

INSTRUCTIONS – FORM 2100, SCHEDULE 340 - NONCOMMERCIAL EDUCATIONAL STATION FOR RESERVED CHANNEL CONSTRUCTION PERMIT APPLICATION

The following instructions track the Noncommercial Educational FM Station Construction Permit Application Flow in LMS:

GENERAL INSTRUCTIONS

When to Use this Schedule/Filing Fees: Form 2100, Schedule 340, is used to apply for authority to construct a new full service noncommercial educational (NCE) FM broadcast station, to make changes in an authorized NCE broadcast station, or to amend a pending Schedule 340 application. Schedule 340 is used only if the station will operate on a channel that is reserved exclusively for noncommercial educational use, i.e., FM channels 200 to 220, as well as any FM channels appearing with an asterisk in the table of allotments, 47 CFR § 73.202. There is no fee to file an application including Schedule 340.

When NOT to Use this Schedule: Do not use Schedule 340 to file an application on behalf of any station that will operate on a non-reserved channel, i.e., a channel that is also available to commercial applicants. Non-reserved channels include FM channels 221 and above appearing without an asterisk in the table of allotments (47 CFR § 73.202). Because non-reserved channels can be used commercially, applicants for new stations and for major changes to existing stations using non-reserved channels are subject to the Commission’s competitive bidding (auction) procedures, even if they propose to operate noncommercially. Applicants can obtain more information about the Commission’s competitive bidding procedures in Subpart I of Part 73 of the Commission’s rules. Applicants applying for a minor change to an existing noncommercial educational station operating on a non-reserved channel should use Schedule 301-FM. Applicants seeking authority to construct a new station or to make a major modification to existing facilities of a station operating on a non-reserved channel should use FCC Form 175 during a designated FM auction window. For definitions of “major change” and “minor change” see 47 CFR § 73.3573(a).

When to File: The Commission periodically issues public notices that announce filing windows during which it will accept certain types of broadcast applications. When using Schedule 340 to apply for a new station or to propose major changes to an existing station, applicants must file during a window filing period for NCE applications. When using Schedule 340 to propose minor changes to an existing NCE authorization, an applicant may generally file at any time, subject to any restriction that the Commission may issue.

Which Form Sections to File: This application schedule consists of the following sections:

- GENERAL INFORMATION
- FEES, WAIVERS, AND EXEMPTIONS
- APPLICANT INFORMATION
- CONTACT REPRESENTATIVES
- PARTIES TO THE APPLICATION*
- ATTRIBUTABLE INTEREST*

All previous editions obsolete.

Form 2100, Schedule 340 Instructions
October 2020

- ALIEN OWNERSHIP*
- LEGAL CERTIFICATIONS
- ELIGIBILITY CERTIFICATIONS*
- FINANCIAL*
- FAIR DISTRIBUTION OF SERVICE*
- MAINTENANCE OF COMPARATIVE QUALIFICATIONS
- POINT SYSTEM FACTORS / TIE BREAKERS*
- CHANNEL AND FACILITY INFORMATION
- ANTENNA LOCATION DATA
- ANTENNA TECHNICAL DATA
- TECHNICAL CERTIFICATIONS
- CERTIFICATION

An applicant for a new station on a reserved channel must submit all sections. Existing stations proposing a major or minor change on a reserved channel need file only the application sections displayed by LMS based on the applicant's responses to application questions. Generally, the application sections marked with an asterisk (*) will not be displayed to applicants for modifications to existing facilities or for auxiliary facilities. An applicant for a minor change to an existing FM facility, in which the applicant seeks to change the community of license, must also fill out the Local Public Notice item in the Legal Certifications section. Applicants using this form to amend an existing application should complete the sections pertaining to the information to be amended and a certification.

This application schedule makes many references to FCC rules. Applicants should have on hand and be familiar with current broadcast rules in Title 47 of the Code of Federal Regulations (CFR):

- (1) Part 0 "Commission Organization"
- (2) Part 1 "Practice and Procedure"
- (3) Part 73 "Radio Broadcast Services"
- (4) Part 74 "Experimental Radio, Auxiliary, Special Broadcast, and Other Program Distributional Services"

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

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

- (1) Applicant's name.
- (2) Service (FM).
- (3) Call letters or specify "NEW" station.
- (4) Channel number.
- (5) Community of license.
- (6) File number of application being amended (if known).
- (7) Date of filing of application being amended (if file number is not known).
- (8) Facility ID Number.

Public Notice Requirements. Applicants filing Schedule 340 must provide a public notice to inform the community about the proposal. 47 CFR § 73.3580 requires that applicants for construction permits for new broadcast stations and for major change in existing broadcast facilities (as defined in 47 CFR § 73.3573(a)(1)) give local notice by posting notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or otherwise by posting notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing, in the form prescribed in 47 CFR § 73.3580(b)(2).. With respect to major amendments as defined in 47 CFR § 73.3573(b), the station must broadcast announcements pursuant to 47 CFR § 73.3580(c)(2)(i), at least once per week, Monday through Friday, from 7:00 a.m. to 11:00 p.m. local time, six times over a four consecutive week period, in the form prescribed in 47 CFR § 73.3580(b)(1), unless the station is off the air, in which case it shall post online notice. This on-air announcement requirement also applies with respect to applications for minor modification to existing FM facilities in which the applicant seeks to change the existing facility's community of license, pursuant to 47 CFR § 73.3580(c)(5)(i), unless the station is off the air, in which case it shall post online notice.

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

Public Inspection File. A copy of the completed application and all related documents shall be made available for inspection by the public in the applicant's public inspection file, pursuant to the requirements of 47 CFR § 73.3527(b)(1). An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license.

Defective or incomplete applications will be dismissed. Inadvertently accepted applications are also subject to dismissal.

In accordance with 47 CFR § 1.65, applicants have a continuing obligation to advise the Commission, through amendments, of any substantial and material changes in the information furnished in this application. This requirement continues until the FCC action on this application is no longer subject to reconsideration by the Commission or review by any court.

This application requires applicants to certify compliance with many statutory and regulatory requirements. Detailed instructions and worksheets provide additional information regarding Commission rules and policies. These materials are designed to track the standards and criteria that the Commission applies to determine compliance and to increase the reliability of applicant certifications. They are not intended to be a substitute for familiarity with the Communications Act and the Commission's regulations, policies, and precedent. While applicants are required to review all application instructions, they are not required to complete or retain any documentation created or collected to complete the application.

This application is presented primarily in a "Yes/No" certification format. However, it contains appropriate places for submitting explanations and attachments where necessary or appropriate. Each certification constitutes a material representation. Applicants may only mark the "Yes" certification when they are certain that the response is correct. A "No" response is required if the applicant is requesting a waiver of a pertinent rule and/or policy, or where the applicant is uncertain that the application fully satisfies the pertinent rule and/or policy. Thus, a "No" response to any of the certification items **will not** cause the immediate dismissal of the application provided that an appropriate attachment is submitted.

The applicant must electronically sign the application. The signature will consist of the electronic equivalent of the typed name of the individual submitting the application as the applicant's authorized representative. Depending on the nature of the applicant, the application should be signed as follows: if a partnership, by a general partner; if a corporation, by an officer; for an unincorporated association, by a member who is an officer; if a governmental entity, by such duly elected or appointed official as is competent under the laws of the particular jurisdiction. Counsel may sign the application for his or her client, but only in cases of the applicant's disability or absence from the United States. In such cases, counsel must separately set forth why the application is not signed by the client. In addition, as to any matter stated on the basis of belief

instead of personal knowledge, counsel shall separately set forth the reasons for believing that such statements are true. *See* 47 CFR § 73.3513. The electronic signature will consist of the electronic equivalent of the typed name of the individual. *See* Report and Order in MM Docket No. 98-43, 13 FCC Rcd 23056, 23064 (1998), ¶ 17.

GENERAL INFORMATION

Application Description: In the space provided, give a brief (255 characters or fewer) description of the application. This is to assist you in identifying this discrete application and will be displayed only in your LMS Application workspace. It will not be made a part of your application or be displayed to others.

