FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 73

[AU Docket No. 26–105; DA 26–798; FR ID 360879]

Auction of FM Broadcasting Construction Permits Scheduled for February 2, 2027; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 114

AGENCY: Federal Communications Commission.

ACTION: Final action; requirements and procedures.

SUMMARY: This document summarizes the procedures, deadlines, and upfront payment and minimum opening bid amounts for the upcoming auction of FM broadcast construction permits. The *Auction 114 Procedures Public Notice* summarized here provides details regarding the procedures, terms, conditions, dates, and deadlines governing participation in Auction 114 bidding, as well as overview of the post-auction application and payment processes.

DATES: Applications to participate in Auction 114 must be submitted prior to 6:00 p.m. Eastern Time (ET) on September 30, 2026. Upfront payments for Auction 114 must be received prior to 6:00 p.m. ET on December 3, 2026. Bidding in Auction 114 is scheduled to start on February 2, 2027.

FOR FURTHER INFORMATION CONTACT:

General Auction 114 Information: FCC Auctions Hotline at (888) 225–5322, option two; or (717) 338–2868; or *auction114@fcc.gov.*

Auction 114 Legal Information: Lyndsey Grunewald at (202) 418–0660, *Lyndsey.Grunewald@fcc.gov.*

Licensing Information: James Bradshaw at (202) 418–2700, *Rodolfo.Bonacci@fcc.gov,* Rodolfo Banacci at (202) 418–2700, Lisa Scanlan at (202) 418–2700, *Lisa.Scanlan@fcc.gov,* or Ariane Rangel at (202) 418–2700, *Ariane.Rangel@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the document in AU Docket No. 26–105, DA 26–798 released on July 31, 2026 (*Auction 114 Procedures Public Notice*). The *Auction 114 Procedures Public Notice* includes the following attachment: Attachment A, Construction Permits in Auction 114. The complete text of the *Auction 114 Procedures Public Notice,* including its attachment, is available on the Commission's website at *www.fcc.gov/auction/114* or by using the search function for AU Docket No. 26–105 on the Commission's Electronic Comment Filing System (ECFS) web page at *www.fcc.gov/ecfs.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

I. General Information

A. Introduction

1. In the *Auction 114 Procedures Public Notice,* the Office of Economics and Analytics (OEA) and the Media Bureau (MB) establish the procedures and minimum opening bid amounts to be used for Auction 114, an auction of FM broadcast construction permits.

2. Bidding in this auction is scheduled to start on [[February 2, 2027]]. Auction 114 will be conducted using a simultaneous multiple-round auction format. The *Auction 114 Procedures Public Notice* provides details of the procedures, terms, conditions, dates, and deadlines governing participation in Auction 114 bidding, as well as an overview of the post-auction application and payment processes.

B. Background and Relevant Authority

3. On May 11, 2026, OEA and MB released the *Auction 114 Comment Public Notice,* 91 FR 27887 (May 15, 2026), seeking comment on competitive bidding procedures and minimum opening bid amounts to be used in Auction 114. Three parties filed comments to the *Auction 114 Comment Public Notice.* In the *Auction 114 Procedures Public Notice,* OEA and MB resolve all open issues raised in the *Auction 114 Comment Public Notice.* Auction 114 will proceed pursuant to the procedures described in the *Auction 114 Procedures Public Notice,* which have been adopted in accordance with 47 U.S.C. 309(j)(3), as amended (the Act).

4. Other Commission rules and decisions provide the underlying authority for the procedures OEA and MB adopt for Auction 114. Auction 114 applicants must familiarize themselves thoroughly with the Commission's general competitive bidding rules, including Commission decisions in proceedings regarding competitive bidding procedures, application requirements, and obligations of Commission licensees. Potential applicants should also familiarize themselves with the Commission's FM broadcast service and competitive bidding requirements contained in part 73 of the Commission's rules, as well as Commission orders concerning competitive bidding for broadcast construction permits. Applicants must also be thoroughly familiar with the procedures, terms, and conditions contained in the *Auction 114 Procedures Public Notice* and any future public notices that may be released in this proceeding.

5. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in its public notices at any time and will issue public notices to convey any new or supplemental information to applicants. It is the responsibility of all applicants to remain current with all Commission rules and with all public notices pertaining to this auction.

C. Construction Permits Offered in Auction 114

6. Auction 114 will offer 132 construction permits in the FM broadcast service, which are listed in Attachment A to the *Auction 114 Procedures Public Notice.* The construction permits to be auctioned are for 132 new FM allotments, including 33 construction permits that were offered but not sold in prior auctions. These construction permits are for vacant FM allotments reflecting FM channels added to the Table of FM Allotments, pursuant to the Commission's established rulemaking procedures, and assigned at the indicated communities.

7. Pursuant to the policies established in the *Broadcast Competitive Bidding Order,* 63 FR 48615 (September 11, 1998), 78 FR 18527 (March 27, 2013), an applicant seeking to participate in Auction 114 may select on its short-form application (FCC Form 175) any FM construction permit listed in Attachment A. An applicant may submit a set of preferred site coordinates as an alternative to the reference coordinates for the vacant FM allotment upon which the applicant intends to bid. Detailed instructions for specifying preferred site coordinates in an FCC Form 175 for a specific FM allotment are provided in the Auction 114 FCC Form 175 Filing Instructions. Consistent with the Commission's approach in previous broadcast service auctions, when two or more short-form applications are submitted specifying the same FM allotment in Auction 114, mutual exclusivity exists for auction purposes, and that construction permit must be awarded by competitive bidding procedures. Once mutual exclusivity exists for auction purposes, even if only

one applicant is qualified to bid for a particular construction permit, that applicant is required to submit a bid in order to obtain the construction permit.

8. OEA and MB note that Attachment A to the *Auction 114 Procedures Public Notice* reflects a change to the allotment coordinates for MM–FM1193–C3, Battlement Mesa, Colorado, Channel 275C3, from those that were listed in Attachment A to the *Auction 114 Comment Public Notice.* MB staff granted station KSPN–FM's (Facility ID No. 43884, Aspen, Colorado) minor modification application on May 29, 2026. The application was short-spaced to the Battlement Mesa, Colorado vacant allotment (as previously listed), and thus, KSPN–FM proposed a change in the vacant allotment coordinates in order to be fully spaced. KSPN–FM's application was filed on May 8, 2026, before the release of the *Auction 114 Rulemaking Freeze Public Notice,* DA 26–445 (May 11, 2026). The new Battlement Mesa, Colorado, allotment coordinates—39 degrees 27 minutes 18 seconds North Latitude, 107 degrees 59 minutes 0 seconds West Longitude—are listed in Attachment A to the *Auctions 114 Procedures Public Notice.*

9. In response to the *Auction 114 Comment Public Notice,* three commenters—SSR Communications (SSR), Tracy K. Wood (Wood), and William Erickson (Erickson)—request that additional construction permits be added to the inventory for Auction 114.

10. *Enterprise, Utah Allotment:* SSR requests that the Commission include the newly allotted FM Channel 265C3 at Enterprise, Utah (Enterprise), stating that the inclusion would serve the public interest.

11. OEA and MB decline to add the Enterprise allotment to the Auction 114 inventory. The Report and Order granting allocation of this channel became effective on June 8, 2026, 91 FR 23172 (April 30, 2026). Therefore, the Enterprise allotment was not yet effective when staff compiled the inventory, nor was it effective when OEA and MB released the *Auction 114 Comment Public Notice* on May 11, 2026. OEA and MB anticipate that it will be included in the inventory of a future auction of FM broadcast permits.

12. *Other Vacant Allotments:* SSR also requests that additional allotments listed in two Various Location Orders from 2023 and 2024, 88 FR 12258 (February 27, 2023), 89 FR 20340 (March 22, 2024), be added to the Auction 114 inventory.

13. OEA and MB decline to add any additional allotments from SSR's referenced Various Location Orders. The list of vacant allotments is constantly changing based on an ongoing process of allotment ''drop-in'' rulemakings and license cancellation and allotment reinstatement proceedings. Due to practical and technical limitations, including staff resources, OEA and MB are unable to offer every vacant FM channel designated in the Table of FM Allotments each time an auction of FM construction permits is announced. MB staff assess a variety of factors in compiling the auction inventory. For example, to the extent possible, OEA and MB attempt to include allotments in a variety of states and thus avoid an auction inventory that is unevenly concentrated in the same geographic location. OEA and MB anticipate that the additional vacant allotments that SSR requested will be included in an upcoming auction of FM broadcast permits.

14. *Lindsay, California and Independence, Oregon Allotments:* Wood requests that the Auction 114 construction permit inventory include FM allotments at Lindsay, California, Channel 277B1 (Lindsay), and Independence, Oregon, Channel 274C0 (Independence).

15. OEA and MB decline to add these two FM allotments to the Auction 114 inventory. These two allotments were not initially included in the Auction 114 inventory because they each had engineering defects, and thus were not rule-compliant when staff was compiling the inventory. These technical issues precluded reinstating the respective channels to the Table of FM Allotments, which in turn, precluded the vacant channels from being included in the auction inventory. OEA and MB anticipate that they will be included in the inventory in an upcoming auction of FM broadcast permits.

16. *Whitehall, Michigan Allotment:* Erickson argues that the Whitehall, Michigan, Channel 248A (Whitehall) FM allotment should be added to the Auction 114 inventory list because Whitehall lacks any other service. Erickson also asserts that the Commission should include all vacant FM frequencies.

17. The Whitehall allotment is not ripe to be included in the Auction 114 inventory. After an authorization has been surrendered or cancelled, the channel must be reinstated to the Table of FM Allotments. MB staff's engineering review indicates that the now-vacant Whitehall FM allotment requires a channel change in order to achieve a fully spaced, rule-compliant site. A Report and Order that effects this channel change has not yet been released. Accordingly, OEA and MB decline to add Whitehall to the Auction 114 inventory. It may be included in an upcoming FM auction, provided that the requisite rulemaking proceeding is final and the allotment has been reinstated.

18. For the reasons described herein, OEA and MB conclude that it is not in the public interest to include additional allotments in the inventory for this auction and therefore decline to add all vacant allotments in response to SSR's request.

D. Auction Specifics

1. Auction Title and Start Date

19. The auction of FM broadcast construction permits is referred to as ''Auction 114.'' Bidding in Auction 114 will begin on February 2, 2027. Pre-bidding dates and deadlines are listed in the Auction Dates and Deadlines section.

20. The initial schedule for bidding rounds in Auction 114 will be announced by public notice at least one week before the bidding begins. Unless otherwise announced, bidding on all construction permits will be conducted on each business day until bidding has stopped on all construction permits.

2. Auction Dates and Deadlines

21. The following dates and deadlines apply to Auction 114:

Auction Application Tutorial Available (via internet)—by [[August 21, 2026]]
Short-Form Application (FCC Form 175)
Filing Window Opens—[[September 14, 2026]], 12:00 p.m. Eastern Time (ET)
Short-Form Application (FCC Form 175)
Filing Deadline—[[September 30, 2026]], 6:00 p.m. ET
Upfront Payments (via wire transfer)—[[December 3, 2026]], 6:00 p.m. ET
Bidding Tutorial Available (via internet)—No later than [[January 6, 2027]]
Mock Auction—[[January 29, 2027]]
Auction Bidding Begins—[[February 2, 2027]]

3. Auction Delay, Suspension, or Cancellation

22. OEA and MB adopt their proposal that at any time before or during the bidding process, OEA and MB may delay, suspend, or cancel bidding in Auction 114 in the event of a natural disaster, technical obstacle, network interruption, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of

competitive bidding. This approach has proven effective in resolving exigent circumstances in previous auctions, and OEA and MB find no reason to depart from it here. OEA and MB will notify participants of any such delay, suspension, or cancellation by public notice and/or through the announcement function in the FCC Auction Bidding System (bidding system). If the bidding is delayed or suspended, OEA and MB may, in their sole discretion, elect to resume the auction starting from the beginning of the current round or from some previous round, or cancel the auction in its entirety. OEA and MB emphasize that they will exercise the authority to delay, suspend, or cancel bidding in Auction 114 solely at their own discretion.

