



PUBLIC NOTICE

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FCC ADOPTS APPLICATION LIMIT AND ELIGIBILITY RESTRICTIONS FOR NEW NONCOMMERCIAL EDUCATIONAL RESERVED BAND FM TRANSLATOR STATION APPLICATIONS IN UPCOMING 2026 FILING WINDOW

MB Docket No. 26-20

Adopted: May 26, 2026

Released: May 28, 2026

By the Commission:

I. INTRODUCTION

1. The Commission recently directed the Media Bureau (Bureau) to open the first-ever filing window for applications for new noncommercial educational (NCE) reserved band FM translator station construction permits¹ and sought comment on establishing eligibility restrictions and a limit on the number of applications that each applicant may file in the upcoming window.² For the reasons explained below, we adopt the proposed general ten-application cap and the requirement that each applicant be the licensee or permittee of an existing NCE FM station,³ a noncommercial AM radio broadcast station, or an LPFM station (primary station), which the proposed FM translator will rebroadcast.

II. BACKGROUND AND SUMMARY OF COMMENTS

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.⁴ Specifically, in the NCE context, the Commission has established by public notice a limit on the number of NCE applications filed

¹ 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.

² *See 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, FCC 26-10 (Feb. 19, 2026) (*Cap Comment Notice*). The Bureau will issue a separate public notice to announce the specific dates of the 2026 window and provide detailed information about filing procedures and requirements.

³ The NCE FM station can be licensed in the reserved or non-reserved band.

⁴ *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).

by an applicant in a filing window.⁵ 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.⁶ In each window, this application limit helped restrict the number of mutually exclusive applications,⁷ and allowed the Commission to expeditiously process and grant thousands of applications to a wide range of local and diverse applicants,⁸ therefore promoting the rapid expansion of new NCE FM service throughout the country.⁹

3. 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 and that translator licensing procedures do not foreclose or unduly limit future LPFM licensing.¹⁰ The restrictions and procedures adopted for prior FM translator filing windows, including

⁵ 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).

⁶ 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) (*2007 10-Application Limit Public Notice*).

⁷ 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.

⁸ 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.

⁹ See, e.g., *2021 10-Application Limit Public Notice*, 36 FCC Rcd at 7754, para. 2; *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).

¹⁰ 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.”).

Auction 99 and Auction 100,¹¹ were designed to strike a balance between the stated goals of the specific proceeding¹² and the overall goal of preserving spectrum for secondary services.¹³

4. In the recent *Cap Comment Notice*, the Commission tentatively concluded that it should also establish eligibility restrictions and an application cap for the upcoming NCE reserved band FM translator filing window.¹⁴ Specifically, consistent with our mandate under section 5 of the LCRA and to promote efficiency in this window, we tentatively concluded that a general ten-application cap is a reasonable limit.¹⁵ Further, in accordance with the LPFM cross-ownership restrictions contained in section 73.860 of our rules,¹⁶ we tentatively proposed to separately impose a four-application cap for Tribal LPFM applicants¹⁷ and a two-application cap for all other LPFM applicants.¹⁸ Finally, in order to further constrain speculative applications and to ensure this window provides additional flexibility to existing broadcasters, we tentatively concluded that imposing a 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), which the proposed FM translator will rebroadcast, will further these goals.¹⁹

5. The Commission, therefore, sought 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.²⁰ We received several

¹¹ 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, the Commission limited the scope of the window and designed strict eligibility requirements to ensure continuing licensing opportunities for all secondary services. *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); *Filing Instructions for Second Cross-Service FM Translator Filing Window for AM Broadcasters*, Public Notice, 32 FCC Rcd 10173 (MB/WTB 2017). Similarly, to comport with the LCRA, the Commission implemented remedial processing procedures and restrictions for the then-remaining 2003 Auction 83 FM translator applications. *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).

¹² 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 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*).

¹³ *See, e.g., Capstar TX, LLC*, Memorandum Opinion and Order, 37 FCC Rcd 11073, 11076, para. 8 (2022).

¹⁴ *See Cap Comment Notice* at para. 4.

¹⁵ *See id.* at para. 6.

¹⁶ *See* 47 CFR § 73.860.

¹⁷ *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.”).

¹⁸ *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...”).

¹⁹ *See Cap Comment Notice* at para. 6.

²⁰ *Id.* at para. 7.

comments, replies, and ex parte filings in response to the *Cap Comment Notice*.²¹ Although the commenters uniformly agree that some limits are advisable,²² they are not in agreement on what specific cap and restrictions would be most appropriate and beneficial.

6. Application Cap. The majority of the commenters addressing the application limit endorse the Commission's proposed 10-application cap.²³ However, Kyle Magrill (Magrill) and Cedar Cove Broadcasting, Inc. (Cedar Cove) each recommend a larger 30-application limit.²⁴ Specifically, Magrill proposes a tiered system where an applicant can file (1) up to 10 applications in the top 150 markets, and (2) up to 20 applications in "markets 151 and less, or in any location where a white or gray service area²⁵ is filled by the proposed translator, regardless of market size."²⁶ Magrill asserts that with this higher limit, "there is a chance to provide service to under-served and less 'desirable' small communities."²⁷ Similarly, to create "more opportunity to provide new or even first service to some smaller communities and rural populated areas," Cedar Cove recommends allowing "established NCE FM full service stations" to file 30 applications, but cap the number of each applicant's mutually