Uploaded Attachments: Indicate by clicking “Yes” or “No” whether the application includes attachments other than required attachments. Required attachments are those that must be filed in response to application questions, and may only be required if certain answers are given.

FEES, WAIVERS, AND EXEMPTIONS

FCC Schedule 340 is a fee-exempt application.

Waivers: If any waiver of the Commission’s rules is requested at any part of the application, select “Yes” to this question. If selecting “Yes,” complete the box that opens by stating the number of rule sections for which you request waiver. You must then submit an attachment setting forth the waiver(s) sought and the legal justification for waiver.

APPLICANT INFORMATION

Applicant Name and Type: Select the Applicant Type (e.g., Unincorporated Association, Trust, Government Entity, etc.) from the drop-down menu. In the box below the drop-down menu, enter the exact legal name of the applicant entity. The name of the applicant must be stated exactly in this item. If the applicant is a corporation, the applicant should list the exact corporate name; if a partnership, the name under which the partnership does business; and if an unincorporated association, the name of an executive officer, his/her office, and the name of the association.

Applicant Information: Enter the applicant’s postal address, telephone number, and Email address in the spaces provided. Select the applicant’s Country and State from the drop-down menus.

CONTACT REPRESENTATIVES

If the applicant is represented by a third party (such as, for example, legal counsel), that person's name, firm or company, and telephone/electronic mail address may be specified as Contact Representative. Otherwise, a party to the application or another person associated with the applicant may be designated as Contact Representative. This is the person with whom the Commission will communicate regarding the application. At least one Contact Representative must be designated. To add a Contact Representative, click the “Add Contact” button at the top right of the screen.

Contact Type: Select the button that best describes the contact type, whether Legal Representative (e.g., attorney), Technical Representative (e.g., engineer), or Other.

Contact Information: Enter the Contact Representative’s postal address, telephone number, and Email address in the spaces provided. If the representative works for a firm or company, enter that name in the Company Name space. Select the Contact Representative’s Country and State from the drop-down menus.

If you have more than one Contact Representative, click the “Save & Add Another” button at the bottom of the screen and complete for the next Contact Representative. When you are finished, click “Save & Continue.” You will be displayed a summary screen listing your Contact Representative(s). From this screen you may delete a Contact Representative or edit the information provided. If you have no further Contact Representative information to add or edit, click “Save & Continue.”

PARTIES TO THE APPLICATION

The following instructions apply to the “Applicant Party Name and Positional Interest,” “Party Contact Information,” and “Attributable Interest” sections of the application.

This section is designed to identify all individuals and organizations that may be subject to various FCC rules and related statutory requirements. The applicant will be answering questions about those individuals and entities listed in response to the questions in this section when completing other subsequent application sections.

As used in this application, the term "party to the application" includes any individual or entity whose ownership or positional interest in the applicant is attributable. An attributable interest is an ownership interest in or relation to an applicant or licensee which will confer on its holder that degree of influence or control over the applicant or license sufficient to implicate the Commission's multiple ownership rules. Although the multiple ownership rules do not limit the number of attributable noncommercial educational stations that can be owned, the attributable nature of stations is nevertheless an important one in the noncommercial educational context, especially in the use of resolving mutually exclusive applications. In responding to these questions, applicants should review the Commission's multiple ownership attribution policies and standards which are set forth in the Notes to 47 CFR Section 73.3555, as revised and explained in *Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, FCC 99-207, released August 6, 1999. See also Report and Order in MM Docket No. 83-46, 97 FCC 2d 997 (1984), *reconsideration granted in part*, 58 RR 2d 604 (1985), *further modified on reconsideration*, 61 RR 2d 739 (1986). In the noncommercial context, the interest of the applicant, its parent, its subsidiaries, and their officers and directors are attributable. Additionally, "parties to the application" includes the following with respect to each of the listed applicant entities:

Government or Public Educational Agency, Board, or Institution: The members of the governing board and chief executive officers shall be considered parties to the application.

Non-Stock Corporations or Other Non-Stock Entities: The applicant, the parent and subsidiary entities of the applicant, and the officers, directors, and governing board members of the applicant and its parent and subsidiary entities are considered to be parties to the application.

Partnerships and Limited Partnerships: Partners and non-insulated limited partners are considered to be parties to the application. A limited partner in a limited partnership is considered to be insulated if the limited partner is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership, and the applicant so certifies in response to subsection “b” of “Equity and Financial Interests” question below. Sufficient insulation of a limited partner for purposes of this certification is assured if the limited partnership agreement:

- (1) specifies that any exempt limited partner (if not a natural person, its directors, officers, partners, etc.) cannot act as an employee of the limited partnership if his or her functions, directly or indirectly, relate to the media enterprises of the company;

- (2) bars any exempt limited partner from serving, in any material capacity, as an independent contractor or agent with respect to the partnership's media enterprises;
- (3) restricts any exempted limited partner from communicating with the licensee or the general partner on matters pertaining to the day-to-day operations of its business;
- (4) empowers the general partner to veto any admissions of additional general partners admitted by vote of the exempt limited partners;
- (5) prohibits any exempt limited partner from voting on the removal of a general partner or limits this right to situations where the general partner is subject to bankruptcy proceedings, as described in section 402(4)-(5) of the Revised Uniform Limited Partnership Act, is adjudicated incompetent by a court of competent jurisdiction, or is removed for cause, as determined by an independent party;
- (6) bars any exempt limited partner from performing any services to the limited partnership materially relating to its media activities, with the exception of making loans to, or acting as a surety for, the business; and
- (7) states, in express terms, that any exempt limited partner is prohibited from becoming actively involved in the management or operation of the media businesses of the partnership.

Notwithstanding conformance of the partnership agreement to these criteria, however, the requisite certification cannot be made if the applicant has actual knowledge of a material involvement of a limited partner in the management or operation of the media-related businesses of the partnership. In the event that the applicant cannot certify as to the noninvolvement of a limited partner, the limited partner will be considered as a party to this application.

Limited Liability Companies: The Commission treats an LLC as a limited partnership, each of whose members is considered to be a party to the application. However, where an LLC member is insulated in the manner specified above with respect to a limited partnership and where the relevant state statute authorizing the LLC permits an LLC member to insulate itself in accordance with the Commission's criteria, that LLC member is not considered a party to the application.

Stock Corporations: The Commission's multiple ownership attribution policies and standards apply to NCE applicants and licensees that are stock corporations. Generally, the applicant, the parent and subsidiary entities of the applicant, the officers, directors, and governing board members of the applicant and its parent and subsidiary entities, and holders of voting stock interests in the applicant of 5 percent or more are considered to be parties to the application.

- a. Voting stock interests. Voting stock interests of 5 percent or more of the issued and outstanding voting stock of the applicant are attributable, unless the interest is passive in nature, in which case voting stock interests of 20 percent or more are attributable. Where the 5 percent stock owner is itself a corporation, each of its stockholders, directors and "executive" officers (president, vice-president, secretary, treasurer or their equivalents) is considered a party to this application UNLESS the applicant submits as an exhibit a statement establishing that an individual director or officer will not exercise authority or influence in areas that will affect the applicant or the station. In this statement, the applicant should identify the individual by name and title, describe the individual's duties and responsibilities, and explain the manner in which such individual is insulated from the corporate applicant and should not be attributed an interest in the corporate applicant or considered a party to this application. In addition, a person or entity holding an ownership interest in the corporate stockholder of the applicant is considered a party to this application ONLY IF that interest, when multiplied by the corporate stockholder's interest in the applicant, would account for 5% or more of the

issued and outstanding voting stock of the applicant. For example, where Corporation X owns stock accounting for 25% of the applicant's votes, only Corporation X shareholders holding 20 percent or more of the issued and outstanding voting stock of Corporation X have a 5% or more indirect interest in the applicant (.25 x .20 = .05) and, therefore, are considered parties to this application. In applying the multiplier, any entity holding more than 50% of its subsidiary will be considered a 100% owner. Where the 5% stock owner is a partnership, each general partner and any limited partner that is non-insulated, regardless of the partnership interest, is considered a party to the application. Stock subject to stockholder cooperative voting agreements accounting for 50% or more of the votes in a corporate applicant will be treated as if held by a single entity and any stockholder holding 5% or more of the stock in that block is considered a party to this application. An investment company, insurance company or trust department of a bank is not considered a party to this application, and an applicant may properly certify that such entity's interest is non-attributable, IF its aggregated holding accounts for less than 20% of the outstanding votes in the applicant AND IF:

- (1) such entity exercises no influence or control over the corporation, directly or indirectly; and
- (2) such entity has no representatives among the officers and directors of the corporation.