4. Requirements for Participation

23. Those wishing to participate in Auction 114 must:

- Submit a short-form application (FCC Form 175) electronically prior to 6:00 p.m. ET on [[September 30, 2026]], following the filing procedures and other instructions set forth in the *Auction 114 Procedures Public Notice* and the Auction 114 FCC Form 175 Instructions;
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6:00 p.m. ET on [[December 3, 2026]], following the procedures and instructions set forth in the *Auction 114 Procedures Public Notice;* and
- Comply with all provisions outlined in the *Auction 114 Procedures Public Notice* and applicable Commission rules.

E. Education Materials

24. Before the opening of the short-form filing window for Auction 114, detailed educational information will be provided to potential participants in various formats on the Auction 114 website. Specifically, OEA and MB will provide educational materials on the pre-bidding processes in advance of the opening of the short-form application window, beginning with the Auction 114 FCC Form 175 Instructions, which will be posted at the same time as the *Auction 114 Procedures Public Notice.* These materials will be available in the Education section on the Auction 114 website at *www.fcc.gov/auction/114.* In addition, OEA and MB will provide an online application procedures tutorial for the auction, covering information on pre-bidding preparation, completing short-form applications, and the application review process.

25. For the first time in a broadcast auction, applicants will use the Commission's Auction Application System (AAS) to file applications to participate in Auction 114. Applicants should carefully review both the Auction 114 application tutorial and the Auction 114 FCC Form 175 Instructions, paying close attention to any departures from previous application processes as a result of the use of the AAS for Auction 114.

26. Additionally, in advance of the start of the mock auction, OEA and MB will provide educational materials on the bidding procedures for Auction 114, including a user guide for the bidding system and an online bidding procedures tutorial. These materials will provide detailed information on bidding features specific to the simultaneous multiple-round auction format. Accordingly, the educational materials will be released as soon as reasonably possible in order to provide qualified bidders with time to review them and ask questions of Commission staff before bidding begins.

27. OEA and MB believe that parties interested in participating in Auction 114 will find the interactive, online tutorials an efficient and effective way to further their understanding of the application and bidding processes. The online tutorials will allow viewers to navigate the presentation outline, review written notes, and listen to audio of the notes. Additional features of these web-based tools include links to auction-specific Commission releases, email links for contacting Commission staff, and screen shots of the online auction application and bidding systems. The online tutorials will be accessible in the Education section on the Auction 114 website at *www.fcc.gov/auction/114.* Once posted, the tutorials will remain continuously accessible.

II. Pre–Bidding Activities and Considerations

A. Due Diligence

28. OEA and MB remind each potential bidder that it is solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the construction permit(s) it is seeking in this auction. *The FCC makes no representations or warranties about the use of this spectrum or these construction permits for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC permittee in a broadcast service, subject to certain conditions and regulations. This includes the established authority of the Commission to alter the terms of existing licenses by rulemaking, which is equally applicable to licenses awarded by auction. An FCC auction does not constitute an endorsement by the FCC of any particular service, technology, or product, nor does an FCC construction permit or license constitute a guarantee of business success.*

29. An applicant should perform its due diligence research and analysis before proceeding, as it would with any new business venture. In particular, OEA and MB strongly encourage each potential bidder to perform technical analyses and/or refresh its previous analyses to assure itself that, should it become a winning bidder for any Auction 114 construction permit, it will be able to build and operate facilities that will fully comply with all applicable technical and legal requirements. OEA and MB strongly encourage each applicant to inspect any prospective transmitter sites located in, or near, the service area for which it plans to bid, to confirm the availability of such sites, and to familiarize itself with the Commission's rules regarding any applicable federal, state, and local requirements.

30. OEA and MB strongly encourage each applicant to continue to conduct its own research throughout Auction 114 in order to determine the existence of pending or future administrative or judicial proceedings that might affect its decision to continue participating in the auction. Each Auction 114 applicant is responsible for assessing the likelihood of the various possible outcomes and for considering the potential impact on construction permits available in this auction. The due diligence considerations mentioned in the *Auction 114 Procedures Public Notice* do not comprise an exhaustive list of steps that should be undertaken prior to participating in this auction. As always, the burden is on the potential bidder to determine how much research to undertake, depending upon specific facts and circumstances related to its interests.

31. *Applicants are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of the construction permits available in Auction 114.* Each potential bidder is responsible for undertaking research to ensure that any permits won in this auction will be suitable for its business plans and needs. Each potential bidder must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

32. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third-party databases, including, for example, court docketing systems. To the extent the Commission's databases may not include all information deemed necessary or desirable by an applicant, it must obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said databases. Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into its databases.

B. Environmental Review Requirements

33. Permittees or licensees must comply with the Commission's rules for environmental review under the National Environmental Policy Act, the National Historic Preservation Act, and other federal environmental statutes. When constructing a broadcast facility, the permittee or licensee must comply with the Commission's environmental rules for each such facility. These environmental rules require, among other things, that the permittee or licensee consult with expert agencies having environmental responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the U.S. Army Corps of Engineers, and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). In assessing the effect of facility construction on historic properties, the permittee or licensee must follow the provisions of the FCC's Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process. The permittee or licensee must prepare environmental assessments for any facility that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species, or designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. In addition, the permittee or licensee must prepare environmental assessments for facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission. In August 2025, the Commission released the *Modernizing the Commission's National Environmental Policy Act Rules NPRM,* 90 FR 40295 (August 19, 2025), to consider updates to its rules implementing NEPA. Potential bidders in Auction 114 should be mindful that if the Commission amends its NEPA rules, broadcast permittees and licensees will be subject to the amended rules.

C. Short-Form Applications Due Prior to 6:00 p.m. ET on [[September 30, 2026]]

34. In order to be eligible to bid in Auction 114, an applicant must first submit a short-form application (FCC Form 175) via the Auction Application Portal (AAP) in the AAS, following the instructions set forth in the Auction 114 FCC Form 175 Instructions. The short-form application will become available with the opening of the initial filing window and must be submitted prior to 6:00 p.m. ET on [[September 30, 2026]]. *Late applications will not be accepted.* No application fee is required for the short-form application at the time of filing.

35. Applications may be filed at any time beginning at 12:00 p.m. ET on [[September 14, 2026]], until the filing window closes at 6:00 p.m. ET on [[September 30, 2026]]. Applicants are strongly encouraged to file early and are responsible for allowing adequate time to file their applications. There are no limits or restrictions on the number of times an application can be updated or amended until the initial filing deadline on [[September 30, 2026]].

36. An applicant must always click on the CERTIFY & SUBMIT button on the *Certify & Submit* screen to successfully submit its FCC Form 175 and any modifications; otherwise, the application, or changes to the application, will not be received or reviewed by Commission staff. Additional information about accessing, completing, and viewing the FCC Form 175 is included in the Auction 114 FCC Form 175 Instructions. Applicants requiring technical assistance should contact FCC Auctions Technical Support using the contact information provided in Section VII.D. ''Contact Information,'' below. In order to provide better service to the public, all calls to Technical Support are recorded.

D. Application Processing and Minor Modifications

1. Public Notice of Applicant's Initial Application Status and Opportunity for Minor Modifications

37. After the deadline for filing short-form applications for Auction 114, Commission staff will review all timely submitted applications to determine whether each applicant has complied with the application requirements and provided all information concerning its qualifications for bidding. After this review is completed, OEA and MB will issue a public notice announcing applicants' initial application status, identifying (1) those that are complete; (2) those that are rejected; and (3) those that are incomplete or deficient because of minor defects that may be corrected. The *Auction 114 Procedures Public Notice* also will establish an application resubmission filing window, during which an applicant may make permissible minor modifications to its application to address identified deficiencies. The public notice will include the deadline for resubmitting corrected applications, and a paper copy will be sent by overnight delivery to the contact address listed in the FCC Form 175 for each applicant. In addition, each applicant with an incomplete application will be sent information on the nature of the deficiencies in its application, along with the name and phone number of a Commission staff member who can answer questions specific to the application. To become a qualified bidder, an applicant must have a complete application (*i.e.,* have timely corrected any identified deficiencies) and make a timely and sufficient upfront payment.

38. After the initial application filing deadline on [[September 30, 2026]], applicants can make only minor modifications to their short-form applications. Major modifications (*e.g.,* change of permit selection, change in ownership that would constitute an assignment or transfer of control of the applicant, change in the required certifications, change in applicant's legal classification that results in a change in control, or change to claim eligibility for a higher bidding credit) will not be permitted. If an amendment reporting changes is a ''major amendment,'' as described in 47 CFR 1.2105(b)(2), the major amendment will not be accepted and may result in the dismissal of the application. After the deadline for resubmitting corrected applications, an applicant will have no further opportunity to cure any deficiencies in its application or provide any additional information that may affect Commission staff's ultimate determination of whether and to what extent the applicant is qualified to participate in Auction 114 and whether the applicant may be eligible to pursue any bidding credit claim.

39. Commission staff will communicate only with an applicant's contact person or certifying official, as designated on the short-form application, unless the applicant's certifying official or contact person notifies the Commission in writing that another representative is authorized to

speak on behalf of the applicant. Authorizations may be sent by email to *auction114@fcc.gov.*

2. Public Notice of Applicant's Final Application Status

40. After Commission staff review resubmitted applications for Auction 114 and evaluate upfront payment submissions, Commission staff will release a public notice identifying applicants that have become qualified bidders. A *Qualified Bidders Public Notice* will be issued before bidding in the auction begins. Qualified bidders are those applicants with a submitted short-form application that is deemed timely filed and complete, and that have made a timely and sufficient upfront payment (as described herein).

E. Upfront Payments

41. After completing its short-form application, an applicant will have access to an electronic blank version of the FCC Form 159. In order to be eligible to bid in this auction, a sufficient upfront payment and a complete and accurate FCC Remittance Advice Form (FCC Form 159, February 2003 edition) must be received prior to 6:00 p.m. ET on [[December 3, 2026]]. An accurate and complete FCC Form 159 must accompany each payment. Proper completion of this form is critical to ensuring correct crediting of upfront payments. Payers are responsible for ensuring that all information entered on the FCC Form 159, including payment amounts, is accurate. Instructions for completing FCC Form 159 for Auction 114 are provided below.

1. Making Upfront Payments by Wire Transfer

42. All upfront payments for Auction 114 must be transmitted by electronic wire transfer directly from a bank or other financial institution to the proper account at the U.S. Treasury. Wire transfer payments for Auction 114 must be received prior to 6:00 p.m. ET on [[December 3, 2026]]. No other payment method is acceptable. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules and other specific bank wire transfer requirements, such as an in-person written request before a specified time of day) with their bankers several days before they plan to make the wire transfer, and must allow sufficient time for the transfer to be initiated and completed before the deadline. The following information will be needed:

Routing Number: 021030004
Receiving Bank: TREAS NYC, 33 Liberty Street, New York, NY 10045
BENEFICIARY: FCC, 45 L Street NE, 4th Floor, Washington, DC 20554
ACCOUNT NUMBER: 827000001001
Originating Bank Information (OBI Field): (Skip one space between each information item)
''AUCTIONPAY''
APPLICANT FCC REGISTRATION NUMBER (FRN): (use the same FRN as used on the applicant's FCC Form 159, block 21)
PAYMENT TYPE CODE: (same as FCC Form 159, block 24A: ''U114'')

Note: The beneficiary account number is specific to the upfront payments for Auction 114. Do not use a beneficiary account number from a previous auction.