²¹ See Letter from Michelle Bradley, REC Networks, to Marlene H. Dortch, Secretary, FCC (filed Jan. 30, 2026) (REC *Ex Parte*); Comments of Edward A. Schober (filed Feb. 4, 2026) (Schober Comments); Comments of REC Networks (filed March 9, 2026) (REC Comments); Comments of Kyle Magrill (filed March 12, 2026) (Magrill Comments); Comments of The Educational Information Corporation (filed March 13, 2026) (EIC Comments); Comments of Cedar Cove Broadcasting, Inc. (filed March 13, 2026) (Cedar Cove Comments); Comments of Charles de Caro (filed March 14, 2026) (de Caro Comments); Comments of Low Power FM Advocacy Group (filed March 16, 2026) (LPFM-AG Comments); Reply Comments of REC Networks (filed March 23, 2026) (REC Reply); Reply Comments of National Religious Broadcasters (filed March 20, 2026) (NRB Reply); Reply Comments of Cedar Cove Broadcasting, Inc. (filed March 23, 2026) (Cedar Cove Reply); Reply Comments of K-LOVE, Inc. and Hope Media Group (filed March 23, 2026) (K-LOVE/HMG Reply); Reply Comments of Low Power FM Advocacy Group (filed March 23, 2026) (LPFM-AG Reply); Reply Comments of Prometheus Radio Project (filed March 24, 2026) (Prometheus Reply); Reply Comments of Common Frequency, Inc. (filed March 24, 2026) (Common Frequency Reply); Reply Comments of Peter Shartel, Alpine Broadcasting Corporation (filed March 24, 2026) (Shartel Reply); Reply Comments of Kyle Magrill (filed March 27, 2026) (Magrill Reply); Letter from Todd Urick, Common Frequency, Inc. to FCC (filed April 3, 2026) (Common Frequency *Ex Parte*); Letter from "Advocates Assisting Community, College, and Low Power FM Radio" to FCC (filed April 29, 2026) (Advocates *Ex Parte*). We note that there were some comments in this proceeding filed after the March 13, 2026, comment deadline and the March 23, 2026, reply comment deadline. In the interest of having a complete record, we will consider the late-filed comments and replies.

²² See, e.g., REC Comments at 2-3; Schober Comments at 1; de Caro Comments; EIC Comments at 1-2; Cedar Cove Comments at 2; Magrill Comments at 2; LPFM-AG Comments at 2; K-LOVE/HMG Reply at 2; NRB Reply at 1; Prometheus Reply at 1.

²³ See REC Comments at 2-3, 7 (a 10-cap "is consistent with the handling of previous full-service FM filing windows and creates less risk of a violation of the LCRA than if application caps were higher or as we saw in 2003, unlimited"); REC Reply at 6; K-LOVE/HMG Reply at 1 ("urges the Commission to adopt the *Public Notice* proposals without alteration"); Prometheus Reply at 1 (a 10-cap "makes sense to us"); NRB Reply at 2 ("cap is an appropriate tool to help ensure that smaller, mission-driven broadcasters have a meaningful opportunity to participate, while also avoiding the speculative filing environment that followed the 2003 window"); de Caro Comments ("cap promotes localism and ensures that smaller, community-based broadcasters have a meaningful opportunity to expand their reach without being crowded out by speculative filings"); EIC Comments at 1 (10-cap is "appropriate and necessary to limit speculative mass filings").

²⁴ See Magrill Comments at 2; Cedar Cove Comments at 2-3.

²⁵ A "white" area is an area that receives no aural service while a "gray" area receives only one aural service.

²⁶ Magrill Comments at 2.

²⁷ *Id.*

exclusive applications.²⁸ REC Networks (REC) and Low Power FM Advocacy Group (LPFM-AG) each oppose Cedar Cove's proposal.²⁹ Finally, Edward A. Schober (Schober) urges the Commission to exempt applicants from the cap "if all the applications, and the principal community of the primary station are within the same minor insular outlying area, provided that the applicant has no applications outside the minor outlying area. (USVI, Guam, Northern Mariana Islands, American Samoa, etc.)."³⁰

7. With respect to our proposed four-application cap for Tribal LPFM applicants and a two-application cap for all other LPFM applicants, REC supports this proposal.³¹ Cedar Cove recommends that we limit all LPFM applicants to only one application in the filing window.³² REC and LPFM-AG each oppose Cedar Cove's proposal.³³ LPFM-AG conversely argues that the "the window is too narrow to be meaningful for many LPFM applicants,"³⁴ and the Commission should, therefore, increase the limit to four applications for all LPFM applicants.³⁵ Prometheus Radio Project (Prometheus) agrees with LPFM-AG's recommendation to increase the application limit for all LPFM applicants.³⁶ Finally, Schober proposes that the Commission allow unlimited translator applications for Tribal LPFM applicants.³⁷

8. Eligibility Restrictions. Several commenters, including REC, K-LOVE, Inc. and Hope Media Group (K-LOVE/HMG), and National Religious Broadcasters (NRB), endorse the Commission's proposal to require that each applicant be the licensee or permittee of an existing primary station, which

²⁸ See Cedar Cove Comments at 3. Specifically, Cedar Cove proposes a 30 initial application limit with the following conditions: "(a) After the 30 application initial application filings have accepted for filing if it is found that an individual NCE FM group has more than ten (10) mutually exclusive applications ('MX Group'), it will be required within 20 days after the Public Notice of the MX Group applications, that an NCE FM group must either propose engineering solutions to break out of the MX Group, or dismiss the number of MX Group applications to bring its total number of pending MX Group applications to the maximum of ten (10) MX Group applications; and (b) Any of the initial 30 applications that are found not to be MX will be allowed to be further processed." *Id.*

²⁹ See REC Reply at 6 ("Cedar's recommendation will only increase the probability of MX Groups and will cause a large number of bifurcations of groups to the potential that up to 66% of the applications that were filed in the window will have to be dismissed in order to reach the 10-cap."); LPFM-AG Reply at 2 ("a proposal that enlarges filing room for already-established groups while shrinking LPFM moves in the opposite direction" of the goal of the Public Notice to "deter gamesmanship, expedite processing, and preserve secondary service").

³⁰ Schober Comments at 2.

³¹ See REC Comments at 2.

³² See Cedar Cove Comments at 3-4 (arguing that under the current proposal an "LPFM applicant would be limited to filing for any future FM booster potential if awarded two new NCE FM translators" and "established NCE AM/FM stations should have a greater opportunity for these new potential NCE FM translators").