NOTE: In the event that the applicant has more than 50 stockholders, stock subscribers, or holders of membership certificates or other ownership interests, only officers, directors, and persons or entities who are the beneficial or record owners, have the right to vote 1% or more of the capital stock, membership or ownership interest, or are subscribers to such interest, shall be considered parties to this application. If any corporation or other legal entity owns 1% or more of an applicant with more than 50 stockholders, its officers, directors and all persons or entities, who are the beneficial or record owners, have the right to vote 1% or more of the capital stock, membership or ownership interest, or are subscribers to such interest in the entity, shall also be considered parties to this application.

- b. Non-voting stock and debt interests. Non-voting stock and debt interests may be attributable under the Commission's "equity-debt-plus" (EDP) attribution standard. Under the EDP standard, the interest held, aggregating both equity and debt, must exceed 33% of the total asset value (all equity plus all debt) of the applicant, a broadcast station licensee, cable television system, daily newspaper or other media outlet subject to the Commission's broadcast multiple ownership rules AND the interest holder must either hold an attributable interest in a media outlet in the same market or supply over 15% of the total weekly broadcast programming hours of the station in which the interest is held. For example, the equity interest of a donor or lender would normally not be considered attributable. However, under the EDP standard, that interest would be attributable if the donor or lender provided more than 33% of the applicant's total asset value AND the donor or lender also held a 5% voting interest in a radio or television station licensee in the same market.

There are two ways in which you may enter party information. Option 1 is to manually enter information for each party. Option 2 is to upload an attachment in a Comma-Separated Values (CSV) format, using the template file you can download by clicking on "Upload a list of parties" and then clicking on the "Download a CSV template file" link that appears. Once the CSV file is saved to your computer, you can select it by using the "Browse" button.

If manually entering party information using Option 1, you will be displayed the "Add Party to the Application" page. Follow these instructions:

ADD PARTY TO THE APPLICATION

Applicant Party Name and Positional Interest. For each applicant and attributable interest holder, the following information must be provided:

- Positional Interest: Select one from the pull-down menu (e.g., Director, General Partner, Investor or Creditor, etc.).
- Citizenship: Select from the pull-down menu.
- Percentage of Ownership, Voting Stock, or Membership: Fill in to up to two decimal places.
- Director or Member of Governing Board: Select “Yes” or “No.”
- Percentage of Total Assets (equity plus debt): Fill in to up to two decimal places.
- First Name / Middle Name / Last Name / Suffix / Title: Complete for natural person applicants or natural person attributable interest holders. Middle Name, Suffix, and Title are optional fields.
- Company Name: Complete for applicants and attributable interest holders that are entities.

Party Contact Information: For each applicant and attributable interest holder listed under “Applicant Party Name and Positional Interest,” provide the following:

- Country: Select from the pull-down menu.
- PO Box / Address Line 1: Complete at least one of these two fields.
- Address Line 2: Optional. Complete if needed.
- City
- State: Select from pull-down menu.
- ZIP Code
- Phone: Include area code and country code if applicable.
- Email

If you have more than one Party to the application to report, click the “Save & Add Another” button at the bottom of the screen and complete for the next Party. When you are finished, click “Save & Continue.” You will be displayed a summary screen listing all Parties to the application you have entered. From this screen you may delete a Party or edit the information provided. If you have no further Party information to add or edit, click “Save & Continue.”

ATTRIBUTABLE INTEREST

Equity and Financial Interests: By selecting “Yes” to this item, the applicant certifies that any individuals or entities not listed in response to the “Applicant Party Name and Positional Interest” section do not hold attributable interests in the applicant pursuant to the Notes to 47 CFR § 73.3555. If there remain parties with attributable interests, please enter their information in the “Applicant Party Name and Positional Interest” and “Party Contact Information” sections. If you select “No” to this question, submit an explanatory attachment.

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

ALIEN OWNERSHIP

All applications must comply with section 310 of the Communications Act, as amended. Specifically, section 310 proscribes issuance of a construction permit or station license to an alien, a representative of an alien, a foreign government or the representative thereof, or a corporation organized under the laws of a foreign government. This proscription also applies with respect to any entity of which more than 20% of the capital stock is owned or voted by aliens, their representatives, a foreign government or its representative, or an entity organized under the laws of a foreign country. The Commission may also deny a construction permit or station license to a licensee directly or indirectly controlled by another entity of which more than 25% of the capital stock is owned or voted by aliens, their representatives, a foreign government or its

representative, or another entity organized under the laws of a foreign country. Any such applicant seeking Commission consent to exceed this 25% benchmark in section 310(b)(4) of the Act must do so by filing a petition for declaratory ruling pursuant to section 1.5000-04.

Compliance with section 310 is determined by means of a two-pronged analysis, one pertaining to voting interests and the second to ownership interests. *See, e.g., BBC License Subsidiary L.P.*, 10 FCC Rcd 10968 (1995). The voting interests held by aliens in a licensee through intervening domestically organized entities are determined in accordance with the multiplier guidelines for calculating indirect ownership interests in an applicant as set forth in the "Corporate Applicant" Instructions above. For example, if an alien held a 30-percent voting interest in Corporation A which, in turn, held a non-controlling 40-percent voting interest in Licensee Corporation B, the alien interest in Licensee Corporation B would be calculated by multiplying the alien's interest in Corporation A by that entity's voting interest in Licensee Corporation B. The resulting voting interest (30% x 40% = 12%) would not exceed the 25% statutory benchmark. However, if Corporation A held a controlling 60% voting interest in Corporation B, the multiplier would not be utilized and the full 30 percent alien voting interest in Corporation A would be treated as a 30 percent interest in Licensee Corporation B, i.e., an impermissible 30% indirect alien voting interest in the licensee. If Partnership A held a 40% voting interest in Licensee Corporation B, that voting interest would be similarly impermissible if any general partner or any non-insulated limited partner of partnership A was an alien, regardless of his or her partnership interest. *See also Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees Under Section 310(b)(4) of the Communications Act of 1934, as Amended*, Report and Order, 31 FCC Rcd 11272, paras. 67-72 (2016) (*2016 Foreign Ownership Order*).

Applicants must also comply with the separate alien equity ownership benchmark restrictions of section 310. Under the second prong of the analysis, an applicant must determine the *pro rata* equity holdings of any alien investor in a licensee entity or its parent. In calculating alien ownership, the same voting interest multiplier rules apply.

In order to complete this two-pronged analysis, an applicant must determine the citizenship of each entity holding either a voting or equity interest or explain how it determined the relevant percentages. Corporate applicants and licensees whose stock is publicly traded must determine the citizenship of interest holders who are known or should be known to the company in the ordinary course of business, including: (1) registered shareholders; (2) officers, directors, and employees; (3) interest holders reported to the Securities and Exchange Commission; (4) beneficial owners identified in annual or quarterly reports and proxy statements; and (5) any other interest holders that are actually known to the company, such as through transactions, litigation, proxies, or any other source. Statistical sampling surveys are no longer necessary. Although direct inquiry and publicly available resources may be used to determine citizenship of known or should-be-known interest holders, street addresses are not sufficient for this purpose. For more detailed information on identifying and calculating foreign interests, *see 2016 Foreign Ownership Order*, paras. 44-72.