43. At least one hour before placing the order for the wire transfer (but on the same business day), applicants must print and fax a completed FCC Form 159 (Revised 2/03) to the FCC at (202) 418–2843. Alternatively, the completed form can be scanned and sent as an attachment to an email to *RROGWireFaxes@fcc.gov.* On the fax cover sheet or in the email subject header, write ''Wire Transfer—Auction Payment for Auction 114.'' To meet the upfront payment deadline, an applicant's payment must be credited to the Commission's account for Auction 114 before the deadline.

44. Each applicant is responsible for ensuring timely submission of its upfront payment and for timely filing of an accurate and complete FCC Form 159. An applicant should coordinate with its financial institution well ahead of the due date regarding its wire transfer and allow sufficient time for the transfer to be initiated and completed prior to the deadline. The Commission repeatedly has cautioned auction participants about the importance of planning ahead to prepare for unforeseen last-minute difficulties in making payments by wire transfer. Each applicant is responsible for obtaining confirmation from its financial institution that its wire transfer to U.S. Treasury was successful and from Commission staff that its upfront payment was timely received and that it was deposited into the proper account. As a regulatory requirement, the U.S. Treasury screens all payments from all financial institutions before deposits are made available to specified accounts. If wires are suspended, the U.S. Treasury may direct questions regarding any transfer to the financial institution initiating the wire. Each applicant must take care to assure that any questions directed to its financial institution(s) are addressed promptly. To receive confirmation from Commission staff requesting receipt and deposit of wire transfers, contact Scott Radcliffe of the Office of Managing Director's Revenue & Receivables Operations Group/Auctions at (202) 418–7518, or Theresa Meeks at (202) 418–2945.

45. Please note the following information regarding upfront payments:

• All payments must be made in U.S. dollars.

• All payments must be made by wire transfer.

• Upfront payments for Auction 114 go to an account number different from the accounts used in previous FCC auctions.

46. Failure to deliver a sufficient upfront payment as instructed herein by the 6:00 p.m. ET deadline on [[December 3, 2026]], will result in dismissal of the short-form application and disqualification from participation in the auction.

2. Completing and Submitting FCC Form 159

47. The following information supplements the standard instructions for FCC Form 159 (Revised 2/03) and is provided to help ensure the correct completion of FCC Form 159 for upfront payments for Auction 114. Applicants need to complete FCC Form 159 carefully because:

• Mistakes may affect bidding eligibility; and

• Lack of consistency between information provided in FCC Form 159 (Revised 2/03), FCC Form 175, and correspondence about an application may cause processing delays.

48. Therefore, appropriate cross-references between the FCC Form 159 Remittance Advice and the FCC Form 175 are described below.

Block No.	Required information
1	LOCKBOX #—Leave Blank.
2	Payer Name—Enter the name of the person or company making the payment. If the applicant itself is the payer, this entry would be the same name as in FCC Form 175.
3	Total Amount Paid—Enter the amount of the upfront payment associated with the FCC Form 159 (Revised 2/03).

Block No.	Required information
4–8	Street Address, City, State, ZIP Code—Enter the street mailing address (not post office box number) where mail should be sent to the payer. If the applicant is the payer, these entries would be the same as FCC Form 175 from the Applicant Information section.
9	Daytime Telephone Number—Enter the telephone number of a person knowledgeable about this upfront payment.
10	Country Code—For addresses outside the United States, enter the appropriate postal country code (available from the Mailing Requirements Department of the U.S. Postal Service).
11	Payer FRN—Enter the payer's 10-digit FCC Registration Number (FRN) registered in the Commission Registration System (CORES).
21	Applicant FRN (Complete only if applicant is different than payer)—Enter the applicant's 10-digit FRN registered in CORES.
24A	Payment Type Code—Enter "U114".
25A	Quantity—Enter the number "1".
26A	Fee Due—Amount of Upfront Payment.
27A	Total Fee—Will be the same amount as 26A.
28A	FCC Code 1—Enter the number "114" (indicating Auction 114).

Notes:
- Do not use Remittance Advice (Continuation Sheet), FCC Form 159–C, for upfront payments.
- If the applicant is different from the payer, complete blocks 13 through 21 for the applicant, using the same information shown on FCC Form 175. Otherwise leave them blank.
- No signature is required on FCC Form 159 for auction payments.
- Because credit card payments will not be accepted for upfront payments for an auction, leave Section E blank.

3. Upfront Payments and Bidding Eligibility

49. An upfront payment is a refundable deposit made by each applicant seeking to participate in bidding to establish its eligibility to bid on construction permits. Upfront payments that are related to the specific construction permits being auctioned protect against frivolous or insincere bidding, and provide the Commission with a source of funds from which to collect payments owed at the close of bidding. In the *Auction 114 Comment Public Notice,* OEA and MB proposed that applicants be required to submit upfront payments as a prerequisite to becoming qualified to bid and proposed an upfront payment amount for each construction permit, taking into account various factors related to the efficiency of the auction process and the potential value of similar construction permits, and sought comment on the upfront payment amounts. OEA and MB received no comments on these proposals and adopt the upfront payment requirement and upfront payment amounts as proposed.

50. An applicant must make an upfront payment sufficient to obtain bidding eligibility on the construction permits on which it will bid. OEA and MB proposed in the *Auction 114 Comment Public Notice* that the amount of the upfront payment would determine a bidder's initial bidding eligibility, the maximum number of bidding units on which a bidder may place bids in any single round. Under that proposal, in order to bid on a particular construction permit, a qualified bidder must have selected the construction permit on its FCC Form 175 and must have a current eligibility level that meets or exceeds the number of bidding units assigned to that construction permit. *At a minimum, therefore, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one of the construction permits selected on its FCC Form 175, or else the applicant will not be qualified to participate in the auction.* An applicant does not have to make an upfront payment to cover all construction permits the applicant selected on its FCC Form 175, but only enough to cover the maximum number of bidding units that are associated with construction permits on which they wish to place bids and hold provisionally winning bids in any given round. The total upfront payment does not affect the total dollar amount the bidder may bid on any given construction permit.

51. OEA and MB received no comments on the proposal that the upfront payment amount would determine a bidder's initial eligibility and to assign each construction permit a specific number of bidding units, equal to one bidding unit per dollar of the upfront payment listed in Attachment A. Therefore, OEA and MB adopt this proposal. Each applicant's upfront payment amount will determine that bidder's initial bidding eligibility.

52. In calculating its upfront payment amount, an applicant must determine the *maximum* number of bidding units on which it may wish to be active (bid on or hold provisionally winning bids on) in any single round, and submit an upfront payment amount covering that number of bidding units. In order to make this calculation, an applicant should add together the bidding units for all construction permits on which it seeks to be active in any given round. *Applicants should check their calculations carefully, as there is no provision for increasing a bidder's eligibility after the upfront payment deadline.*

EXAMPLE—UPFRONT PAYMENTS, BIDDING ELIGIBILITY, AND BIDDING FLEXIBILITY

Construction permit	Market name	Bidding units	Upfront payment
MM–FM1228–A	Keeseville, NY	25,000	$25,000
MM–FM1232–A	Wayne, OK	10,000	10,000

If a bidder wishes to bid on both construction permits in a round, it must have selected both on its FCC Form 175 and purchased at least 35,000 bidding units (25,000 + 10,000) of bidding eligibility. If it only wishes to bid on one, but not both, purchasing 25,000 bidding units would meet the eligibility requirement for either construction permit. The bidder would be able to bid on either construction permit, but not both at the same time. If the bidder purchased only 10,000 bidding units, the bidder would have enough eligibility for the Wayne, OK construction permit but not for the Keeseville, NY construction permit.

53. An applicant that is a former defaulter, as described in more detail below, must pay an upfront payment 50% greater than that required of an applicant that is not a former defaulter. For purposes of this rule, defaults and delinquencies of the applicant itself and its controlling interests are included. If an applicant is a former defaulter, it must calculate its upfront payment for all of its selected construction permits by multiplying the number of bidding units on which it wishes to be active (bid on or hold provisionally winning bids on) during a given round by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit.

F. Auction Registration

54. All qualified bidders for Auction 114 are automatically registered for the auction. Registration materials will be distributed prior to the auction by overnight delivery. The mailing will be sent only to the contact person at the contact address listed in the FCC Form 175 and will include the RSA SecurID® tokens (RSA tokens) that will be required to place bids, the web address and instructions for accessing and logging in to the bidding system, FCC assigned User ID for each authorized bidder, and the Auction Bidder Line phone number.

55. Qualified bidders that do not receive this registration mailing will not be able to submit bids. Therefore, if this mailing is not received by the contact representative for a qualified bidder by noon on [[Wednesday, January 27, 2027]], call the Auctions Hotline at (717) 338–2868. Receipt of this registration mailing is critical to participating in the auction, and each qualified bidder is responsible for ensuring it has received all of the registration materials.

56. In the event that an RSA token is lost or damaged, only a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant's short-form application may request replacements. To request replacement, call the Auction Bidder Line at the telephone number provided in the registration materials or the Auctions Hotline at (717) 338–2868.

G. Remote Electronic Bidding via the Bidding System

57. Bidders will be able to participate in Auction 114 over the internet using the bidding system. In addition, bidders will have the option of placing bids by telephone through a dedicated auction bidder line. Please note that telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. The length of a call to place a telephonic bid may vary; please allow a minimum of 10 minutes. The toll-free telephone number for the auction bidder line will be provided to qualified bidders prior to the start of bidding in the auction.

58. Only qualified bidders are permitted to bid. Each authorized bidder must have his or her own RSA token, which the Commission will provide at no charge. Each applicant that is deemed to be a qualified bidder will be issued three RSA tokens. A bidder cannot bid without his or her RSA token. In order to access the bidding function of the bidding system, bidders must be logged in during the bidding round using the passcode generated by the RSA token and a personal identification number (PIN) created by the bidder. For security purposes, the RSA tokens and a telephone number for bidding questions are only mailed to the contact person at the contact address listed on the FCC Form 175. Each RSA token is tailored to a specific auction. RSA tokens issued for other auctions or obtained from a source other than the FCC will not work for Auction 114. Please note that the RSA tokens can be recycled, and the Commission requests that bidders return the tokens to the FCC. Pre-addressed envelopes will be provided to return the tokens once the auction has ended.

59. The Commission makes no warranties whatsoever, and shall not be deemed to have made any warranties, with respect to the bidding system, including any implied warranties of merchantability or fitness for a particular purpose. In no event shall the Commission, or any of its officers, employees, or agents, be liable for any damages whatsoever (including, but not limited to, loss of business profits, business interruption, loss of use, loss of revenue, loss of business information, or any other direct, indirect, or consequential damages) arising out of or relating to the existence, furnishing, functioning, or use of the bidding system. Moreover, no obligation or liability will arise out of the Commission's technical, programming, or other advice or service provided in connection with the bidding system.

60. To the extent an issue arises with the bidding system itself, the Commission will take all appropriate measures to resolve such issues quickly and equitably. Should an issue arise that is outside the bidding system or attributable to a bidder, including, but not limited to, a bidder's hardware, software, or internet access problem that prevents the bidder from submitting a bid prior to the end of a round, the Commission shall have no obligation to resolve or remedy such an issue on behalf of the bidder. Similarly, if an issue arises due to bidder error using the bidding system, the Commission shall have no obligation to resolve or remedy such an issue on behalf of the bidder. Accordingly, after the close of a bidding round, the results of bid processing will not be altered absent evidence of any failure in the bidding system.