³³ See REC Reply at 4 (asserting that the Cedar Cove's proposal "exhibits a complete misunderstanding of some regulations related to LPFM and "is also mistaken where it comes to LPFM stations for their secondary status"); LPFM-AG Reply at 2 (arguing that "[a] rule that cuts LPFM to one application would leave many local applicants with no realistic ability to identify a usable reserved-band channel at all.").

³⁴ LPFM-AG Comments at 2.

³⁵ *Id.* at 3 ("better approach would be either to permit four applications for all LPFM applicants or to adopt a neutral standard under which additional LPFM applications may be justified by terrain, rurality, dispersed market geography, insular location, lack of usable reserved-band channels, or service to underserved populations"); see also LPFM-AG Reply at 2-3.

³⁶ See Prometheus Reply at 2 ("*Using the 73.860 ownership limits as application caps puts LPFMs at a disadvantage, since NCE applicants could have a lot more applications with which to 'horse trade' in ensuing MX resolutions*") (emphasis in original).

³⁷ See Schober Comments at 1-2 (arguing that LPFM Tribal applicants "should be permitted any number of FM translators within their reservation, homeland, jurisdiction, or area of responsibility.").

the proposed FM translator will rebroadcast.³⁸ Only one commenter, Charles de Caro (de Caro), opposes the restriction.³⁹ The Educational Information Corporation (EIC) supports the primary station eligibility restriction,⁴⁰ but advocates for several additional “hard eligibility restrictions” to deter gamesmanship by large broadcasters who, it believes, will “file aggressively, impose costs, complicate processing, and dilute the opportunity for smaller nonprofit applicants.”⁴¹ Specifically, EIC recommends that “hard disqualification” or inability to participate be extended to any entity that either (1) holds interests in three full-power primary broadcast stations, (2) holds interests in more than 10 translator stations, or (3) has an annual gross income exceeding \$5,000,000.⁴² Four separate commenters oppose EIC’s proposed restrictions based on existing authorizations and income, asserting that the additional eligibility restrictions would be arbitrary, contrary to the public interest, and burdensome.⁴³

9. To effectuate the eligibility restriction and prevent speculation and gamesmanship, REC recommends imposing a four-year holding period on construction permits granted in this filing window.⁴⁴ Specifically, REC suggests any translator authorized in this filing window be subject to the following restrictions for the first four years of on-air licensed operations: (1) “the licensee may NOT change such primary station being rebroadcast by [the] translator if such primary station is not commonly-owned by the licensee,” and (2) “the licensee may not assign or transfer the construction permit/license to another party, unless such assignment or transfer is accompanied by an application to assign or transfer the primary station being rebroadcast and such assignment or transfer applications for both the primary station and the translator specify the same party as the proposed assignee.”⁴⁵ REC asserts that a four-year period “strikes an appropriate balance in determining whether an application was filed for purposes of being ‘gamed’ or whether it was originally intended to provide a valid service as originally intended.”⁴⁶ Common Frequency, Inc. (Common Frequency) supports REC’s proposal, but recommends that “in maintaining the primary station rebroadcast designation, the Commission should be able to grant narrow waivers in the local public interest for certain changes.”⁴⁷ LPFM-AG opposes a four-year holding

³⁸ See REC Comments at 4 (restricting eligibility to licensees/permittees “is necessary to prevent abuse”); K-LOVE/HMG Reply at 2 (“This [primary station] eligibility restriction combined with the proposal to limit the number of applications to ten applications per NCE licensee ensures that speculative filings will be exceedingly unlikely, opportunities for applicants will be fair, and the processing burden minimal.”); NRB Reply at 3 (“tying translator authorization to a primary station provides a clear and workable standard that aligns with the Commission’s longstanding commitment to localism and community service.”).

³⁹ See de Caro Comments (claiming that the restriction “hinders the delivery of high quality content to new audiences”).

⁴⁰ See EIC Comments at 2 (arguing the restriction “helps ensure that translator applications are tied to real service and real operators, not paper applicants”).

⁴¹ *Id.* at 2-3.

⁴² *Id.* at 2.

⁴³ See REC Reply at 5 (asserting that the income restriction “would require the collection of information that the Commission currently does not collect” and “would be an extreme burden on both the applicant and Bureau staff”); K-LOVE/HMG Reply at 4-5 (arguing that the restrictions “serve no policy or public interests goals” and “would be arbitrary and contrary to the public interest because it would preclude the filing of applications by the very licensees where the public would be served by these new translators”); NRB Reply at 2-3 (additional restrictions “could unintentionally exclude established noncommercial broadcasters with long records of public service”); Magrill Reply at 2 (stating that the additional restrictions are “arbitrary and capricious ... and the idea of having financial resources as a disqualifier is absurd on its face.”).

⁴⁴ See REC Comments at 4-5; REC Reply at 7-8.

⁴⁵ REC Comments at Appendix A; see also REC Comments at 4-5.

⁴⁶ REC Reply at 8.

⁴⁷ Common Frequency Reply at 14.

period,⁴⁸ and instead advocates for a one-year holding period to address the risk of “immediate flipping, paper shuffling of primaries, or rapid untethering of translators shortly after grant or license.”⁴⁹ Schober recommends a “permanent freeze” on assignments and primary station changes.⁵⁰

10. Requests for Rule Changes. Finally, some commenters request that the Commission make material changes to several rules before opening the window.⁵¹ These recommendations, irrespective of their merits, fall outside the scope of this proceeding, and therefore, we will not consider them here.⁵² The nature of our inquiry here has been solely to evaluate whether and how to cap and restrict the upcoming window to enable the efficient processing of applications and initiation of new NCE reserved band FM translator service, not whether to revise and reconfigure the FM translator and LPFM service rules.⁵³ Although some commenters recommend that we review, seek comment on, and update these service rules before opening the window,⁵⁴ we find this approach would unreasonably and unnecessarily significantly delay our efforts to open the first-ever filing window for new NCE reserved band FM translator station construction permits and expeditiously enable and expand new service.