If the combined total foreign ownership (foreign voting interests and foreign equity interests) identified under this methodology does not exceed 25%, a declaratory ruling is not necessary to grant the application. A subsidiary or affiliate of a licensee already named in a foreign ownership declaratory ruling may rely on that ruling, and by certifying compliance with the provisions of section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments, certifies that it and the licensee named in the declaratory ruling are in compliance with the terms and conditions of the original foreign ownership declaratory ruling. *See* 47 CFR § 1.5004(b). Questions 6-9 of this item ask whether the applicant has received a foreign ownership declaratory ruling and whether the applicant complies with the terms of that prior declaratory ruling. Alternatively, it asks whether the applicant is filing for a foreign ownership declaratory ruling in connection with this application.

LEGAL CERTIFICATIONS

Character Issues/Adverse Findings: The Character Issues question requires the applicant to certify that neither it nor any party to the application has had any interest in or connection with an application that was or is the subject of unresolved character issues. An applicant must disclose in response to the Adverse Findings question whether the applicant or any party to the application has been the subject of a final adverse finding with respect to certain relevant non-broadcast matters. The Commission's character policies and litigation reporting requirements for broadcast applicants focus on misconduct which violates the Communications Act or a Commission rule or policy and on certain specified non-FCC misconduct. In responding to these questions, applicants should review the Commission's character qualifications policies, which are fully set forth in *Character Qualifications*, 102 FCC 2d 1179 (1985), *reconsideration denied*, 1 FCC Rcd 421 (1986), *as modified*, 5 FCC Rcd 3252 (1990) and 7 FCC Rcd 6564 (1992).

NOTE: As used in these questions, the term "party to the application" includes any individual or entity whose ownership or positional interest in the applicant is attributable. An attributable interest is an ownership interest in or relation to an applicant or licensee which will confer on its holder that degree of influence or control over the applicant or licensee sufficient to implicate the Commission's multiple ownership rules. *See* Report and Order in MM Docket No. 83-46, 97 FCC 2d 997 (1984), *reconsideration granted in part*, 58 RR 2d 604 (1985), *further modified on reconsideration*, 61 RR 2d 739 (1986).

Character Issues: Where the response to the Character Issues question is "No," the applicant must submit an attachment that includes an identification of the party having had the interest, the call letters and location of the station or file number of the application or docket, and a description of the nature of the interest or connection, including relevant dates. The applicant should also fully explain why the unresolved character issue is not an impediment to a grant of this application.

Adverse Findings: In responding to the Adverse Findings question, the applicant should consider any relevant adverse finding involving the applicant or any party to the application. Where that adverse finding was fully disclosed to the Commission in an application filed on behalf of this station or in another broadcast station application and the Commission, by specific ruling or by subsequent grant of the application, found the adverse finding not to be disqualifying, it need not be reported again and the applicant may respond "Yes" to this item. However, an adverse finding that has not been reported to the Commission and considered in connection with a prior application would require a "No" response.

Where the response to the Adverse Findings question is "No," the applicant must provide in an attachment a full disclosure of the persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers), and the disposition of the litigation. Where the requisite information has been earlier disclosed in connection with another pending application, or as required by 47 CFR § 1.65(c), the applicant need only provide an identification of that previous submission by reference to the file number in the case of an application, the call letters of the station regarding which the application or Section 1.65 information was filed, and the date of filing. The applicant should also fully explain why the adverse finding is not an impediment to a grant of this application.

Program Service Certification. A broadcast station is required to present informational programming responsive to issues and problems of the residents of its community of license. Issues can be addressed in programming such as news, public affairs, religious, community bulletin boards, and public service announcements. Prior to making the certification, the applicant should familiarize itself with its obligations. *See Programming Information in Broadcast Applications*, 3 FCC Rcd 5467 (1988). *See also* 47 CFR § 73.503.

Local Public Notice. 47 CFR § 73.3580 requires that applicants for construction permits for new broadcast stations and for major change in existing broadcast facilities (as defined in 47 CFR § 73.3573(a)(1)) give local notice by posting notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or otherwise by

posting notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing, in the form prescribed in 47 CFR § 73.3580(b)(2). With respect to major amendments as defined in 47 CFR § 73.3573(b), the station must broadcast announcements pursuant to 47 CFR § 73.3580(c)(2)(i), at least once per week, Monday through Friday, from 7:00 a.m. to 11:00 p.m. local time, six times over a four consecutive week period, in the form prescribed in 47 CFR § 73.3580(b)(1), unless the station is off the air, in which case it shall post online notice. This on-air announcement requirement also applies with respect to applications for minor modification to existing FM facilities in which the applicant seeks to change the existing facility's community of license, pursuant to 47 CFR § 73.3580(c)(5)(i), unless the station is off the air, in which case it shall post online notice.

Equal Employment Opportunity. Applicants seeking authority to construct a new noncommercial broadcast station are required to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. *See* 47 CFR § 73.2080. Pursuant to these requirements, an applicant who proposes to employ five or more full-time employees in its station employment unit must establish a program designed to assure equal employment opportunity for women and minority groups (that is, Blacks not of Hispanic origin, Asian or Pacific Islanders, American Indians or Alaskan Natives, and Hispanics). An "employment unit" is a station or group of commonly owned stations in the same market that share at least one employee. This program is submitted to the Commission as the Model EEO Program on the Broadcast Equal Employment Opportunity Model Program Report, which should be filed simultaneously with this application. If an applicant proposes to employ fewer than five full-time employees in its station employment unit, no EEO program for women or minorities need be filed.

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

ELIGIBILITY CERTIFICATIONS

Indicate the noncommercial educational nature of applicant's organization. All nonprofit educational institutions, including public and private schools and colleges, should select "Nonprofit educational institution." Government entities, including agencies, boards, etc., that do not operate a school should select "Governmental entity other than a school." Non-profit educational organizations that are neither schools nor government entities, such as private educational nonprofit corporations, should select "Nonprofit educational organization, other than as described above." If the applicant does not qualify to select any subpart of this certification question, the applicant is not eligible to hold an NCE station authorization.

If the applicant states that it is a "Governmental entity other than a school," the applicant should indicate whether the Commission has previously approved the applicant's educational qualifications and program and whether the applicant will use the proposed station to advance a similar program. Applicants answering "Yes" should enter, in the box that pops up, the file number of the most recent application in which the Commission granted such approval. Applicants responding "No" to this certification question must establish their qualifications. The applicant must provide an attachment showing that it has an educational objective and that the station will be used for the advancement of an educational program that will further that objective in accordance with 47 CFR § 73.503. In considering these requirements, emphasis is placed on proposed station programs which are clearly educational in nature, i.e., actually involve teaching or instruction, whether for formal credit or not. However, it is not necessary that the proposed station's programming be exclusively educational in nature. Also, all programming on the station must be noncommercial in nature, with no advertisements, and no support for or opposition of a candidate for political office.

If the applicant responds “No” to this certification question, it should review its governing documents to determine whether they permit the applicant to advance an educational program, and whether they contain any provisions limiting the applicant from advancing an educational program or from complying with FCC rules, policies, or the Communications Act. The applicant must respond “Yes” or “No” to the question asking it to certify that its governing documents allow it to advance an educational program and do not restrict it from advancing such a program, and must submit an explanatory attachment.

FINANCIAL

These certification questions are for new stations only. Applicants for new stations must demonstrate their financial qualifications by answering these two items. An applicant for a new station must attest it has sufficient net liquid assets on hand, or committed sources of funds to construct the proposed facility and operate for three months, without additional funds. In so certifying, the applicant is also attesting that it can and will meet all contractual requirements, if any, as to collateral, guarantees, donations, and capital investments. As used here, "net liquid assets" means the lesser amount of the net current assets or of the liquid assets shown on a party's balance sheet, with net current assets being the excess of current assets over current liabilities. Applicants should also certify whether their application is contingent upon receipt of a grant from a charitable organization, approval of a school or university budget, or an appropriation from a state, county, municipality, or other political unit or subdivision.