H. Mock Auction

61. All qualified bidders will be eligible to participate in a mock auction. The mock auction, which will begin on [[January 29, 2027]], will enable bidders to become familiar with the bidding system and to practice submitting bids prior to the auction. OEA and MB recommend that all qualified bidders, including all their authorized bidders, participate to ensure that they can log in to the bidding system and gain experience with the bidding procedures. Participating in the mock auction may reduce the likelihood of a bidder making a mistake during the auction. Details regarding the mock auction will be announced in the *Qualified Bidders Public Notice* for Auction 114.

I. Fraud Alert

62. As is the case with many business investment opportunities, some unscrupulous parties may attempt to use Auction 114 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a ''cold call'' from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example, by including all documents and papers needed for the transfer of funds maintained in IRA accounts.
- The amount of investment is less than $25,000.
- The sales representative makes verbal representations that: (a) the Internal Revenue Service, Federal Trade Commission (FTC), Securities and Exchange Commission (SEC), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often

include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

63. Information about deceptive telemarketing investment schemes is available from the FCC as well as the FTC and SEC. Additional sources of information for potential bidders and investors may be obtained from the following sources:

- the FCC's Consumer Call Center at (888) 225–5322 or by visiting *www.fcc.gov/general/frauds-scams-and-alerts-guides*
- the FTC at (877) FTC–HELP ((877) 382–4357) or by visiting *www.consumer.ftc.gov/articles/0238-investment-risks*
- the SEC at (800) 732–0330 or by visiting *www.sec.gov/investor.*

64. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Consumer League's Fraud project at *https://fraud.org/* or (202) 835–3323, Ext. 815.

III. Short-Form Application Contents and Certifications

A. General Information Regarding Short-Form Applications

65. An application to participate in Auction 114, referred to as a short-form application or FCC Form 175, provides information that the Commission uses to determine whether the applicant is legally, technically, and financially qualified to participate in Commission auctions for licenses or permits. The short-form application is the first part of the Commission's two-phased auction application process. In the first phase, parties desiring to participate in the auction must file a streamlined, short-form application in which they certify under penalty of perjury as to their qualifications. Eligibility to participate in bidding is based on the applicant's short-form application and certifications, and on its upfront payment. After bidding closes, in the second phase of the process, each winning bidder in Auction 114 must file a more comprehensive post-auction, long-form application (FCC Form 2100, Schedule 301–FM) in MB's Licensing and Management System (LMS) for each construction permit it wins in the auction. OEA and MB remind applicants that being deemed qualified to bid in Auction 114 does not constitute a determination that a party is qualified to hold a Commission license or is eligible for a new entrant bidding credit.

66. A party seeking a construction permit available in Auction 114 must file an FCC Form 175 electronically via the AAP in the AAS prior to 6:00 p.m. ET on [[September 30, 2026]], following the procedures prescribed in the Auction 114 FCC Form 175 Instructions. In order to access the AAP to create a new short-form application for an applicant, or take any other action on an auction application, an individual must have an FCC Username account in the Commission Registration System (CORES) that is associated with the applicant's FRN and has been assigned the appropriate Auctions Permissions in the AAP. The AAS includes security features, including the use of multifactor authentication and Auctions Permissions, that must be set-up before you can create a short-form application. OEA and MB encourage individuals who expect to work on a short-form application on behalf of an applicant to take the steps necessary to access the AAP and obtain Auction Permission for the applicant's FRN prior to the opening of the filing window.

67. OEA and MB describe more fully herein the information disclosures and certifications required in the short-form application.

68. An Auction 114 applicant bears full responsibility for submitting an accurate, complete, and timely short-form application. Pursuant to the Commission's competitive bidding rules, an applicant must make a series of certifications under penalty of perjury on its FCC Form 175 related to the information provided in its application and its participation in the auction, and an applicant must confirm that it is legally, technically, financially, and otherwise qualified to hold a license. If an applicant claims eligibility for a bidding credit, then the information provided in its short-form application will be used to determine whether the applicant appears to be eligible for the claimed bidding credit. An applicant's eligibility for a claimed bidding credit is verified after bidding concludes, based on an evaluation of the winning bidder's post-auction long-form application. As discussed herein, each participant in Auction 114 must also certify that it has read the *Auction 114 Procedures Public Notice* and familiarized itself both with the auction procedures and with the requirements for obtaining a construction permit and operating facilities in the FM broadcast service. If an Auction 114 applicant fails to make the required certifications in its FCC Form 175 by the filing deadline, then its application will be deemed unacceptable for filing and cannot be corrected after the filing deadline. Applicants filing a short-form application are subject to the Commission's rules prohibiting certain communications beginning at the deadline for filing, as described below.

69. Each applicant should note that submission of a short-form application (and any amendments thereto) constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, that he or she has read the form's instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

70. Applicants are cautioned that, because the required information submitted in FCC Form 175 bears on each applicant's qualifications, requests for confidential treatment will not be routinely granted. The Commission generally has held that it may publicly release confidential business information where the party has put that information at issue in a Commission proceeding or where the Commission has identified a compelling public interest in disclosing the information.

71. An applicant must designate between one and three individuals as authorized bidders in its FCC Form 175. The Commission's rules prohibit an individual from serving as an authorized bidder for more than one auction applicant.

72. No individual or entity may file more than one short-form application or have a controlling interest in more than one short-form application. If a party submits multiple short-form applications for an auction, then only one application may be the basis for that party to become qualified to bid in that auction.

73. Similarly, and consistent with the Commission's general prohibition of joint bidding agreements, a party is generally permitted to participate in a Commission auction only through a single bidding entity. Accordingly, the filing of applications in Auction 114 by multiple entities controlled by the same individual or set of individuals generally will not be permitted. Consistent with this restriction, a broadcaster interested in bidding on more than one construction permit cannot use two or more subsidiary entities to bid separately on construction permits in separate markets, regardless of whether each subsidiary were to select different construction permits on its short-form application. Likewise, if an entity, individual, or set of individuals hold

controlling interests in multiple entities that are interested in participating in Auction 114, regardless of whether those entities have other, non-shared controlling or non-controlling interests, those entities must participate in the auction through a single bidding entity and only that bidding entity may file a short-form application. As noted by the Commission in adopting the prohibition of applications by commonly controlled entities, this rule, in conjunction with the prohibition against joint bidding agreements, protects the competitiveness of the Commission's auctions.

74. As discussed herein, after the initial short-form application filing deadline, Commission staff will review all timely submitted applications for Auction 114 to determine whether each application complies with the application requirements and whether it has provided all required information concerning the applicant's qualifications for bidding. After this review is completed, a public notice will be released announcing the status of applications and identifying the applications that are complete, rejected, and those that are incomplete because of minor defects that may be corrected. The *Auction 114 Procedures Public Notice* also will establish an application resubmission filing window, during which an applicant may make permissible minor modifications to its application to address identified deficiencies. The public notice will include the deadline for resubmitting modified applications. To become a qualified bidder, an applicant must have a complete application (*i.e.,* have timely corrected any identified deficiencies) and make a timely and sufficient upfront payment. Qualified bidders will be identified by public notice at least 10 days prior to the mock auction.

75. OEA and MB discuss herein additional details regarding certain information required to be submitted in the short-form application. An applicant should consult the Commission's rules to ensure that, in addition to the materials described herein, all required information is included in its short-form application. To the extent the information in the *Auction 114 Procedures Public Notice* does not address a potential applicant's specific operating structure, or if the applicant needs additional information or guidance concerning the following disclosure requirements, the applicant should review the educational materials for Auction 114 in the Education section on the Auction 114 website at *www.fcc.gov/auction/114* and use the contact information provided in the *Auction 114 Procedures Public Notice* to consult with Commission staff to better understand the information it must submit in its short-form application.

B. Certification of Notice of Auction 114 Requirements and Procedures

76. For the reasons set forth in the *Auction 114 Comment Public Notice,* OEA and MB adopt the proposal to require any applicant seeking to participate in Auction 114 to certify in its short-form application, under penalty of perjury, that it has read the *Auction 114 Procedures Public Notice* adopting procedures for Auction 114 and that it has familiarized itself with these procedures and with the requirements for obtaining a construction permit for an FM broadcast station. OEA and MB received no comment on the proposal.

77. This certification is designed to bolster applicants' efforts to educate themselves about the procedures for auction participation and to ensure that, prior to submitting their short-form applications, applicants understand their obligation to stay abreast of relevant information. Familiarity with the Commission's rules and procedures governing Auction 114 may also help bidders avoid the consequences to them associated with defaults, which also cause harm to other applicants and the public by reducing the efficiency of the auction process and reducing the likelihood that the construction permits will be assigned to the bidder that values it the most. This certification, along with the other certifications required pursuant to 47 CFR 1.2105(a), will promote the submission of applications that meet the Commission's requirements, thereby leading to a more efficient application process.

78. A substantively similar requirement was instituted for Auctions 110, 108, 112, and 113. This requirement furthers a long-standing policy under which the Commission expressly places a burden upon each applicant to be thoroughly familiar with the procedures, terms, and conditions contained in the relevant Procedures Public Notice and any future public notices that may be released in the auction proceeding. While the certification OEA and MB add refers to information regarding auction procedures and licensing that is available at the time of certification, potential auction applicants are on notice from the *Auction 114 Procedures Public Notice* that their educational efforts must continue even after their short-form applications are filed. Commission staff routinely makes available detailed educational materials, such as interactive, online tutorials, to enhance interested parties' comprehension of the pre-bidding and bidding processes and to help applicants minimize their need to engage outside engineers, legal counsel, or other auction experts.

79. For these reasons, OEA and MB will require each Auction 114 applicant to certify as follows in its short-form application: that the applicant has read the public notice adopting procedures for the auction and that it has familiarized itself both with the auction procedures and with the requirements for obtaining a construction permit for an FM broadcast station.

80. An applicant must provide this certification under penalty of perjury, consistent with 47 CFR 1.2105(a). This certification must be provided in addition to the certifications already required under 47 CFR 1.2105. As with the other certifications required in the short-form application, an applicant's failure to make this certification in its FCC Form 175 by the [[September 30, 2026]], short-form filing deadline will render its application unacceptable for filing, and its application will be dismissed with prejudice.

C. Authorized Bidders

81. An applicant must designate at least one authorized bidder, and no more than three, in its FCC Form 175. The Commission's rules prohibit an individual from serving as an authorized bidder for more than one auction applicant or being listed as an authorized bidder in more than one short-form application.

82. To access the bidding system, each authorized bidder must have an FCC Username account that is associated with the applicant's FRN in CORES. Each authorized bidder must use its own unique FCC Username to access the bidding system. The applicant must provide the authorized bidder's FCC Username as the email address for that authorized bidder in its FCC Form 175. OEA and MB will withhold these email addresses from public disclosure. If an applicant does not provide an FCC Username that is associated with the applicant's FRN for an authorized bidder in its FCC Form 175, that bidder will be unable to place or submit bids. For further details, applicants should refer to the Auction 114 FCC Form 175 Instructions.

D. Permit Selection

83. An applicant must select on its FCC Form 175 all of the construction permits on which it may want to bid from the list of available permits. An applicant must carefully review and

verify its construction permit selections before the deadline for submitting the FCC Form 175 because those selections cannot be changed after the initial short-form application filing deadline. An applicant is not required to place bids on any of the permits it selects, but the bidding system will not accept bids for any permit that the applicant did not select in its FCC Form 175.