⁴⁸ See LPFM-AG Reply at 4 (“A four-year lock-up would be disproportionate in a secondary-service window intended to expedite new service and would freeze small entities for nearly half of a license term.”).

⁴⁹ See LPFM-AG Reply at 4..

⁵⁰ See Schober Comments at 1; see also Prometheus Reply at 5 (expressing concern “about translator trafficking, and requests careful consideration of anti-trafficking proposals”).

⁵¹ Commenters urge the Commission to consider modifying the following rules: (1) the section 73.860(b)(1) contour overlap restrictions, 47 CFR § 73.860(b)(1) (see LPFM-AG Comments at 2-4; Schober Comments at 1-2; Prometheus Reply at 3-4; Magrill Reply at 2; Common Frequency Reply at 4-7); (2) the section 73.860(b)(2) 10-mile/20-mile siting restriction, 47 CFR § 73.860(b)(2) (see LPFM-AG Comments at 4); (3) the section 73.860(b)(3) direct off-air input rule, 47 CFR § 73.860(b)(3) (see LPFM-AG Comments at 4); and (4) the distinction between fill-in and non-fill-in FM translator stations and the comparative selection priority for fill-in FM translators, 47 CFR § 74.1233(e)(1) (see LPFM-AG Comments at 4-5; Schober Comments at 2; Shartel Reply at 2). See also REC Comments at 8; REC Reply at 2-3 (contending that the Commission prematurely opened the filing window by not first addressing “REC’s 2023 Translator Reform petition for rulemaking”).

⁵² We also note that some commenters request that the Commission waive the section 73.860(b)(1)-(3) restrictions and the comparative selection priority for fill-in translators in the upcoming window. See, e.g., LPFM-AG Comments at 4; Common Frequency Reply at 7-9; Prometheus Reply at 3; REC *Ex Parte* at 2 (“position that the priority of fill-in translators in the event of unresolved mutual exclusivity be waived for this window”); Advocates *Ex Parte* at 1-2. Separately, REC also recommends that the Audio Division clarify (1) the location where the qualification for established local applicant points will be measured from if the translator is serving a community that is not in a Census Designated Place or has a local post office where official reference coordinates can be derived from; (2) the standing of LPFM stations with respect to the points for local diversity of ownership; and (3) LPFM divestitures of secondary facilities. See REC *Ex Parte* at 2; REC Comments at 2; see also Common Frequency Reply at 14 (recommend clarifying “a standard reference point that would be used for ‘reference coordinates for community to be served’ when this factor could be abused...”). Although we do not address these issues in this public notice, we direct the Bureau to consider whether to clarify these various issues and concerns. To the extent the Bureau determines any clarifications are necessary or advisable, it will make such clarifications in a forthcoming public notice, which will provide detailed information about filing procedures and requirements.

⁵³ We note that parties can propose changes to our rules through a petition for rulemaking or raise their concerns in the appropriate open proceeding. See RM-11952, Petition for Rulemaking to Amend Parts 73 and 74 of the Commission’s Rules to Address Future FM Translator Filing Windows.

⁵⁴ See, e.g., Prometheus Reply at 2; Shartel Reply (“Before opening up any application window outdated rules should be eliminated”); Common Frequency Reply at 11; REC Reply at 3 (“it is REC’s overall position that this filing window be postponed and that the REC Translator Reform petition as well as feedback from others, including Schober and LPFM-AG, be considered as a separate Notice of Proposed Rulemaking with a full comment and reply comment period”).

III. DISCUSSION

11. Application Limit. We adopt our proposal from the *Cap Comment Notice* to establish a general limit of ten applications per applicant in the upcoming window for new NCE reserved band FM translator station construction permits. We find that a ten-application cap, which was supported by the vast majority of the commenters addressing the limit,⁵⁵ will best provide interested parties with a meaningful opportunity to file for and obtain new NCE reserved band FM translator licenses, while still preserving spectrum for future secondary services, consistent with the LCRA, deter speculative filings and procedural delays, and permit the expeditious processing of applications filed in the window.⁵⁶ Moreover, the ten-application cap, employed in both the 2007 and 2021 NCE FM filing windows,⁵⁷ has proven in practice to be very effective. Specifically, in these windows, the ten-application limit helped restrict the number of mutually exclusive applications, discouraged mass filings by speculators, and facilitated the expeditious processing and grant of thousands of applications to a vast range of legitimate local and diverse applicants.⁵⁸

12. We conclude that a higher application limit of 30 applications, as recommended by Magrill and Cedar Cove, would not serve our goals as well as the ten-application cap we adopt herein, as the potential benefits to a few applicants would be outweighed by the harm to all applicants from additional complications and processing delays. We acknowledge Magrill and Cedar Cove's laudable claims that a higher cap could potentially increase service to underserved, small communities and rural areas.⁵⁹ We find, however, that these proposals for an increased cap, which were not endorsed by any other commenters, and opposed by REC and LPFM-AG,⁶⁰ have the significant drawback of increasing the potential for more and larger MX groups,⁶¹ which could lead to processing delays and inhibit the expeditious initiation of new service to the public.⁶² We also find that implementing either Magrill's or Cedar Cove's 30-application cap tiered approach⁶³ would be cumbersome, create logistical and administrative challenges, and thus further complicate and delay processing and initiation of new NCE reserved band FM translator service.⁶⁴

⁵⁵ See REC Comments at 2-3; K-LOVE/HMG Reply at 1; Prometheus Reply at 1; NRB Reply at 2; de Caro Comments; EIC Comments at 1.

⁵⁶ We clarify that an applicant's existing FM translator authorizations do not count toward the ten-cap for new NCE reserved band FM translator applications.