Documentation supporting the attestation of financial qualifications need not be submitted with this application but must be available to the Commission upon request. The Commission encourages that all financial statements used in the preparation of this application be prepared in accordance with generally accepted accounting principles.

FAIR DISTRIBUTION OF SERVICE

The first two certification questions of this section are applicable only to applicants for new and major changes to FM stations reserved for noncommercial educational use, both in the reserved band (Channels 200-220), and the non-reserved band (i.e., designated in the FM Table of Allotments, 47 CFR § 73.202, with an asterisk “*”). The third and fourth certification questions are applicable only to applications for new and major changes to FM stations operating in the reserved band (Channels 200-220). These questions enable us to consider, in the event of mutually exclusive FM applications that would serve different communities, whether service to one community over the other would best achieve our directive to distribute radio service fairly among communities. *See* 47 U.S.C. § 307(b) (Section 307(b)).

An applicant responding “yes” to any of the certification questions below must submit an attachment with a justification for its certification.

The first certification question asks whether the applicant proposes first overall reception service to any population or area. In *Policies to Promote Rural Radio Service and to Streamline Auction, Allotment, and Assignment Policies*, First Report and Order, 25 FCC Rcd 1583, 1594 (2010) (*Rural First Report and Order*), the Commission stated that the Tribal Priority (discussed below) will not prevail over a proposal for first aural reception service (this is *not* to be confused with the first *NCE* reception service, which is reported in response to the third question, discussed below) to a significant population. Applicants answering “yes” should provide a map indicating the “white area” (area with no aural reception service) that will be served by their proposal, and setting forth the area and population that will be provided with first overall aural reception service. The applicant’s population figures must be based on the most recent Census Block Data from the United States Bureau of Census. Applicants should use the centroid method of counting population (counting persons within each of the relevant census blocks). Applicants should calculate contours based on the standard predicted contours established in 47 CFR § 73.313(c). The Commission will consider the response to this question only if it

determines (a) that the applicant has answered “yes” and provided an attachment indicating first aural reception service to a significant population, and (b) that the application is mutually exclusive with an application claiming the Tribal Priority. All applicants should proceed to the next question.

The second certification question in this section requests information relative to the “Tribal Priority” under Section 307(b), implemented in the *Rural First Report and Order*, 25 FCC Rcd at 1596-97. To qualify for the Tribal Priority, the applicant must certify that (1) it is a Tribal Applicant; (2) the facilities proposed in the application will provide Tribal Coverage of Tribal Lands occupied by the applicant Tribe(s); (3) the proposed community of license is located on Tribal Lands; and (4) the proposed facility would be the first local tribal-owned noncommercial educational transmission service at the proposed community of license. The applicant must meet all four criteria in order to claim the Tribal Priority.

Section 73.7000 of the Commission’s Rules (47 CFR § 73.7000) defines the terms “Tribe,” “Tribal Applicant,” “Tribal Coverage,” and “Tribal Lands” used in this question. In that section of the Rules, the term “Federally-Recognized Indian Tribe” means any Indian or Alaska Native tribe, band, nation, pueblo, village or community which is acknowledged by the federal government to constitute a government-to-government relationship with the United States and eligible for the programs and services established by the United States for Indians. See *The Federally Recognized Indian Tribe List Act of 1994* (Indian Tribe Act), Pub. L. 103-454, 108 Stat. 4791 (1994) (the Secretary of the Interior is required to publish in the Federal Register an annual list of all Indian Tribes which the Secretary recognizes to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians). *Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes*, Policy Statement, 16 FCC Rcd 4078, 4080 (2000).

As used here, “Tribal Lands” means both “reservations” and “near reservation” lands. “Reservations” is defined as any Federally Recognized Indian Tribe’s reservation, pueblo or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlements Act (85 Stat. 688), and Indian allotments, for which a Tribe exercises regulatory jurisdiction. 47 CFR § 54.400(e). “Near reservation” is defined as “those areas or communities adjacent or contiguous to reservations which are designated by the Department of Interior’s Commission of Indian Affairs upon recommendation of the Local Bureau of Indian Affairs Superintendent, which recommendation shall be based upon consultation with the tribal governing body of those reservations, as locales appropriate for the extension of financial assistance and/or social services on the basis of such general criteria as: Number of Indian people native to the reservation residing in the area; a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area, are socially, culturally and economically affiliated with their tribe and reservation; geographical proximity of the area to the reservation and administrative feasibility of providing an adequate level of services to the area.” *Id.* Thus, “Tribal Lands” includes American Indian Reservations and Trust Lands, Tribal Jurisdiction Statistical Areas, Tribal Designated Statistical Areas, Hawaiian Homelands, and Alaska Native Village Statistical Areas, as well as the communities situated on such lands.

The daytime principal community contour for noncommercial educational FM stations in the reserved band (Channels 200 – 220) is that set forth in 47 CFR § 73.515. The daytime principal community contour for noncommercial educational FM stations in the non-reserved band (Channels 221 and above) is that set forth in 47 CFR § 73.315.

Applicants answering “Yes” must provide an attachment setting forth: (a) the tribal identity/identities of the applicant or applicant entity/entities; (b) (1) a map showing that at least 50 percent of the area within the proposed station’s principal community contour is over that Tribe’s Tribal Lands but does not cover 50 percent or more of a non-applicant Tribe’s Tribal Lands; or (2) a map showing that the applicant’s proposed principal community contour (i) encompasses 50 percent or more of that Tribe’s Tribal Lands, but does not cover 50 percent or more of a non-applicant Tribe’s Tribal Lands, (ii) serves at least 2,000 people living on Tribal Lands, and (iii) the total population on Tribal Lands residing within the

station's service contour constitutes at least 50 percent of the total covered population; (c) that the proposed community of license is located on Tribal Lands; (d) the identity/identities of the Tribe or Tribes whose land is covered by the applicant's proposed principal community contour; and (e) the population on Tribal Lands covered by the applicant's proposed principal community contour. If the applicant consists of more than one Tribe, or an entity 51 percent or more owned or controlled by a Tribe or Tribes, at least 50 percent of the proposed principal community contour must cover Tribal Lands occupied by the applicant's constituent Tribes, or the proposed principal community contour must cover 50 percent or more of Tribal Lands occupied by the applicant's constituent Tribes; that is, the requirement of Tribal Coverage will not be met by coverage of Tribal Lands not occupied by a Tribe or Tribes that is/are the applicant, or that owns, controls, or comprises part of the applicant entity. In order to claim the Tribal Priority, Tribal Applicants must demonstrate that their proposal constitutes the first local tribal-owned NCE transmission service at a community of license located on Tribal Lands. Applicants not answering "yes" to this question should proceed to the next two questions.

The third and fourth certification questions ask whether the station would provide a first or second noncommercial educational radio service to a significant population. For purposes of these questions, applicants must consider all full-service FM reserved channel authorizations placing a 60 dB μ contour over areas that the applicant also proposes to cover with a 60 dB μ contour, including stations authorized to communities other than that proposed by the applicant. Service calculations must include granted and unexpired construction permits for new unbuilt reserved channel NCE stations. In cases in which a same-area NCE FM station holds both a license and a construction permit, calculations must be based on the licensed facility unless the licensee has commenced operations in accordance with its permit pursuant to program test authority, and a covering license application is on file as of the close of the current filing window. Applicants should not count low-power stations, AM stations, or FM stations that voluntarily operate with a noncommercial format on channels not specifically reserved for that purpose. Vacant allotments and pending applications are not counted. Analyses will be based on service and population data as of the close of the current filing window. The applicant's population figures must be based on the most recent Census Block Data from the United States Bureau of Census. Applicants should use the centroid method of counting population (counting persons within each of the relevant census blocks). Applicants should calculate contours based on the standard predicted contours established in 47 CFR § 73.313(c). First or second service to fewer than 2,000 people or to fewer than ten percent of the population covered is considered insignificant. However, for the purpose of aggregating first and second service, applicants may include a first or second service that would have been considered insignificant if considered alone, if the aggregated population is significant. Applicants answering "Yes" should provide an attachment identifying the population residing within the station's 60 dB μ service contour and the number of people receiving first, second, and aggregated first and second NCE aural service. *See* Worksheet # XX.

