defined in section 73.7000 of the Commission's rules. As noted above, we invite small business entities to comment in response to the *Public Notice*, and provide specific information pertaining to the costs, benefits, and impacts of any potential reporting, recordkeeping, or compliance requirements we discuss.

### E. Steps Taken to Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered

9. The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities.<sup>24</sup> The discussion is required to include alternatives such as: "(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities."<sup>25</sup>

10. We are directed under law to describe any alternatives we consider, including alternatives not explicitly listed above.<sup>26</sup> The *Public Notice* describes and seeks comment on (1) a proposed limit on the number of new NCE reserved band FM translator applications that may be filed during the filing window described in the *Public Notice*, and (2) a proposed requirement that each applicant be the licensee or permittee of an existing NCE FM or noncommercial AM radio broadcast station or LPFM station (primary station) that the proposed FM translator will rebroadcast. The proposed limit and eligibility restrictions are intended to benefit all small NCE entities seeking to establish a new NCE reserved band FM translator service by preventing mass filings of speculative applications and preserving spectrum for future secondary services. The proposed limit and eligibility restrictions should benefit applicants by expediting the review and processing of applications filed during the window. The proposed limit does not impose any significant compliance or reporting requirements because it would merely set a limit on the number of applications for new NCE reserved band FM translator authorizations a party could file during the window. Similarly, the proposed requirement that each applicant be the licensee or permittee of an existing NCE FM or noncommercial AM radio broadcast station or LPFM station (primary station)

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<sup>23</sup> 5 U.S.C. § 603(b)(4).

<sup>24</sup> *Id.* § 603(c).

<sup>25</sup> *Id.* § 603(c)(1)-(4).

<sup>26</sup> *Id.*

that the proposed FM translator will rebroadcast does not impose any significant compliance or reporting requirements. Accordingly, we are not aware of any alternatives that would benefit small entities. We encourage small entities to comment on the proposed limit described in the *Public Notice*.

**F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules**

11. None.