⁵⁷ See *2007 10-Application Limit Public Notice*, *supra* note 6, and *2021 10-Application Limit Public Notice*, *supra* note 4.

⁵⁸ See, e.g., *supra* note 9.

⁵⁹ See Magrill Comments at 2; Cedar Cove Comments at 3.

⁶⁰ See REC Reply at 6; LPFM-AG Reply at 2.

⁶¹ See, e.g., REC Reply at 6 (arguing that Cedar Cove's proposal "will only increase the probability of MX Groups and will cause a large number of bifurcations of groups due to the potential that up to 66% of the applications that were filed in the window will have to be dismissed in order to reach the 10-cap").

⁶² We anticipate the ten-application cap will help restrain applications to a reasonable level similar to our 2021 NCE FM window where we received slightly more than 1,000 applications, and similarly enable the efficient processing and timely authorization of new construction permits.

⁶³ See Magrill Comments at 2 (proposing allowing 10 applications in the top 150 markets and 20 applications in markets "151 or less, or in any location where a white or gray service area is filed by the proposed translator, regardless of market size"); Cedar Cove Comments at 3 (proposing an initial 30 application cap and a cap of 10 MX applications).

⁶⁴ We also decline to adopt Schober's proposal, which was not supported by any commenter, to exempt some applicants from the cap, because Schober provides no rationale for exempting applicants in the locations he identified. See Schober Comments at 2.

13. Finally, in accordance with the section 73.860 LPFM cross-ownership restrictions,⁶⁵ we adopt our proposal to separately impose a four-application cap for Tribal LPFM applicants⁶⁶ and a two-application cap for all other LPFM applicants.⁶⁷ We find that Cedar Cove’s recommendation to limit all LPFM applicants to one application in the window⁶⁸ will unnecessarily curtail an LPFM’s applicant ability to identify a usable reserved band channel and expand its service, while LPFM-AG’s proposed higher cap of four applications for all LPFM applicants,⁶⁹ and Schober’s proposal of unlimited applications for all Tribal LPFM applicants,⁷⁰ are logistically complicated, unfair to full service applicants, and contrary to our well established LPFM ownership restrictions.⁷¹

14. Eligibility Restrictions. We adopt our proposal from the *Cap Comment Notice*, supported by numerous commenters,⁷² to require that each applicant be the licensee or permittee of an existing NCE FM or noncommercial AM radio broadcast station or LPFM station (primary station), which the proposed FM translator will rebroadcast. We agree with REC and K-LOVE/HMG that this eligibility restriction is “necessary to prevent abuse,”⁷³ will ensure “opportunities for applicants will be fair,”⁷⁴ and will constrain gamesmanship and speculative applications. As NRB emphasizes, “[t]ying translator authorizations to a primary station provides a clear and workable standard that aligns with the Commission’s longstanding commitment to localism and community service. It ensures that spectrum is allocated to broadcasters with an established record of serving their listeners, rather than to entities seeking to acquire spectrum for speculative purposes.”⁷⁵ In contrast, de Caro’s proposal to extend participation to applicants who are not currently authorized permittees or licensees⁷⁶ would defeat this goal.⁷⁷

15. We agree with commenters that this eligibility restriction would be ineffectual without a holding period. As REC and LPFM-AG explain, there “needs to be a safeguard in place”⁷⁸ to prevent speculation and gamesmanship, such as “immediate flipping, paper reshuffling of primaries, or rapid

⁶⁵ See 47 CFR § 73.860.

⁶⁶ 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.”).

⁶⁷ 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...”).

⁶⁸ See Cedar Cove Comments at 3-4.

⁶⁹ See LPFM-AG Comments at 2-3 (recommending permitting “four applications for all LPFM applicants” or adopting “a neutral standard under which additional LPFM applications may be justified by terrain, rurality, dispersed market geography, insular location, lack of usable reserved-band channels, or service to underserved populations”).

⁷⁰ See Schober Comments at 2.

⁷¹ See 47 CFR § 73.860.

⁷² See, e.g., REC Comments at 4; K-LOVE/HMG Reply at 2; NRB Reply at 1; EIC Comments at 2.

⁷³ REC Comments at 4.

⁷⁴ K-LOVE/HMG Reply at 2.

⁷⁵ NRB Reply at 3.

⁷⁶ See de Caro Comments.

⁷⁷ See REC Reply at 7 (“since an FM translator cannot originate programming on its own, a ‘third-party’ applicant with no broadcast holdings has no way to demonstrate how the station will be used to advance an educational objective.”).

⁷⁸ See REC Comments at 6.

untethering of translators shortly after grant or license.”⁷⁹ While LPFM-AG recommends a one-year holding period, and Shober proposes a permanent holding period, we find REC’s suggested four-year period strikes the correct balance and is sufficient to deter license speculators, while not unduly burdening the licensee. Moreover, similar four-year holding periods have been effective in preventing gamesmanship in the NCE FM full service context and prior FM translator filing windows.⁸⁰ Accordingly, from the time that the Commission grants a construction permit in the upcoming filing window until the time when the facility has achieved four years of on-air operations rebroadcasting the primary station identified on the authorization, the permittee/licensee (1) must maintain, and cannot change, the primary station to be rebroadcast by the FM translator,⁸¹ and (2) cannot assign or transfer its FM translator authorization to a different entity unless it is in conjunction with the assignment or transfer of the primary station to that same entity.

16. Finally, we find additional eligibility restrictions are unnecessary to achieve our goals of giving legitimate interested parties the opportunity to apply for NCE reserved band FM translator outlets, while still preserving secondary service spectrum, curbing abuse, and promoting efficiency. We decline to adopt EIC’s suggested restrictions based on existing authorizations and income,⁸² a proposal adamantly opposed by several commenters.⁸³ We agree with these commenters that EIC’s narrow restrictions would be arbitrary, contrary to the public interest, and burdensome.⁸⁴ Specifically, we find that a restriction based on the number of full power primary stations and FM translator stations an applicant holds would unduly penalize and exclude established broadcasters and “preclude the filing of applications by the very licensees where the public would be served by these new translators.”⁸⁵ Further, a restriction based on annual gross income would require the collection of information currently unavailable to the Commission, creating delays and an additional burden on both applicants and Bureau staff that will not further our

⁷⁹ LPFM-AG Reply at 4.