E. Disclosure of Agreements and Bidding Arrangements

84. An applicant must provide, in its short-form application, a brief description of, and identify each party to, any partnership, joint venture, consortium, or other agreements, arrangements, or understandings of any kind relating to the FM construction permits being auctioned, including any agreement that addresses or communicates directly or indirectly bids (including specific prices), bidding strategies (including the specific construction permit(s) on which to bid or not to bid), or the post-auction market structure, to which the applicant, or any party that controls or is controlled by the applicant, is a party. In connection with the agreement disclosure requirement, the applicant must certify under penalty of perjury in its FCC Form 175 that it has described, and identified each party to, any such agreements, arrangements, or understandings to which it (or any party that controls it or that it controls) is a party. An auction applicant that enters into any agreement during an auction that relates to the permits being auctioned is subject to the same disclosure obligations it would have for agreements existing at the short-form application filing deadline, and it must maintain the accuracy and completeness of the information in its pending application.

85. For purposes of making the required agreement disclosures on the short-form application, if parties agree in principle on all material terms prior to the application filing deadline, then each party to the agreement that is submitting an application must provide a brief description of, and identify the other party or parties to, the agreement on its respective FCC Form 175, even if the agreement has not been reduced to writing. Parties that have not agreed in principle by the short-form application filing deadline should not describe, or include the names of parties to, the discussions on their applications.

86. The Commission's rules generally prohibit joint bidding and other arrangements involving auction applicants (including any party that controls, or is controlled by, such applicants). For purposes of this prohibition, a joint bidding arrangement includes arrangements relating to the permits being auctioned that address or communicate, directly or indirectly, bidding at the auction, bidding strategies, including arrangements regarding price or the specific permits on which to bid, and any such arrangements relating to the post-auction market structure.

87. To implement the prohibition on joint bidding arrangements, the Commission's rules require each applicant to certify in its short-form application that it has disclosed any arrangements or understandings of any kind relating to the permits or licenses being auctioned to which it (or any party that controls or is controlled by it) is a party. The applicant must also certify that it (or any party that controls or is controlled by it) has not entered and will not enter into any arrangement or understanding of any kind relating directly or indirectly to bidding at auction with, among others, any other applicant.

88. Although the Commission's rules do not prohibit auction applicants from communicating about matters that are within the scope of an excepted agreement that has been disclosed in an FCC Form 175, the Commission reminds applicants that certain discussions or exchanges could nonetheless touch upon impermissible subject matters, and that compliance with the Commission's rules will not insulate a party from enforcement of the antitrust laws.

89. Applicants should bear in mind that a winning bidder will be required to disclose in its post-auction long-form application (FCC Form 2100, Schedule 301–FM) the specific terms, conditions, and parties involved in any agreement relating to the construction permits being auctioned into which it had entered prior to the time bidding was completed. This applies to any settlement agreement, joint venture, partnership, or other agreement, arrangement, or understanding of any kind entered into relating to the competitive bidding process, including any agreements relating to the construction permits being auctioned that address or communicate directly or indirectly bids (including specific prices), bidding strategies (including the specific permits on which to bid or not to bid), or the post-auction market structure, to which the applicant, or any party that controls or is controlled by the applicant, is a party.

F. Ownership Disclosure Requirements

90. Each applicant must comply with the ownership disclosure requirements and provide information required by 47 CFR 1.2105 and 1.2112. Specifically, an applicant must fully disclose information regarding the real party or parties-in-interest in the applicant or application and the ownership structure of the applicant, including both direct and indirect ownership interests of 10% or more, as prescribed in 47 CFR 1.2105 and 1.2112. Each applicant is responsible for ensuring that information submitted in its short-form application is complete and accurate.

G. Foreign Ownership Disclosure Requirements

91. 47 U.S.C. 310 requires the Commission to review foreign investment in broadcast station licenses and imposes specific restrictions on who may hold certain types of broadcast licenses. When completing a short-form application, an applicant must disclose information concerning its foreign ownership. In addition, if an applicant's foreign ownership exceeds the benchmark set forth in 47 U.S.C. 310(b)(4), then it may seek to participate in Auction 114 only if it has filed a 47 U.S.C. 310(b)(4) petition for declaratory ruling with the Commission prior to the short-form application filing deadline.

92. When submitting its short-form application, an applicant must certify that, as of the filing deadline, the applicant is in compliance with the foreign ownership restrictions in 47 U.S.C. 310, is in compliance with the terms and conditions of a 47 U.S.C. 310(b)(4) declaratory ruling granted by the Commission, or has filed a petition for declaratory ruling requesting Commission approval to exceed the foreign ownership benchmark in 47 U.S.C. 310(b)(4) that is pending before the Commission. An applicant with foreign ownership that necessitates a 47 U.S.C. 310(b)(4) declaratory ruling must submit as an attachment to its short-form application a copy of its pending petition for declaratory ruling or a citation to its previously granted declaratory ruling, whichever is applicable. In addition, if the applicant has been granted a 47 U.S.C. 310(b)(4) declaratory ruling, it must indicate in its short-form application whether the applicant remains in compliance with the terms and conditions of that declaratory ruling. Such an applicant must also indicate in its short-form application whether the facts upon which its declaratory ruling was based have changed and, if they have, the applicant must explain any such changes and whether and how the applicant remains in compliance with its declaratory ruling.Similarly, anapplicant whose petition for

declaratory ruling is pending before the Commission must indicate in its short-form application whether the fact scontained in its petition have changed since it was filed and, if they have, the applicant must explain any such changes and indicate whether the pending petition has been amended to reflect such changes. Additional information concerning foreign ownership disclosure requirements is provided in the Auction 114 FCC Form 175 Instructions.

H. New Entrant Bidding Credit

93. To promote the objectives of 47 U.S.C. 309(j) and further its long-standing commitment to the diversification of broadcast facility ownership, the Commission provides a tiered new entrant bidding credit for broadcast auction applicants with no, or very few, other media interests.

94. Applicants that qualify for the new entrant bidding credit are eligible for a bidding credit in this auction that represents the amount by which a bidder's winning bid is discounted. Eligibility for the new entrant bidding credit must be specified in an applicant's short-form application, which establishes that applicant's maximum bidding credit eligibility for Auction 114. The size of a new entrant bidding credit depends on the number of ownership interests in other media of mass communications that are attributable to the bidder-entity and its attributable interest-holders:

- A 35% bidding credit will be given to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, has no attributable interest in any other media of mass communications, as defined in 47 CFR 73.5008;
- A 25% bidding credit will be given to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, has an attributable interest in no more than three mass media facilities, as defined in 47 CFR 73.5008;
- No bidding credit will be given if any of the commonly owned mass media facilities serve the ''same area'' as the broadcast permit proposed in the auction, as defined in 47 CFR 73.5007(b), or if the winning bidder, and/or any individual or entity with an attributable interest in the winning bidder, has attributable interests in more than three mass media facilities. For purposes of determining whether a broadcast permit offered in this auction is in the ''same area'' as an applicant's existing mass media facilities, the coverage area of the to-be-auctioned facility is calculated using maximum class facilities at the FM allotment reference coordinates specified in Attachment A, not based on any applicant-specified preferred site coordinates for FM allotments.

95. Bidding credits are not cumulative; qualifying applicants receive either the 25% or the 35% bidding credit, but not both.

96. The interests of the applicant, and of any individuals or entities with an attributable interest in the applicant, in other media of mass communications are considered when determining an applicant's eligibility for the new entrant bidding credit. Attributable interests are defined in 47 CFR 73.3555 and note 2 of that section. The bidder's attributable interests, and thus its maximum new entrant bidding credit eligibility, are determined as of the short-form application filing deadline, which for Auction 114 is [[September 30, 2026]]. An applicant intending to divest a media interest or make any other ownership change, such as resignation of positional interests (officer or director) in order to avoid attribution for purposes of qualifying for the new entrant bidding credit, must have consummated such divestment transactions or have completed such ownership changes by no later than the FCC Form 175 filing deadline. Each prospective bidder is reminded, however, that events occurring after the short-form application filing deadline, such as the acquisition of attributable interests in media of mass communications, may cause diminishment or loss of the bidding credit and must be reported immediately.

97. Under broadcast attribution rules, those entities or individuals with an attributable interest in a bidder include:

- all officers and directors of a corporate bidder;
- any owner of 5% or more of the voting stock of a corporate bidder;
- all general partners and limited partners of a partnership bidder, unless the limited partners are sufficiently insulated; and
- all members of a limited liability company, unless sufficiently insulated.

98. In cases where an applicant's spouse or close family member holds other media interests, such interests are not automatically attributable to the bidder. The Commission decides attribution issues in this context based on certain factors traditionally considered relevant.

99. In the *New Entrant Bidding Credit Reconsideration Order,* 64 FR 44856 (August 18, 1999), the Commission further refined the eligibility standards for the new entrant bidding credit, judging it appropriate to attribute the media interests held by very substantial investors in, or creditors of, an applicant claiming new entrant status. Specifically, the attributable mass media interests held by an individual or entity with an equity and/or debt interest in an applicant shall be attributed to that bidder for purposes of determining its eligibility for the new entrant bidding credit, if the equity and debt interests, in the aggregate, exceed 33% of the total asset value of the applicant, even if such an interest is non-voting.

100. In the *Diversification Order,* 76 FR 7719 (February 11, 2011), the Commission relaxed the equity/debt plus attribution standard, to allow for higher investment opportunities in entities meeting the definition of ''eligible entities.'' An ''eligible entity'' is defined in Note 2(i) of 47 CFR 73.3555. Pursuant to the *Diversification Order,* the Commission will allow the holder of an equity or debt interest in the applicant to exceed the above-noted 33% threshold without triggering attribution provided (1) the combined equity and debt in the ''eligible entity'' is less than 50%; or (2) the total debt in the ''eligible entity'' does not exceed 80% of the asset value, and the interest holder does not hold any equity interest, option, or promise to acquire an equity interest in the ''eligible entity'' or any related entity.

101. Generally, media interests will be attributable for purposes of the new entrant bidding credit to the same extent that such other media interests are considered attributable for purposes of the broadcast multiple ownership rules. Attributable interests held by a winning bidder in existing low power television, television translator, or FM translator facilities, however, will not be counted among the applicant's other mass media interests in determining its eligibility for a new entrant bidding credit. A medium of mass communications is defined in 47 CFR 73.5008(b). Full service noncommercial educational stations, on both reserved and non-reserved channels, are included among ''media of mass communications'' as defined in 47 CFR 73.5008(b).

1. Application Requirements

102. In addition to the ownership information required pursuant to 47 CFR 1.2105 and 1.2112, applicants seeking a new entrant bidding credit are required to establish on their short-form applications that they satisfy the eligibility requirements to qualify for the bidding credit. In those cases, a certification under penalty of perjury must be provided in completing the

short-form application. An applicant claiming that it qualifies for a 35% new entrant bidding credit must certify that neither it nor any of its attributable interest holders has any attributable interests in any other media of mass communications. An applicant claiming that it qualifies for a 25% new entrant bidding credit must certify that neither it nor any of its attributable interest holders has any attributable interests in more than three media of mass communications, and must identify and describe such media of mass communications.

2. Unjust Enrichment

103. Applicants should note that unjust enrichment provisions apply to a winning bidder that utilizes a bidding credit and subsequently seeks to assign or transfer control of its license or construction permit to an entity not qualifying for the same level of bidding credit.