MAINTENANCE OF COMPARATIVE QUALIFICATIONS

These questions apply to modification applications only. Applicants for modified facilities whose construction permits were awarded based on certain preferences must demonstrate that they are maintaining those characteristics or that four years of on-air operations have already been provided.

Applicants who received no fair distribution preferences should answer "Yes" to the first question. All others should answer "No" and provide the information requested in the next two questions.

Applicants who received no superior technical parameters credit under the point system selection method should answer "Yes" to the fourth question. All others should answer "No" to this question and provide the information requested in the next question. Applicants answering "No" to either the first or fourth questions should also provide an attachment demonstrating that a proposed downgrade would be in the public interest. The attachment should include the station's covered population and area as authorized, and the population and area proposed.

POINT SYSTEM FACTORS / TIE BREAKERS

In the event of conflicting mutually exclusive applications not resolved through consideration of the preliminary matters discussed above, the Commission will conduct a paper hearing process by applying a point system to select one application for grant. The point system was established in *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, Report and Order, Docket No. 95-31, 15 FCC Rcd 7386 (2000) and clarified in Memorandum Opinion and Order, FCC 01-64, 16 FCC Rcd 5074 (2001). The applicant's qualification for points is determined as of the closing of the filing window, assuming the applicant continues to qualify for all points claimed at the time of selection. Thus, points cannot be enhanced by changes made after the close of the deadline for filing of competing applications, but may be reduced by such changes.

Established Local Applicant. Established local applicants may claim 3 points. An applicant is considered established if it has been local for at least the 24 months immediately preceding application. A nongovernmental applicant is local if, within 25 miles of the reference coordinates for the proposed community of license, applicant has a school campus, its primary physical headquarters, or the primary residences of 75 percent of its governing board members. A primary residence is a domicile and not, for example, a vacation home or a student's temporary school address. For example, an address may be a domicile if it is the address from which the board member is registered to vote, maintains his driver's license, and/or files his federal income taxes. A local headquarters or residence must be a primary place of business or residence and not, for example, a post office box, lawyer's office, branch office, or vacation home. Governments are also considered local throughout the area within their jurisdiction. For example, a state government is local throughout a state, whereas a city Board of Education is local throughout the city.

An applicant claiming points as an established local applicant must place supporting documentation in the applicant's public inspection file and submit to the Commission copies of the documentation. Examples of acceptable documentation include corporate material from the secretary of state, lists of names, addresses, and length of residence of board members, copies of governing documents requiring a 75 percent local governing board, and course brochures indicating that classes have been offered at a local campus for the preceding two years, etc. Pursuant to the requirements of 47 CFR § 73.3527(b)(1), an applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license.

An applicant claiming points as an established local applicant must also pledge to maintain localism characteristics during the period from grant of the construction permit until the station has achieved at least four years of on-air operations.

Diversity of Ownership. If no party to the application has an attributable interest in another authorized station with an overlapping principal community contour, the applicant can claim two points. Parties are those people or entities identified as parties to the application as discussed above. For purposes of this question, only same service stations (radio) are relevant. Thus, an applicant for a new noncommercial educational FM radio station must consider whether there are attributable interests in overlapping AM or FM stations and FM translators, but need not consider any attributable TV station for purposes of claiming this point. When counting translator stations, count all non-fill-in stations, i.e., those that extend outside the applicant's primary station's service contour.

An applicant claiming points for diversity of ownership must place supporting documentation in the applicant's public inspection file and submit to the Commission copies of the documentation. The preferred documentation is either a contour map showing the principal community contours of the proposed station and of other attributable stations whose principal community contours overlap or come within 10 miles of the proposed station's contours. If the applicant has no other attributable stations or has only more distant attributable stations, it must upload a statement to that effect. Pursuant

to the requirements of 47 CFR § 73.3527(b)(1), an applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license.

If the applicant is relying on a divestiture pledge, it does not need to count the station(s) that will be divested for purposes of the diversity of ownership certification. Any applicant relying on the divestiture pledge may exclude the station(s) from the question immediately above if it answers “Yes” to this question and provides an exhibit identifying the overlapping station(s) and stating its intention to divest the station(s) upon commencement of operation of the proposed NCE full service station (i.e., upon its filing of a license application and receipt of program test authority).

Any applicant that certifies that it qualifies for points for “diversity of ownership” must also, by selecting “yes,” pledge to comply with the restrictions on station modifications and acquisitions, as defined in 47 CFR Section 73.7005, during the period from grant of the construction permit until the station has achieved at least four years of on-air operations.

State-wide Network. If the Applicant has not claimed a credit for local diversity in the previous two questions, it should complete Worksheet # XX to see whether it qualifies for a two-point credit as a state-wide network. Applicants may not claim both the state-wide network and local diversity credit. Both public and private entities can qualify for the state-wide network credit, provided that they meet the requirements set out in 47 CFR § 73.7003(b)(3), which are incorporated into Worksheet # XX. National and regional networks generally will not qualify for this credit. Applicants who determine, after completing the calculations in the Web tool, that they qualify, should answer “Yes.” All others should answer “No.” Applicants claiming points as a state-wide network must place supporting documentation in their public inspection file and submit to the Commission as attachments copies of the documentation. Preferred documentation includes identification of the names, locations, accrediting bodies, and number of schools which the applicant is currently serving and those that it will serve, and an indication of whether the schools are under the applicant’s jurisdiction or are being served pursuant to a coordinated agreement with another authority. If the schools are not under the applicant’s jurisdiction, the applicant should include documentation of the terms of its agreement with the entity with authority over the schools. Pursuant to the requirements of 47 CFR § 73.3527(b)(1), an applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license.

Technical Parameters. An applicant that provides the best technical proposal among the competing applicants, in terms of area and population served, may be eligible for additional points. The applicant may use Worksheet # XX to answer this question. Applicant should indicate the area and population within its proposed 60 dB μ service contour. For new stations, the proposal is the area covered by that contour. For modifications to existing stations, the proposal is the **new** area within that contour. Modification applications must exclude any areas within the proposed service contour that are already served by the station’s existing service contour. Area must be measured in square kilometers and exclude significant areas of water, e.g. ocean and lakes. Population should be measured using the most recent census block data available from the United States Bureau of Census. If applicant's claimed coverage is superior to all others in terms of both area and population by at least 10 percent, the Commission will award one point. If the proposal is superior to all others by at least 25 percent, the Commission will instead award two points. The applicant should place in its public inspection file a statement of how the technical parameters were calculated, e.g., the year and blocks of census information used, and the method used to determine area, including the amount of area excluded for specific large areas of water. Pursuant to the requirements of 47 CFR § 73.3527(b)(1), an applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license. The applicant should submit to the Commission as attachments copies of this information.

The applicant must also enter, in the boxes provided, the new area served (excluding areas of water), expressed to the nearest square kilometer, and the population served based on the most recent Census block data.

TIE BREAKERS

If two or more applicants are tied under the point system, the Commission will apply a series of tie breakers, until the tie is broken. If the tie cannot be broken and the applicants cannot reach a voluntary settlement, the Commission will consider the tied applicants for mandatory timesharing on an equal-time basis.

Existing Authorizations. If mutually exclusive applicants differ in their number of existing authorizations, the applicant with the fewest attributable authorizations at the time of filing will be chosen. Applicant should indicate in the box provided the number of attributable authorizations held by parties to the application, but only full service stations in the same service (radio). Include both licenses and construction permits, whether commercial or noncommercial. In addition, FM applicants must count translator stations providing non-fill-in service (i.e., those extending a station's service area) unless identified as an existing translator to be replaced by the full-service station applied for. Do not count FM translators providing fill-in only service in determining the number of stations for this question.

Example: Applicants A and B are competing to construct a new noncommercial educational radio station, and are tied.