⁸⁰ See *NCE R&O*, 15 FCC Rcd at 7424 (to ensure selection process is not “undermined by the rapid re-assignment or transfer of stations,” implementing a holding period for NCE FM permits granted on a comparative basis and finding four years is “sufficient to establish meaningful service for the community without any undue burden on the licensee”); *Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations*, Report and Order, 34 FCC Rcd 12519, 12432 (2019); see also *AMR First Report and Order*, 30 FCC Rcd at 12153 (directing the Bureau to impose a four-year operating condition on all authorizations obtained in the 2016 FM translator modification windows, requiring that the “modified FM translator must rebroadcast the FM translator modification applicant’s specified AM primary station for a period of four years of on-air operation”).

⁸¹ We require FM translator licensees to rebroadcast the primary station as specified in the construction permit authorization, and decline to make an exception for commonly owned primary station redesignations, as proposed by REC. This is consistent with conditions placed on authorizations granted during the 2016 FM translator modification windows. See *AMR First Report and Order*, 30 FCC Rcd at 12153; see also *Media Bureau Announces Filing Dates and Procedures for AM Station Filing Window for FM Translator Modifications*, Public Notice, 30 FCC Rcd 14690, 14692 (2015) (explaining that “[a]ny FM translator station modified and/or relocated under the Modification Windows must rebroadcast the primary AM station for at least four years...”). We note, however, that the Bureau may consider waivers of the four-year holding period on a case-by-case basis.

⁸² See EIC Comments at 1-3 (recommending that “hard disqualification” or inability to participate be extended to any entity that either (1) holds interests in three full-power primary broadcast stations, (2) holds interests in more than 10 translator stations, or (3) has an annual gross income exceeding \$5,000,000)..

⁸³ See REC Reply at 5-6; K-LOVE/HMG Reply at 4-5; NRB Reply at 3; Magrill Reply at 3.

⁸⁴ *Id.*

⁸⁵ K-LOVE/HMG Reply at 4-5 (arguing that instead the “more stations a party currently owns, the more likely there are areas served by their stations that need augmented service from translators” and EIC’s restrictive proposals “would undercut the potential benefit of the window for improving existing NCE broadcast service to listeners”); see also NRB Reply at 3 (asserting that EIC’s proposed eligibility barriers would unnecessarily exclude established broadcasters with long records of public service).

goals of this proceeding (i.e., promote efficiency in this window, constrain speculative applications, and ensure this window provides additional flexibility to existing broadcasters).⁸⁶ An income-based restriction could also, as K-LOVE/HMG notes, potentially “dissuade robust participation from licensees as diverse as state universities, non-profits, and religious broadcasters with revenue streams wholly unrelated to their broadcast business, undermining the public interest goals of the filing window.”⁸⁷

17. Eligibility Restriction and Application Limits. Accordingly, after reviewing and considering the comments in this proceeding, we adopt and codify the proposed 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;⁸⁸ 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.⁸⁹

Each station authorization granted in the 2026 new NCE reserved band FM translator station construction permit filing window shall be subject to a holding period. From grant of the construction permit until the time when the facility has achieved four years of on-air operations rebroadcasting the primary station identified on the authorization, the permittee/licensee: (1) must maintain, and cannot change, the primary station to be rebroadcast by the FM translator, and (2) cannot assign or transfer the FM translator authorization to a different entity unless it is in conjunction with the assignment or transfer of the primary station to that same entity.

⁸⁶ See, e.g., REC Reply at 5; Magrill Reply at 2 (noting the “FCC has no method to establish how much applicants are worth or how much money they receive each year.”).

⁸⁷ K-LOVE/HMG Reply at 5.

⁸⁸ 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.

⁸⁹ 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.

IV. PROCEDURAL MATTERS

18. *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).⁹⁰

19. *Effective Date.* The Commission's rules are amended as set forth in Appendix A, effective thirty (30) days after publication of the text or a summary thereof in the Federal Register.

20. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),⁹¹ requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."⁹² Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule and policy changes contained in this *Public Notice* on small entities. The FRFA is set forth in Appendix B.

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

22. *Paperwork Reduction Act.* This document does not contain new or substantively modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. §§ 3501-3521. Therefore it also does not contain any new or modified information collection burdens for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, 44 U.S.C. § 3506(c)(4).

23. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget concurs, that this rule is "non-major" under the Congressional Review Act, 5 U.S.C. § 804(2). The Commission will send a copy of this Public Notice to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

24. *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 or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

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

Action by the Commission, May 26, 2026.

-FCC-

⁹⁰ 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).

⁹¹ 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).

⁹² *Id.* § 605(b).

APPENDIX A

Rule Changes

Part 74 of Chapter 1 of Title 47 of the Code of Federal Regulations is 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 new paragraphs (b)(5) and (b)(6) 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.

(b)(6) *Holding Period.* Each station authorization granted in the 2026 new NCE reserved band FM translator station construction permit filing window shall be subject to a holding period. From grant of the construction permit until the time when the facility has achieved four years of on-air operations rebroadcasting the primary station identified on the authorization, the permittee/licensee: (1) must maintain, and cannot change, the primary station to be rebroadcast by the FM translator, and (2) cannot assign or transfer the FM translator authorization to a different entity unless it is in conjunction with the assignment or transfer of the primary station to that same entity.