I. Provisions Regarding Former and Current Defaulters

104. Pursuant to the rules governing competitive bidding, each applicant must make certifications regarding whether it is a current or former defaulter or delinquent. A current defaulter or delinquent is not eligible to participate in Auction 114, but a former defaulter or delinquent may participate so long as it is otherwise qualified and makes an upfront payment that is 50% more than would otherwise be necessary. Accordingly, each applicant must certify under penalty of perjury on its FCC Form 175 that it, its affiliates, its controlling interests, and the affiliates of its controlling interests are not in default on any payment for a Commission construction permit or license (including down payments) and that they are not delinquent on any non-tax debt owed to any Federal agency. Additionally, an applicant must certify under penalty of perjury whether it (along with its controlling interests) has ever been in default on any payment for a Commission construction permit or license (including down payments) or has ever been delinquent on any non-tax debt owed to any Federal agency, subject to the exclusions described below. For purposes of making these certifications, the term ''controlling interest'' is defined in 47 CFR 1.2105(a)(4)(i).

105. Under the Commission's rule regarding short-form applications by former defaulters, an applicant is considered a ''former defaulter'' or a ''former delinquent'' when, as of the application filing deadline, the applicant or any of its controlling interests has defaulted on any Commission construction permit or license or has been delinquent on any non-tax debt owed to any Federal agency, but has since remedied all such defaults and cured all the outstanding non-tax delinquencies. For purposes of the certification under 47 CFR 1.2105(a)(2)(xii), the applicant may exclude from consideration any cured default on a Commission construction permit or license or cured delinquency on a non-tax debt owed to a Federal agency for which any of the following criteria are met: (1) the notice of the final payment deadline or delinquency was received more than seven years before the short-form application filing deadline, (2) the default or delinquency amounted to less than $100,000, (3) the default or delinquency was paid within two quarters (*i.e.,* six months) after receiving the notice of the final payment deadline or delinquency, or (4) the default or delinquency was the subject of a legal or arbitration proceeding and was cured upon resolution of the proceeding. With respect to the first exclusion, notice to a debtor may include notice of a final payment deadline or notice of delinquency and may be express or implied depending on the origin of any Federal non-tax debt giving rise to a default or delinquency. Additionally, for the third exclusion, the date of receipt of the notice of a final default deadline or delinquency by the intended party or debtor will be used for purposes of verifying receipt of notice.

106. In addition to the *Auction 114 Procedures Public Notice,* applicants are encouraged to review previous guidance on default and delinquency disclosure requirements in the context of the auction short-form application process. Parties are also encouraged to consult with Auctions Division staff if they have any questions about default and delinquency disclosure requirements.

107. The Commission considers outstanding debts owed to the United States Government, in any amount, to be a serious matter. The Commission adopted rules, including a provision referred to as the ''red light rule,'' that implement its obligations under the Debt Collection Improvement Act of 1996, which governs the collection of debts owed to the United States. Under the red light rule, applications and other requests for benefits filed by parties that have outstanding debts owed to the Commission will not be processed. When adopting that rule, the Commission explicitly declared, however, that its competitive bidding rules ''are not affected'' by the red light rule. As a consequence, the Commission's adoption of the red light rule does not alter the applicability of any of its competitive bidding rules, including the provisions and certifications of 47 CFR 1.2105 and 1.2106, with regard to current and former defaults or delinquencies.

108. OEA and MB remind each applicant, however, that the Commission's Red Light Display System, which provides information regarding debts currently owed to the Commission, may not be determinative of an auction applicant's ability to comply with the default and delinquency disclosure requirements of 47 CFR 1.2105. Thus, while the red light rule ultimately may prevent the processing of long-form applications by auction winners, an auction applicant's lack of current ''red light'' status is not necessarily determinative of its eligibility to participate in an auction (or whether it may be subject to an increased upfront payment obligation). Moreover, a prospective applicant in Auction 114 should note that any long-form applications filed after the close of bidding will be reviewed for compliance with the Commission's red light rule, and such review may result in the dismissal of a winning bidder's long-form application. OEA and MB encourage each applicant to carefully review all records and other available Federal agency databases and information sources to determine whether the applicant, or any of its affiliates, or any of its controlling interests, or any of the affiliates of its controlling interests, currently owes or was ever delinquent in the payment of non-tax debt owed to any Federal agency.

J. Noncommercial Educational Status Election

109. In the *NCE Second Report and Order,* 68 FR 26220 (May 15, 2003), the Commission held that applications for noncommercial educational (NCE) radio stations on non-reserved spectrum, filed during an auction filing window, will be returned as unacceptable for filing if mutually exclusive with any application for a commercial station. Accordingly, if an FCC Form 175 filed during the Auction 114 filing window identifying the application's proposed station as noncommercial educational is mutually exclusive with any application filed during that window for a commercial station, the NCE application will be returned as unacceptable for filing and the applicant will not be provided with any further opportunity to become eligible to bid in this auction. For this reason, each prospective applicant in this auction should consider carefully

whether it wishes to propose NCE operation for any FM station acquired in this auction. This NCE election cannot be reversed after the initial application filing deadline.

K. Modifications to FCC Form 175

1. Duty To Maintain Accuracy and Completeness of FCC Form 175

110. Pursuant to 47 CFR 1.65, each applicant has a continuing obligation to maintain the accuracy and completeness of information furnished in its pending application to participate in Auction 114. Consistent with the requirements for prior broadcast auctions, an applicant for Auction 114 must furnish additional or corrected information to the Commission within five business days after a significant occurrence, or amend its FCC Form 175 no more than five business days after the applicant becomes aware of the need for the amendment. In accordance with the Commission's rules, an applicant's obligation to make modifications to a pending auction application in order to provide additional or corrected information continues beyond the five-day period, even if the report is not made within the five-day period. An applicant is obligated to amend its pending application even if a reported change may result in the dismissal of the application because it is subsequently determined to be a major modification.

2. Modifying an FCC Form 175

111. As noted above, a party seeking to participate in Auction 114 must file an FCC Form 175 electronically via the AAP in the AAS. During the initial filing window, an applicant will be able to make any necessary modifications to its FCC Form 175 in the AAP. An applicant that has certified and submitted its FCC Form 175 before the close of the initial filing window may continue to make modifications as often as necessary until the close of that window; however, the applicant must re-certify and re-submit its FCC Form 175 before the close of the initial filing window to confirm and effect its latest application changes. After each submission, a confirmation page will be displayed stating the submission time and submission date.

112. An applicant will also be allowed to modify its FCC Form 175 in the AAP, except for certain fields, during the resubmission filing window and after the release of the public notice announcing the qualified bidders for an auction. During these times, if an applicant needs to make permissible minor changes to its FCC Form 175 or must make changes in order to maintain the accuracy and completeness of its application pursuant to 47 CFR 1.65 and 1.2105(b)(4), then it must make the change(s) in the AAP and re-certify and re-submit its application to confirm and effect the change(s).

113. An applicant's ability to modify its FCC Form 175 in the AAP will be limited between the closing of the initial filing window and the opening of the application resubmission filing window, and between the closing of the resubmission filing window and the release of the public notice announcing the qualified bidders for an auction. During these periods, an applicant will be able to view its submitted application, but will be permitted to modify only the applicant's address, responsible party address, and contact information (*e.g.,* name, address, telephone number) in the AAP. An applicant will not be able to modify any other pages of the FCC Form 175 in the AAP during these periods. If, during these periods, an applicant needs to make other permissible minor changes to its FCC Form 175, or changes to maintain the accuracy and completeness of its application pursuant to 47 CFR 1.65 and 1.2105(b)(4), then the applicant must submit a letter briefly summarizing the changes to its FCC Form 175 via email to *auction114@fcc.gov.* The email summarizing the changes must include a subject line referring to Auction 114 and the name of the applicant, for example, ''Re: Changes to Auction 114 Auction Application of XYZ Corp.'' Any attachments to the email must be formatted as Adobe® Acrobat® (PDF) or Microsoft® Word documents. An applicant that submits its changes in this manner must subsequently modify, certify, and submit its FCC Form 175 electronically in the AAP once it is again open and available to applicants.

114. Applicants should also note that even at times when the AAP is open and available to applicants, the system will not allow an applicant to make certain other permissible changes itself (*e.g.,* correcting a misstatement of the applicant's legal classification). If an applicant needs to make a permissible minor change of this nature, then it must submit a written request by email to the Auctions Division Chief, via *auction114@fcc.gov,* requesting that the Commission manually make the change on the applicant's behalf. Once Commission staff has informed the applicant that the change has been made in the AAP, the applicant must then re-certify and re-submit its FCC Form 175 in the AAP to confirm and effect the change(s).

115. As with filing the FCC Form 175, any amendment(s) to the application and related statements of fact must be certified by an authorized representative of the applicant with authority to bind the applicant. Applicants should note that submission of any such amendment or related statement of fact constitutes a representation by the person certifying that he or she is an authorized representative with such authority and that the contents of the amendment or statement of fact are true and correct.

116. Applicants must not submit application-specific material through the Commission's Electronic Comment Filing System. Further, as discussed herein, parties submitting information related to their applications should use caution to ensure that their submissions do not contain confidential information or communicate information that would violate 47 CFR 1.2105(c) or the limited information procedures adopted for Auction 114. An applicant seeking to submit, outside the AAP, information that might reflect non-public information, such as an applicant's permit selection(s), upfront payment amount, or bidding eligibility, should consider including in its email a request that the filing or portions of the filing be withheld from public inspection until the end of the prohibition on certain communications pursuant to 47 CFR 1.2105(c).

117. Questions about FCC Form 175 amendments should be directed to the Auctions Division at *auction114@fcc.gov* or (202) 418–0660.

IV. Information Procedures and Prohibited Communications

A. Information Procedures During the Auction Process

118. Consistent with past practice in most recent Commission spectrum auctions, OEA and MB adopt the proposal to limit information available in Auction 114 in order to discourage unproductive and anti-competitive strategic behavior. Accordingly, OEA and MB will not identify bidders placing particular bids until after the bidding has closed. While OEA and MB generally make available to the public information provided in each applicant's short-form application following an initial review by Commission staff, OEA and MB will not make public until after bidding has closed: (1) the construction permits that an applicant selects for bidding in its short-form application, (2) the amount of any upfront payment made by or on behalf of an applicant, (3) any applicant's bidding eligibility, and (4) any other bidding-related information

that might reveal the identity of the bidder placing a bid. An applicant in a broadcast auction that is seeking a new entrant bidding credit and has an attributable interest in no more than three mass media facilities is required to disclose those facilities in its short-form application and to indicate whether any such facility is in the ''same area'' as the permit(s) selected in its short-form application. Because this information could reveal the permits selected by an applicant, we will also not make public, until after bidding has closed, any applicant's response to the question of whether a disclosed existing mass media facility is in the ''same area'' as a selected permit.

119. The limited information procedures used in past auctions have helped safeguard against potential anticompetitive behavior such as retaliatory bidding and collusion. One commenter, Mr. Tracy K. Wood, objects to the use of anonymous bidding on the basis that each bidder needs to know the ''capabilities and motivations'' of other bidders in order to plan its own bidding strategy. In furtherance of this goal, Mr. Wood proposes that OEA and MB provide full bidding information about each bidder, including the construction permits selected by the bidder on its short-form application and its bidding eligibility at the end of each round, while replacing the bidder's name with a pseudonym to hide its identity. Mr. Wood also suggests providing a mechanism for a bidder to signal to other bidders when it is done bidding on an item and would like to be outbid.