Applicant A has one television station, one FM station using one fill-in FM translator, and one construction permit to build a new commercial AM station. Applicant A should indicate interests in two radio stations. (The TV and fill-in translator interests are not counted.)

Applicant B has no other radio authorizations. A member of its governing board also serves on the governing board of a commercial AM station. Its parent organization has interests in 10 television stations. Applicant B should indicate interests in one radio station. (Its officers and parent are parties, but the TV interests are not counted.)

Applicant B would become the tentative selectee because it has fewer attributable authorizations.

Pending Applications. If a tie remains between mutually exclusive applicants after considering existing authorizations, the Commission will select the applicant with the fewest pending applications in the same service (radio) at the time of filing. Applicant should indicate in the box provided the number of applications in which parties to the application hold an attributable interest. Include applications for new stations and for major changes to existing stations, whether commercial or noncommercial full-service or FM translator (other than fill-in FM stations). Do not include other applications (e.g., voluntary assignment of license, license renewal, minor change in existing facilities).

Prior NCE Applications. If a tie still remains between mutually exclusive applications after considering the Existing Authorizations and Pending Applications questions above, the Commission will select the applicant that can demonstrate that (1) it applied for an NCE construction permit in a prior filing window and had its application accepted for filing and processed, but subsequently dismissed in favor of an applicant with superior points, or based on a tie-breaker preference; and (2) it has been in continuous existence from the date of the previous filing window until the present, and it does not hold any NCE construction permit or license. The applicant should submit to the Commission as attachments documents demonstrating its qualifications under this tie-breaker criterion.

MANDATORY TIME-SHARING INFORMATION

The applicant must indicate the date on which it qualified as local and certify whether it has remained local at all times since this date.

CHANNEL AND FACILITY INFORMATION

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

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

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

Facility Type: “Noncommercial educational” will be pre-filled. Applications for commercial stations are not filed on Schedule 340.

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

ANTENNA LOCATION DATA

Antenna Structure Registration: If you have obtained an Antenna Structure Registration number (ASRN), select “Yes” and then enter the ASRN in the text box that opens. Most towers greater than 61 meters (200 feet) in height, or those located near airports require antenna registration numbers. *See* 47 CFR § 17.4. If the tower does not require registration, select “No”; if the FAA has not yet ruled on a proposed structure, select “Filed with the FAA.” Answering “Yes” and then clicking the “Lookup ASR Number” link will open a new window with the Wireless Telecommunications Bureau’s ASR Registration Search page, which will enable you to locate the ASR number for the station tower.

Coordinates (NAD 83): If you have an ASRN for the proposed tower, you may click the “Pre-fill Coordinates From ASR” button next to the box in which you entered the ASRN, and LMS will pre-fill the coordinates of the tower as registered. If you are manually completing the coordinates, the proposed antenna site must be specified using North American Datum 83 (NAD 83) coordinates. Please indicate North or South Latitude, and East or West Longitude. **Note: This is a change from past Media Bureau practice, in which latitude and longitude coordinates were specified using North American Datum 27 (NAD 27).** To use prior-specified coordinates, you must convert them from NAD 27 to NAD 83, using the NGS Coordinate Conversion and Transformation Tool (NCAT) available here: <https://www.ngs.noaa.gov/NCAT/>. Degrees and Minutes should be expressed in whole numbers; Seconds should be expressed to one decimal point only.

Structure Type: Select from the pull-down menu the structure type that corresponds to the structure on which the antenna is to be mounted (e.g., Building with antenna on top, Oil or other rig, Monopole array, etc.).

Overall Structure Height: All heights must be in meters. Overall structure height refers to the height above ground level (AGL) of the total structure on which the antenna is mounted, including any appurtenances (e.g. masts, lighting).

Support Structure Height: All heights must be in meters. Support structure height refers to the height of any structure, such as a building, on top of which the antenna or a mast supporting the antenna is erected, AGL.

Ground Elevation (AMSL): All heights must be in meters. This refers to the elevation above mean sea level of the ground at the base of the tower or other support structure on which the antenna is mounted.

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

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

ANTENNA TECHNICAL DATA

Antenna Type: Select the radio button corresponding to the antenna type (Directional or Non-Directional). If “Directional” is selected, the directional antenna must comply with 47 CFR § 73.316. Applicants proposing a directional antenna must complete the table in this item. Relative field values (0.001-1.000) must be entered for every 10 degrees on the unit circle from 0 to 350. Up to five azimuths may be added at the bottom of the table for additional accuracy.

TECHNICAL CERTIFICATIONS

Environmental Effect: This question requires the applicant to state whether grant of a construction permit for the proposed facility would be an action that may have a significant environmental effect under 47 CFR § 1.1306.

The National Environmental Policy Act of 1969 requires all federal agencies to ensure that the human environment is given consideration in all agency decision-making. Since January 1, 1986, applications for new broadcast stations, modifications of existing stations, and license renewals must contain either an environmental assessment that will serve as the basis for further Commission review and action, or an indication that operation of the station will not have a significant environmental impact. *See* 47 CFR § 1.1307(b). In this regard, applicants are required to look at eight environmental factors. These factors are relatively self-explanatory, except for the evaluation of whether the station adequately protects the public and workers from potentially harmful radiofrequency (RF) electromagnetic fields. In addition, if the applicant proposes a new tower that will exceed 450 feet in height, it must submit an Environmental Assessment as described below. Worksheet # XX includes both a general environmental evaluation and specific sub-sections for RF exposure analysis. Click the “Worksheets” link in the application to access this worksheet. These worksheets are designed to facilitate and substantiate the certification called for in Schedule 302. Their use is voluntary, but strongly encouraged.

New RF Exposure Requirements. In 1996, the Commission adopted new guidelines and procedures for evaluating environmental effects of RF emissions. All applications subject to environmental processing filed on or after October 15, 1997, must demonstrate compliance with the new requirements. These new guidelines incorporate two tiers of exposure limits:

- General population/uncontrolled exposure limits apply to situations in which the general public may be exposed or in which persons who are exposed as a consequence of their employment may not be made fully aware of the

potential for exposure or cannot exercise control over their exposure. Members of the general public are always considered under this category when exposure is not employment-related.

- Occupational/controlled exposure limits apply to human exposure to RF fields when persons are exposed as a consequence of their employment and in which those persons who are exposed have been made fully aware of the potential for exposure and can exercise control over their exposure. These limits also apply where exposure is of a transient nature as a result of incidental passage through a location where exposure levels may be above the general populations/uncontrolled limits as long as the exposed person has been made fully aware of the potential for exposure and can exercise control over his or her exposure by leaving the area or some other appropriate means.

The new guidelines are explained in more detail in OET Bulletin 65, entitled *Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields*, Edition 97-01, released August, 1997, and Supplement A: Additional Information for Radio and Television Broadcast Stations (referred to here as "OET Bulletin 65" and "Supplement A," respectively). Both OET Bulletin 65 and Supplement A can be viewed and/or downloaded from the FCC Internet site at <https://www.fcc.gov/general/radio-frequency-safety-0#block-menu-block-4>. Additional information may be obtained from the RF Safety Group at rfsafety@fcc.gov or (202) 418-2464 or from the FCC Call Center at 1-888-CALL FCC (225-5322).

Worksheets ## XX and XX will enable certain categories of stations to determine whether or the proposed facility will have a significant environmental impact as defined by Section 1.1307. All applicants can use the General Environmental worksheet. Some, but not all, stations will be able to use the RF worksheet. Generally, the RF worksheet can only be used in the following situations: (1) single use tower; (2) single tower with several FM/FM translators; or (3) a multiple tower AM array with no other user co-located within the array. Additionally, in order to be eligible to use the RF worksheet, access to AM stations must be restricted by a fence or other barrier that will preclude casual or inadvertent access to the site and warning signs must be posted at appropriate intervals describing the potential for RF exposure. Click the "Worksheets" link in the application for more detail on eligibility.