APPENDIX B

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹ the Federal Communications Commission (Commission) incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the *FCC Seeks Comment on Proposed Application Limit for New Noncommercial Educational Reserved Band FM Translator Station Applications in Upcoming 2026 Filing Window*, Public Notice (*Cap Comment Notice*), released in February 2026.² The Commission sought written public comment on the proposals in the *Cap Comment Notice*, including comment on the IRFA. No comments were filed addressing the IRFA; however, we discuss relevant comments and related proposals that may impact small entities below. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA and it (or summaries thereof) will be published in the Federal Register.³

A. Need for, and Objectives of, the Rules

2. In the *Public Notice*, the Commission establishes that in the upcoming 2026 noncommercial educational (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 low power FM (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 Commission's rules (rules). In addition, 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 determined that a general limit of ten applications for 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 LPFM station (primary station) that the proposed FM translator will rebroadcast, are appropriate procedural safeguards.

3. The Commission also adopts a holding period for construction permits granted in the upcoming filing window, and the subsequent licenses, mandating that from grant of the permit until the facility has achieved four years of on-air operations rebroadcasting the primary station identified on the authorization, the permittee/licensee (1) must maintain, and cannot change, the primary station to be rebroadcast by the FM translator, and (2) cannot assign or transfer its FM translator authorization to a different entity unless it is in conjunction with the assignment or transfer of the primary station to that same entity.

4. Lastly, the Commission concludes that an application limit, eligibility restrictions, and four-year holding period 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

¹ 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).

² See *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, FCC 26-10, Appendix B (Feb. 19, 2026), available at <https://docs.fcc.gov/public/attachments/FCC-26-10A1.pdf> (last visited Apr. 23, 2026).

³ 5 U.S.C. § 604.

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 application limit, eligibility restrictions, and four-year holding period will benefit small entities, as defined below.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

5. In response to the *Cap Comment Notice*, we received comments and replies from broadcast industry stakeholders who debated the proposed application limits, eligibility restrictions, and related issues. Though no comments were filed directly addressing the IRFA, a number of comments were submitted regarding proposals that may impact small entities. The majority of commenters addressing the application limit endorse the Commission's proposed 10-application cap.⁴ Kyle Magrill (Magrill) and Cedar Cove Broadcasting, Inc. (Cedar Cove) each recommend a larger 30-application limit. REC Networks (REC) and Low Power FM Advocacy Group (LPFM-AG) each oppose Cedar Cove's proposal. Edward A. Schober (Schober) urges the Commission to exempt applicants from the cap "if all the applications, and the principal community of the primary station are within the same minor insular outlying area, provided that the applicant has no applications outside the minor outlying area. (USVI, Guam, Northern Mariana Islands, American Samoa, etc.)."

6. REC supports the four-application cap for Tribal LPFM applicants and two-application cap for all other LPFM applicants proposed in the *Cap Comment Notice*. Cedar Cove recommends that we limit all LPFM applicants to only one application in the filing window. REC and LPFM-AG each oppose Cedar Cove's proposal. LPFM-AG conversely argues that the "the window is too narrow to be meaningful for many LPFM applicants," and the Commission should therefore increase the limit to four applications for all LPFM applicants. Prometheus Radio Project agrees with LPFM-AG's recommendation to increase the application limit for all LPFM applicants. Finally, Schober proposes that the Commission allow unlimited translator applications for Tribal and public safety LPFM applicants.

7. Several commenters endorse the Commission's proposal to require that each applicant be the licensee or permittee of an existing primary station, which the proposed FM translator will rebroadcast.⁵ Only one commenter, Charles de Caro, opposes the restriction. The Educational Information Corporation (EIC) supports the primary station eligibility restriction, but advocates for several additional restrictions based on the number of existing authorizations and annual gross income. Four separate commenters oppose EIC's proposed restrictions.

8. To prevent speculation and gamesmanship, REC recommends imposing a four-year holding period on construction permits granted in this filing window. Common Frequency, Inc., supports REC's proposal, but recommends that "in maintaining the primary station rebroadcast designation, the Commission should be able to grant narrow waivers in the local public interest for certain changes." LPFM-AG opposes a four-year holding period and instead advocates for a one-year holding period to address the risk of "immediate flipping, paper shuffling of primaries, or rapid untethering of translators shortly after grant or license." Schober recommends a "permanent freeze" on assignments and primary station changes. We discuss the Commission's response to these comments and proposals in section F. Finally, some commenters request that the Commission make material changes to several rules before opening the window. These recommendations, irrespective of their merits, fall outside the scope of this proceeding, and therefore we will not consider them here.

⁴ See REC Comments at 2-3, 7; REC Reply at 6; K-LOVE/HMG Reply at 1; Prometheus Reply at 1; NRB Reply at 2; de Caro Comments; EIC Comments at 1.

⁵ See REC Comments at 4; K-LOVE/HMG Reply at 2; NRB Reply at 3.

C. Response to Comments by the Chief Counsel for the Small Business Administration Office of Advocacy

9. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA,⁶ the Commission is required to respond to any comments filed by the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy, and also provide a detailed statement of any change made to the proposed rules as a result of those comments.⁷ The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

10. 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 adopted rules.⁸ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”⁹ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.¹⁰ 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.¹¹ 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.¹²

11. 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.¹³ In general, a small business is an independent business having fewer than 500 employees.¹⁴ These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses.¹⁵ Next, “small organizations” are not-for-profit enterprises that are independently owned and operated and not dominant their field.¹⁶ While we do not have data regarding the number of

⁶ Small Business Jobs Act of 2010, Pub. L. No. 111-240, 124 Stat. 2504 (2010).

⁷ 5 U.S.C. § 604 (a)(3).

⁸ *Id.* § 604.

⁹ *Id.* § 601(6).

¹⁰ *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.”

¹¹ 15 U.S.C. § 632.

¹² 13 CFR § 121.903.

¹³ 5 U.S.C. § 601(3)-(6).

¹⁴ 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.