120. OEA and MB find that Mr. Wood's proposals would enable the very types of anti-competitive strategic bidding behavior that the limited information procedures are intended to prevent. Bidder identities, even when the bidder is given a pseudonym, allow bidders to send messages with their bids, making tacit collusion easier. For example, if two bidders at the start of the auction see that they are competing for the same two permits, they can use bid increments to tacitly indicate which permit they value more. In this way, the two bidders divide the two permits, and do so at a lower price than they would have had they each bid against one another based on their respective valuations for each permit. Likewise, the mechanism that Mr. Wood proposes, by which a bidder can signal to other bidders when itis done bidding on a permit and would like to be outbid, would facilitate collusion by providing another channel through which bidders can message one another during bidding. The longstanding limited information procedures for Commission auctions, in combination with the prohibited communications rule, are generally designed to deter collusion and other types of undesirable strategic bidding, to ensure that auction participants bid in a straightforward manner, and that the licenses or permits are won by the bidder that values them the most. Therefore, OEA and MB decline to adopt Mr. Wood's proposals. On the whole, the competitive benefits associated with limiting information disclosure support adoption of such procedures and outweigh any perceived benefits of full disclosure.

121. Under the limited information procedures (sometimes also referred to as anonymous bidding) OEA and MB adopt herein, after the close of each round of bidding in Auction 114, they will make public for each permit the current provisionally winning bid amount, the minimum acceptable bid amount for the following round, and the number of new bids placed on the permit during the round. These reports will be publicly accessible.

122. Throughout the auction, OEA and MB will provide bidders with secure access to certain non-public bidding information while bidding is ongoing. For example, bidders will be able to view their own level of eligibility during the auction.

123. After the close of bidding, bidders' permit selections, upfront payment amounts, bidding eligibility, bids, and other bidding-related information will be made publicly available.

124. OEA and MB warn applicants that direct or indirect communication to other applicants or the public disclosure of non-public information (*e.g.,* reductions in eligibility, identities of bidders) could violate the Commission's rule prohibiting certain communications. Therefore, to the extent an applicant believes that such a disclosure is required by law or regulation, including regulations issued by the SEC, OEA and MB strongly urge that the applicant consult with Commission staff in the Auctions Division before making such disclosure.

B. Prohibited Communications and Compliance With Antitrust Laws

125. The rules prohibiting certain communications set forth in 47 CFR 1.2105(c) and 73.5002(d) apply to each ''applicant'' in Auction 114. 47 CFR 1.2105(c)(1) provides that, subject to specified exceptions, after the deadline for filing a short-form application, all applicants are prohibited from cooperating or collaborating with respect to, communicating with or disclosing, to each other in any manner the substance of their own, or each other's, or any other applicant's bids or bidding strategies (including post-auction market structure), or discussing or negotiating settlement agreements, until after the down payment deadline.

1. Entities Subject to 47 CFR 1.2105(c)

126. An ''applicant'' for purposes of this rule includes all ''controlling interests'' in the entity submitting the short-form application, as well as all holders of interests amounting to 10% or more of the entity (including institutional investors and asset management companies), and all officers and directors of that entity. Under 47 CFR 1.2105(c), a party that submits an application becomes an ''applicant'' under the rule at the short-form application filing deadline, and that status does not change based on later developments, including failure to become a qualified bidder.

2. Prohibition Applies Until Down Payment Deadline

127. The prohibition in 47 CFR 1.2105(c) on certain communications begins at an auction's short-form application filing deadline and ends at the auction's down payment deadline after the auction closes, which will be announced in a future public notice. To be clear, communications that occur even after bidding has ended and the auction has closed, but before the down payment deadline, are still subject to 47 CFR 1.2105(c).

3. Scope of Prohibition on Certain Communications; Prohibition on Joint Bidding Agreements

128. 47 CFR 1.2105(c) prohibits certain communications between applicants for an auction, regardless of whether the applicants seek permits in the same geographic area or market. The rule also prohibits any ''joint bidding arrangements,'' including arrangements relating to the permits being auctioned that address or communicate, directly or indirectly, bidding at the auction, bidding strategies, including arrangements regarding price or the specific permits on which to bid, and any such arrangements relating to the post-auction market structure. The rule allows for limited exceptions for communications within the scope of any arrangement consistent with the exclusion from the Commission's rule prohibiting joint bidding, provided such arrangement is disclosed on the applicant's short-form application. Applicants may communicate pursuant to any pre-existing agreements, arrangements, or understandings relating to the permits being auctioned

that are solely operational or that provide for the transfer or assignment of permits, provided that such agreements, arrangements, or understandings are disclosed on their application and do not both relate to the permits at auction and address or communicate bids (including amounts), bidding strategies, or the particular permits on which to bid or the post-auction market structure.

129. In addition to express statements of bids and bidding strategies, the prohibition against communicating ''in any manner'' includes public disclosures as well as private communications and indirect or implicit communications. Consequently, an applicant must take care to determine whether its auction-related communications may reach another applicant.

130. Parties subject to 47 CFR 1.2105(c) should take special care in circumstances where their officers, directors, and employees may receive information directly or indirectly relating to any applicant's bids or bidding strategies, even if the officers, directors, or employees are not involved in their company's participation in the auction or if the information received is wholly unsolicited. Such information may be deemed to have been received by the applicant under certain circumstances. For example, Commission staff have found that, where an individual serves as an officer and director for two or more applicants, the bids and bidding strategies of one applicant are presumed to be conveyed to the other applicant through the shared officer, which creates an apparent violation of the rule.

131. Subject to the limited exceptions for communications within the scope of any arrangement consistent with the exclusion from the Commission's rule prohibiting joint bidding, 47 CFR 1.2105(c)(1) prohibits applicants from communicating with specified other parties only with respect to ''their own, or each other's, or any other applicant's bids or bidding strategies.'' The *Prohibited Communications Guidance Public Notice,* 80 FR 63215 (October 19, 2015), released in advance of the Broadcast Incentive Auction (Auction 1000) reviewed the scope of the prohibition generally, as well as specific variations on the prohibition that were unique to Auction 1000. As the Commission explained therein, a communication conveying ''bids or bidding strategies (including post-auction market structure)'' must also relate to the ''[permits] being auctioned'' in order to be covered by the prohibition. Thus, the prohibition is limited in scope and does not apply to all communications between or among the specified parties. The Commission consistently has made clear that application of the rule prohibiting communications has never required total suspension of essential ongoing business. Entities subject to the prohibition may negotiate agreements during the prohibition period, provided that the communications involved do not relate to both: (1) the licenses or permits being auctioned and (2) bids or bidding strategies or post-auction market structure.

132. Accordingly, business discussions and negotiations that are unrelated to bidding in Auction 114 and that do not convey information about the bids or bidding strategies of an applicant, including the post-auction market structure, are not prohibited by the rule. Moreover, not all auction-related information is covered by the prohibition. For example, communicating merely whether a party has or has not applied to participate in Auction 114 will not violate the rule. In contrast, communicating, among other things, how a party will participate, including whether or not a party plans to submit an upfront payment and the upfront payment amount, specific bid amounts, and/or whether or not the party is placing or intends to place bids, would convey bids or bidding strategies and would be prohibited.

133. While 47 CFR 1.2105(c) does not prohibit business discussions and negotiations among auction applicants that are unrelated to the auction, each applicant must remain vigilant not to communicate, directly or indirectly, information that affects, or could affect, bids or bidding strategies. Certain discussions, even if they do not directly address the permits offered in Auction 114, still might touch upon subject areas that relate to bids and bidding strategies or to post-auction market structure, which could convey price or geographic information related to bidding strategies. Such subject areas include, but are not limited to, management, sales, local marketing agreements, and other transactional agreements.

134. OEA and MB caution applicants that bids or bidding strategies may be communicated outside situations that involve one party subject to the prohibition communicating privately and directly with another such party. For example, the Commission has warned that prohibited ''communications concerning bids and bidding strategies may include communications regarding capital calls or requests for additional funds in support of bids or bidding strategies to the extent such communications convey information concerning the bids and bidding strategies directly or indirectly.'' Moreover, the Commission found a violation of the rule against prohibited communications when an applicant used the Commission's bidding system to disclose ''its bidding strategy in a manner that explicitly invited other auction participants to cooperate and collaborate . . . in specific markets,'' and it has placed auction participants on notice that the use of its bidding system ''to disclose market information to competitors will not be tolerated and will subject bidders to sanctions.''

135. Likewise, when completing a short-form application, each applicant should avoid any statements or disclosures that may violate 47 CFR 1.2105(c), particularly in light of the limited information procedures in effect for Auction 114. Specifically, an applicant should avoid including any information in its short-form application that might convey information regarding its permit selections, such as referring to certain markets when describing agreements, including any information in application attachments that will be publicly available that may otherwise disclose the applicant's permit selections, or using applicant names that refer to permits being offered.

136. Applicants also should be mindful that communicating non-public application or bidding information publicly or privately to another applicant may violate 47 CFR 1.2105(c) even though that information subsequently may be made public during later periods of the application or bidding processes.

4. Communicating With Third Parties

137. 47 CFR 1.2105(c) does not prohibit an applicant from communicating bids or bidding strategies to a third party, such as a consultant or consulting firm, counsel, or lender. An applicant should take appropriate steps, however, to ensure that any third party it employs for advice pertaining to its bids or bidding strategies does not become a conduit for prohibited communications to other specified parties, as that would violate the rule. For example, an applicant might require a third party, such as a lender, to sign a non-disclosure agreement before the applicant communicates any information regarding bids or bidding strategy to the third party. Within third-party firms, separate individual employees, such as attorneys or auction consultants, may advise individual applicants on bids or bidding strategies, as long as such firms implement firewalls and other

compliance procedures that prevent such individuals from communicating the bids or bidding strategies of one applicant to other individuals representing separate applicants. Although firewalls and/or other procedures should be used, their existence is not an absolute defense to liability for violating the rule.

138. As the Commission has noted in other spectrum auctions, in the case of an individual, the objective precautionary measure of a firewall is not available. As a result, an individual that is privy to bids or bidding information of more than one applicant presents a greater risk of becoming a conduit for a prohibited communication. OEA and MB will take the same approach to interpreting the prohibited communications rule in Auction 114. OEA and MB emphasize that whether a prohibited communication has taken place in a given case will depend on all the pertinent facts, including who possessed what information, what information was conveyed to whom, and the course of bidding in the auction.

139. OEA and MB remind potential applicants that they may discuss the short-form application or bids for specific permits with the counsel, consultant, or expert of their choice *before* the short-form application deadline. Furthermore, the same third-party individual could continue to give advice after the short-form application deadline regarding the application, provided that no information pertaining to bids or bidding strategies, including permits selected on the short-form application, is conveyed to that individual from any of the applicants the individual advises. OEA and MB remind potential applicants, however, that no person may serve as an authorized bidder for more than one applicant in Auction 114.

140. Applicants also should use caution in their dealings with other parties, such as members of the press, financial analysts, or others who might become conduits for the communication of prohibited bidding information. For example, even though communicating that it has applied to participate in this auction will not violate the rule, an applicant's statement to the press or a statement on social media that it intends to stop bidding or does not intend to bid at all in an auction could give rise to a finding of a 47 CFR 1.2105 violation. Similarly, an applicant's public statement of intent not to place bids during bidding in Auction 114 could also violate the rule.

5. 47 CFR 1.2405(c) Certifications

141. By electronically submitting its FCC Form 175, each applicant for Auction 114 certifies its compliance with 47 CFR 1.2105(c) and 73.5002(d). If an applicant has a non-controlling interest with respect to more than one application, then the applicant must certify that it has established internal control procedures to preclude any person acting on behalf of the applicant from possessing information about the bids or bidding strategies of more than one applicant or communicating such information with respect to either applicant to another person acting on behalf of and possessing such information regarding another applicant. The mere filing of a certifying statement as part of an application, however, will not outweigh specific evidence that a prohibited communication has occurred, nor will it preclude the initiation of an investigation when warranted. Any applicant found to have violated these communication prohibitions may be subject to sanctions.