If after using the worksheets the applicant finds that levels will exceed the RF guidelines, levels may still be acceptable based on a more detailed evaluation of a number of variables (e.g., antenna radiation patterns or measurement data). In that case, the applicant must submit an attachment to the application that explains why the proposed facility does not exceed the RF radiation exposure guidelines at locations where humans are likely to be present, or describing measures or circumstances which will prevent or discourage humans from entering those areas where the RF exposure exceeds the guidelines (e.g., fencing or remote location). The guidelines are explained in more detail in OET Bulletin 65.

If the applicant is not eligible to use the worksheets, it is not an indication that the proposed facility will cause excessive exposure. Generally, applicants that are not able to use the worksheets will need to utilize more complex calculations or measurements to demonstrate compliance. For this reason, applicants who are not eligible to use the Commission's Web worksheets should consider seeking the assistance of a qualified consulting engineer in determining whether the proposed facility will meet the RF exposure guidelines.

Should the applicant be unable to conclude that its proposal will have no significant impact on the quality of the human environment, or if it proposes a new tower exceeding 450 feet in height, it must submit an Environmental Assessment containing the following information:

1. A description of the facilities as well as supporting structures and appurtenances, and a description of the site as well as the surrounding area and uses. If high-intensity white lighting is proposed or utilized within a residential area, the EA must also address the impact of this lighting upon the residents.

2. A statement as to the zoning classification of the site, and communications with, or proceedings before and determinations (if any) by zoning, planning, environmental and other local, state, or federal authorities on matters relating to environmental effects.
3. A statement as to whether construction of the facilities has been a source of controversy on environmental grounds in the local community.
4. A discussion of environmental and other considerations that led to the selection of the particular site and, if relevant, the particular facility; the nature and extent of any unavoidable adverse environmental effects; and any alternative sites or facilities that have been or reasonably might be considered.
5. If relevant, a statement why the site cannot meet the FCC guidelines for RF exposure with respect to the public and workers.

NOTE: Even if the applicant concludes that human RF electromagnetic exposure is consistent with the Commission's guidelines, each site user must also meet requirements with respect to "on-tower" or other exposure by workers at the site (including RF exposure on one tower caused by sources on another tower or towers). These requirements include, but are not limited to, the reduction or cessation of transmitter power when persons have access to the site, tower, or antenna. Such procedures must be coordinated among all tower users. *See* OET Bulletin 65 for details. *See also* 47 CFR § 1.1306.

Broadcast Facility: The applicant must certify that the proposed facility complies with the Commission's engineering standards and assignment requirements for FM stations. *See* 47 CFR §§ 73.203, 73.207, 73.213, 73.315, 73.509, 73.515, and 73.525. An explanatory attachment is required to explain noncompliance with any of these rule sections.

Contour Protection: If the applicant wishes to be processed under the contour protection standards of Section 73.215, the applicant should (1) select "Yes" to the Contour Protection item, (2) list in an attachment all stations for which it proposes to employ contour protection, and (3) supply attachment(s) demonstrating that the proposal complies with Section 73.215. The attachment should include a complete engineering study to establish the lack of prohibited overlap of contours involving affected stations. The engineering study must include the following:

- (1) Protected and interfering contours, in all directions (360 degrees), for the proposed operation;
- (2) Protected and interfering contours, over pertinent arcs, of all short-spaced assigned assignments, applications and allotments, including a plot showing each transmitter location, with identifying call letters or file numbers, and indication of whether facility is operating or proposed. For vacant allotments, use the reference coordinates as transmitter location;
- (3) When necessary to show more detail, an additional allocation study utilizing a map with a larger scale to clearly show prohibited overlap will not occur;
- (4) A scale of kilometers and properly labeled longitude and latitude lines, shown across the entire Attachment(s) (sufficient lines should be shown so that the location of the sites may be verified); and
- (5) The official title(s) of the map(s) used in the Attachment(s).

Community of License Change – Section 307(b): Section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. § 307(b)), provides that the Commission shall, in considering modifications of licenses, "make such distribution of

licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.” If this application is being submitted to change an existing NCE FM facility’s community of license, then the applicant must include an attachment containing information demonstrating that the proposed change of community of license will result in a preferential arrangement of allotments or assignments under section 307(b), compared to the existing allotment or assignment. The attachment may include any and all information the applicant deems relevant to the Commission’s consideration including the areas and populations to be served at the new community, the numbers of stations (including NCE stations) licensed to the current and proposed communities of license, the numbers of stations (including NCE stations) providing service to the current and proposed communities of license, the population (according to the latest Census data) of the proposed community of license, and a description of the civic, cultural, religious, social, and commercial attributes of the proposed community of license (where necessary to establish the precondition of a licensable community).

Reasonable Site Assurance. All applicants for broadcast facilities must have a reasonable assurance that the specified site will be available **at the time they file the FCC application.** See *William F. and Anne K. Wallace*, 49 FCC 2d 1424, 1427 (Rev. Bd. 1989); *Genesee Communications, Inc.*, 3 FCC Rcd 3595 (1988). Applicants filing this FCC Schedule 340 must certify that the site specified in the application is available for its intended use. If reasonable assurance is not based on the applicant’s ownership of the proposed site or structure, the applicant must certify that it has obtained reasonable assurance of the site’s availability by contacting the owner or person possessing control of the site or structure. The applicant must specify the name of the person contacted, the person’s telephone number, and whether the contact is the tower owner, agent, or authorized representative.

CERTIFICATION

General Certification Statements: Each applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of such frequency(ies) or spectrum, whether by authorization or otherwise.

Each applicant is responsible for the information that the application instructions convey. As a key element in the Commission's streamlined licensing process, a certification is required that these materials have been reviewed and that each question response is based on the applicant's review.

This question also requires the applicant to certify that neither it nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

Section 5301 of the Anti-Drug Abuse Act of 1988 provides federal and state court judges the discretion to deny federal benefits to individuals convicted of offenses consisting of the distribution or possession of controlled substances. Federal benefits within the scope of the statute include FCC authorizations. The applicant, by electronically signing the application, certifies that neither it nor any party to this application has been convicted of such an offense or, if it has, it is not ineligible to receive the authorization sought by this application because of Section 5301.

NOTE: With respect to this certification, the term "party to the application" includes, if the applicant is an individual, that individual; if the applicant is a corporation or unincorporated association, all officers, directors, or persons holding five percent or more of the outstanding stock or shares (voting and/or non-voting) of the applicant; all members if a membership association; and if the applicant is a partnership, all general partners and all limited partners, including both insulated and non-insulated limited partners, holding a five percent or more interest in the partnership. See 47 CFR § 1.2002(b)-(c).

Authorized Party to Sign: The applicant must electronically sign the application. Depending on the nature of the applicant, the application should be signed as follows: if a partnership, by a general partner; if a corporation, by an officer; for an unincorporated association, by a member who is an officer; if a governmental entity, by such duly elected or appointed official as is competent under the laws of the particular jurisdiction. Counsel may sign the application for his or her client, but only in cases of the applicant's disability or absence from the United States. In such cases, counsel must separately set forth why the application is not signed by the client. In addition, as to any matter stated on the basis of belief instead of personal knowledge, counsel shall separately set forth the reasons for believing that such statements are true. *See* 47 CFR § 73.3513. The electronic signature will consist of the electronic equivalent of the typed name of the individual. *See* Report and Order in MM Docket No. 98-43, 13 FCC Rcd 23056, 23,064 (1998), ¶ 17.

Applicant must also check the box to certify that it has submitted with the application all required and relevant attachments.

Click the “Submit Application” button to submit the application. **The application is not considered to be submitted unless and until you click the “Submit Application” button.**

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PAPERWORK REDUCTION ACT

We have estimated that each response to this collection of information will take 2-6 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually complete and review the form or response. If you have any comments on this burden estimate, or on how we can improve the collection and reduce the burden that it causes you, please e-mail them to pra@fcc.gov or send them to the Federal Communications Commission, AMD-PERF, Paperwork Reduction Project (3060-0029), Washington, DC 20554. Please DO NOT SEND COMPLETED APPLICATIONS TO THIS ADDRESS. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number of if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0029.

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