¹⁵ *Id.*

¹⁶ 5 U.S.C. § 601(4).

non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees.¹⁷ Finally, “small governmental jurisdictions” are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand.¹⁸ 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 50,000.¹⁹

12. The rules adopted 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)²⁰ codes and corresponding SBA size standard.²¹ 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 ²²	Total Small Firms ²³	% Small Firms
Radio Broadcasting Stations ²⁴	516110	\$47 million	2,616	2,136	81.65%

Table 2. Broadcast Entity Data

Broadcast Station Owners (as of August 8, 2025) ²⁵	SBA Size Standard (\$47 Million)

¹⁷ 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/>.

¹⁸ 5 U.S.C. § 601(5).

¹⁹ 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.

²⁰ 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 for further details regarding the NAICS codes identified in this chart.

²¹ The size standards in this chart are set forth in 13 CFR § 121.201, by six digit North American Industrial Classification System (NAICS) code.

²² 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.

²³ *Id.*

²⁴ 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).

²⁵ Data as of 2024, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on August 8, 2025.

Affected Entity	# Commercial Licensed ^{26 27}	Small Firms	% Small Entities
Radio Stations (AM & FM) Groups	2,881	2,863	99.38

E. Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

13. The RFA directs agencies to describe the economic impact of adopted 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 requirement and the type of professional skills necessary for preparation of the report or record.²⁸

14. The *Public Notice* adopts eligibility restrictions, a four-year holding period, and a limit on the number of applications each applicant may file in the upcoming filing window. We find that none of the changes adopted in the *Public Notice* will result in an increase in the reporting and recordkeeping requirements of broadcast stations or applicants for NCE reserved band FM translator authorizations. Applicants will be current licensees or permittees of an existing NCE FM or noncommercial AM radio broadcast station or LPFM station and should be familiar with the Commission's application process, thereby reducing the need to hire other professionals to comply with this process. Small entity applicants are 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. In addition, applicants may hold attributable interests in no more than the maximum applications permitted as defined in section 73.7000 of the Commission's rules, and must comply with the four-year holding period as discussed in section A.

F. Discussion of Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

15. The RFA requires an agency to provide "a description of the steps the agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."²⁹

16. As discussed in section B above, commenters offered various alternatives to the application caps and eligibility restrictions proposed in the *Cap Comment Notice*. Regarding the adopted

²⁶ *Id.*

²⁷ As of March 31, 2026, there were 4,310 licensed commercial AM radio stations and 6,574 licensed commercial FM radio stations, for a combined total of 10,884 commercial radio stations. There were 4,783 licensed noncommercial (NCE) FM radio stations, 2,007 low power FM (LPFM) stations, and 8,854 FM translators and boosters. Additionally, there were 1,389 licensed commercial television stations, 388 licensed noncommercial educational (NCE) television stations, 398 Class A TV stations, 1,777 LPTV stations, and 3,072 TV translator stations. *Broadcast Station Totals as of March 31, 2026*, Public Notice, DA 26-336 (rel. Apr. 10, 2026) (*March 2026 Broadcast Station Totals PN*), <https://docs.fcc.gov/public/attachments/DA-26-336A1.pdf>.

²⁸ 5 U.S.C. § 604(a)(5).

²⁹ *Id.* § 604(a)(6).

ten-application cap, which was supported by the majority of commenters addressing the limit,³⁰ the Commission finds that the 30-application limit proposals by Magrill and Cedar Cove would not serve our goals as well as the ten-application limit. While we acknowledge their laudable claims that a higher cap could increase service to underserved and rural areas, these increased cap proposals, which were not endorsed by any other commenters and opposed by REC and LPFM-AG, have the significant drawback of increasing the potential for more and larger mutually exclusive (MX) groups, which could lead to processing delays. Implementing a 30-application approach would also create administrative challenges, further delaying the initiation of new radio service to the public.

17. The Commission also rejects proposed alternatives to the adopted four-application cap for Tribal LPFM applicants and a two-application cap for all other LPFM applicants. The Commission finds that Cedar Cove's recommendation to limit all LPFM applicants to one application would unnecessarily restrict an applicant's ability to identify a usable reserved-band channel and expand service. Furthermore, LPFM-AG's proposed four-application cap for all LPFM applicants and Schober's proposal for unlimited applications for all Tribal LPFM applicants are logistically complicated, unfair to full-service applicants, and contrary to our well-established LPFM ownership restrictions.³¹

18. The Commission also considers additional applicant eligibility restrictions in the *Public Notice*, but ultimately adopts the restrictions proposed in the *Cap Comment Notice*. For example, the Commission declines to adopt EIC's suggested restrictions based on the number of an applicant's existing authorizations and income, which several commenters adamantly opposed. The Commission agrees that these narrow restrictions would be arbitrary, burdensome, and contrary to the public interest.

19. In the *Public Notice*, the Commission also considers various holding period proposals. The Commission agrees with REC and LPFM-AG that there "needs to be a safeguard in place" to prevent speculation and gamesmanship and that a temporary restriction on primary station changes and assignments/transfers will curb the risk of "immediate flipping, paper reshuffling of primaries, or rapid untethering of translators shortly after grant or license." The Commission finds that REC's four-year holding period proposal strikes the correct balance and is sufficient to deter license speculators, while not unduly burdening the licensee.

G. Report to Congress

20. The Commission will send a copy of the *Public Notice*, including this Final Regulatory Flexibility Analysis, in a report to Congress pursuant to the Congressional Review Act.³² In addition, the Commission will send a copy of the *Public Notice*, including this Final Regulatory Flexibility Analysis, to the Chief Counsel for the SBA Office of Advocacy and will publish a copy of the *Public Notice* and this Final Regulatory Flexibility Analysis (or summaries thereof) in the Federal Register.³³

³⁰ See REC Comments at 2-3; K-LOVE/HMG Reply at 1; Prometheus Reply at 1; NRB Reply at 2; de Caro Comments; EIC Comments at 1.

³¹ See 47 CFR § 73.860.

³² 5 U.S.C. § 801(a)(1)(A).

³³ *Id.* § 604(b).