6. Duty To Report Prohibited Communications

142. 47 CFR 1.2105(c)(4) requires that any applicant that makes or receives a communication that appears to violate 47 CFR 1.2105(c) must report such communication in writing to the Commission immediately, and in no case later than five business days after the communication occurs. Each applicant's obligation to report any such communication continues beyond the five-day period after the communication is made, even if the report is not made within the five-day period.

7. Procedures for Reporting Prohibited Communications

143. A party reporting any information or communication pursuant to 47 CFR 1.65(a), 1.2105(a)(2), or 1.2105(c)(4) must take care to ensure that any report of a prohibited communication does not itself give rise to a violation of 47 CFR 1.2105(c). For example, a party's report of a prohibited communication could violate the rule by communicating prohibited information to other parties specified under the rule through the use of Commission filing procedures that allow such materials to be made available for public inspection.

144. An applicant must file only a single report concerning a prohibited communication and must file that report with the Commission personnel expressly charged with administering the Commission's auctions. This rule is designed to minimize the risk of inadvertent dissemination of information in such reports. Any reports required by 47 CFR 1.2105(c) must be filed consistent with the instructions set forth in the *Auction 114 Procedures Public Notice.* For Auction 114, such reports must be submitted to the Chief of the Auctions Division, Office of Economics and Analytics, by email to *auction114@fcc.gov.* If you have any questions about filing such a report, contact Auctions Division staff at *auction114@fcc.gov* or (202) 418–0660 for further guidance.

145. Given the potential competitive sensitivity of public disclosure of information in such a report, a party seeking to report such a prohibited communication should consider submitting its report with a request that the report or portions of the submission be withheld from public inspection by following the procedures specified in 47 CFR 0.459. OEA and MB encourage such parties to coordinate with the Auctions Division staff about the procedures for submitting such reports.

8. Additional Information Concerning Prohibition on Certain Communications in Commission Auctions

146. A summary listing of documents issued by the Commission and OEA/MB addressing the application of 47 CFR 1.2105(c) is available on the Commission's auction web page at *www.fcc.gov/summary-listing-documents-addressing-application-rule-prohibiting-certain-communications.*

9. Antitrust Laws

147. Regardless of compliance with the Commission's rules, applicants remain subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. Compliance with the disclosure requirements of 47 CFR 1.2105(c)(4) will not insulate a party from enforcement of the antitrust laws. For instance, a violation of the antitrust laws could arise out of actions taking place well before any party submits a short-form application. The Commission has cited a number of examples of potentially anticompetitive actions that would be prohibited under antitrust laws: for example, actual or potential competitors may not agree to divide territories in order to minimize competition, regardless of whether they split a market in which they both do business, or whether they merely reserve one market for one and another market for the other.

148. To the extent OEA and MB become aware of specific allegations that suggest that violations of the federal

antitrust laws may have occurred, they may refer such allegations to the United States Department of Justice for investigation. If an applicant is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process, then it may be subject to a forfeiture and may be prohibited from participating further in Auction 114 and in future auctions, among other sanctions.

V. Bidding

A. Auction Structure

1. Simultaneous Multiple-Round Auction

149. In the *Auction 114 Comment Public Notice,* OEA and MB proposed to auction all construction permits listed in Attachment A of the *Auction 114 Procedures Public Notice* in a single auction using the Commission's standard simultaneous multiple-round auction format. This type of auction offers every construction permit for bid at the same time and consists of successive bidding rounds in which qualified bidders may place bids on individual construction permits. OEA and MB received no comment on this proposal, and this proposal is adopted. Unless otherwise announced, bids will be accepted on all construction permits in each round of the auction until bidding stops on every construction permit.

2. FCC Auction Bidding System

150. All bidding will take place remotely either through the FCC Auction Bidding System (bidding system) or by telephonic bidding. Please note that telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. The length of a call to place a telephonic bid may vary; please allow a minimum of ten minutes.

151. An Auction 114 bidder's ability to bid on specific construction permits is determined by two factors: (1) the construction permits selected by that applicant in its FCC Form 175 and (2) the bidder's bidding eligibility measured in bidding units. The bidding system will allow bidders to submit bids on only those construction permits the bidder selected on its FCC Form 175.

152. In order to access the bidding function of the bidding system, bidders must be logged in during a bidding round using the passcode generated by the RSA token and a personal identification number (PIN) created by the bidder. Bidders are strongly encouraged to print their bid summary for each round after they have completed all of their activity for that round.

3. Availability of Bidding Information

153. As discussed herein, in the *Auction 114 Comment Public Notice,* OEA and MB proposed to employ limited information procedures for Auction 114, including limiting the availability of bidding information during the auction, and OEA and MB adopt that proposal here. Limited information about the results of a round will be made public after the conclusion of the round. Specifically, after a round closes, OEA and MB will make available for each construction permit its current provisionally winning bid amount, the minimum acceptable bid amount for the following round, and the number of new bids placed on the permit during the round. The reports will be publicly accessible. Moreover, after Auction 114 closes, OEA and MB will make available complete reports of all bids placed during each round of the auction, that include bidder identities.

154. As in past Commission spectrum auctions, bidders will have secure access to certain non-public bidding information while bidding is ongoing. Specifically, after each round ends, and before the next round begins, OEA and MB will make the following information available to individual bidders:

• The bidder's activity, based on all bids in the previous round; and

• Summary statistics of the bidder's bidding/bid-related actions in each round, including the construction permits on which it bid and the price it bid for each of those construction permits, the result of each of its bids, whether it has any provisionally winning bids, and remaining activity rule waivers.

155. As discussed more fully herein, limiting the availability of bidding information during the auction balances OEA's and MB's interest in providing bidders with sufficient information about the status of their own bids and bidding across all construction permits to allow them to bid confidently and effectively, while restricting the availability of information that may facilitate identification of bidders placing particular bids, which could potentially lead to undesirable strategic bidding.

4. Round Structure

156. The first round of bidding for Auction 114 will begin on [[Tuesday, February 2, 2027]]. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released at least one week before the start of bidding in the auction. Each bidding round is followed by the release of round results. Multiple bidding rounds may be conducted each day.

157. In the *Auction 114 Comment Public Notice,* OEA and MB proposed to retain the discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. OEA and MB received no comment on these proposals, and they adopt them for Auction 114. OEA and MB may change the amount of time for the bidding rounds, the amount of time between rounds, or the number of rounds per day, depending upon bidding activity and other factors, by prior announcement.

5. Eligibility and Activity Rules

158. As discussed herein, OEA and MB will use upfront payments to determine initial (maximum) bidding eligibility (as measured in bidding units) for Auction 114. The amount of the upfront payment submitted by a bidder determines initial bidding eligibility, the maximum number of bidding units on which a bidder may be active (bid or hold provisionally winning bids) in a given round. As noted herein, each construction permit is assigned a specific number of bidding units as listed in Attachment A to the *Auction 114 Comment Public Notice.* Bidding units assigned to each construction permit do not change as prices rise during the auction. Upfront payments are not attributed to specific construction permits. Rather, a bidder may place bids on any of the construction permits selected on its FCC Form 175 as long as the total number of bidding units associated with those construction permits does not exceed the bidder's current eligibility. Eligibility cannot be increased during the auction; it can only remain the same or decrease. Thus, in calculating its upfront payment amount, an applicant must determine the maximum number of bidding units on which it may wish to bid or hold provisionally winning bids in any single round, and submit an upfront payment amount covering that total number of bidding units. At a minimum, an applicant's upfront payment must cover the bidding units for at least one of the construction permits it selected on its short-form application. The total upfront payment does not affect the total dollar amount a bidder may bid on any given

construction permit. OEA and MB received no comments on the bidding eligibility proposals, and these proposals are adopted.

159. To ensure that an auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. Bidders are required to be active (bid or hold provisionally winning bids) on a specified percentage of their current bidding eligibility during each round of the auction. A bidder's activity level in a round is the sum of the bidding units associated with construction permits covered by the bidder's new bids in the current round and provisionally winning bids from the previous round. The minimum required activity is expressed as a percentage of the bidder's current eligibility. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a reduction in the bidder's eligibility, possibly curtailing or eliminating the bidder's ability to place additional bids in the auction.

160. In the *Auction 114 Comment Public Notice,* OEA and MB proposed that in each bidding round, a bidder seeking to maintain its current bidding eligibility be required to be active on 100% of its bidding eligibility. No commentors objected to this proposal, and OEA and MB adopt it for Auction 114.

6. Activity Rule Waivers

161. In the *Auction 114 Comment Public Notice,* OEA and MB proposed that each bidder in the auction be provided with three activity rule waivers, which are principally a mechanism for a bidder to avoid the loss of bidding eligibility in the event that exigent circumstances prevent it from bidding in a particular round. OEA and MB received no comments on this issue.

162. Therefore, OEA and MB adopt this proposal to provide bidders with three activity rule waivers. Use of an activity rule waiver preserves the bidder's eligibility despite its activity in the current round being below the required minimum activity level. An activity rule waiver applies to an entire round of bidding and not to a particular construction permit. A bidder may use an activity rule waiver in any round of the auction as long as the bidder has not used all of its waivers.

163. The bidding system will assume that a bidder that does not meet the activity requirement would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver at the end of any bidding round in which a bidder's activity level is below the minimum required unless (1) the bidder has no activity rule waiver remaining, or (2) the bidder overrides the automatic application of a waiver by reducing eligibility, therefore meeting the activity requirement. If the bidder has no waivers remaining and does not satisfy the required activity level, the bidder's current eligibility will be permanently reduced, possibly curtailing or eliminating the ability to place additional bids in the auction.

164. A bidder with insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding round by using the *reduce eligibility* function in the bidding system. In this case, the bidder's eligibility would be permanently reduced to bring it into compliance with the activity rule described above. Reducing eligibility is an irreversible action once the round has closed, and a bidder cannot regain its lost bidding eligibility.

7. Auction Stopping Rule

165. For Auction 114, OEA and MB proposed to employ a simultaneous stopping rule approach, which means all construction permits remain available for bidding until bidding stops on every construction permit. Specifically, bidding will close on all construction permits after the first round in which no bidder submits any new bid on a construction permit for which the bidder is not the provisionally winning bidder. OEA and MB received no comments on these proposals and adopt the proposed stopping rule.

166. OEA and MB also proposed in the *Auction 114 Comment Public Notice* to retain discretion to attempt to change the pace of the auction in certain circumstances, for example, where the auction is proceeding unusually slowly or quickly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time or will close prematurely. For example, OEA and MB may adjust the pace of the auction by changing the number of bidding rounds per day and/or the minimum acceptable bids. OEA and MB proposed to retain the discretion to exercise any of these options with or without prior announcement during the auction. OEA and MB received no comments on this proposal, and adopt it for Auction 114.

8. Auction Delay, Suspension, or Cancellation

167. In the *Auction 114 Comment Public Notice,* OEA and MB proposed that, by public notice or by announcement through the bidding system, they may delay, suspend, or cancel bidding in the auction in the event of natural disaster, technical obstacle, network interruption, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. OEA and MB received no comment on this issue.

168. Because this approach has proven effective in resolving exigent circumstances in previous auctions, OEA and MB adopt these proposals regarding auction delay, suspension, or cancellation. By public notice or by announcement through the bidding system, OEA and MB may delay, suspend, or cancel bidding in the auction in the event of natural disaster, technical obstacle, network interruption, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. In such cases, OEA and MB, in their sole discretion, may elect to resume the auction starting from the beginning of the current round or from some previous round, or cancel the auction in its entirety. OEA and MB emphasize that they will exercise this authority solely at their discretion.

B. Bidding Procedures

1. Minimum Opening Bids and Acceptable Bid Amounts

169. 47 U.S.C. 309(j) calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when applications for FCC licenses or construction permits are subject to auction (*i.e.,* because they are mutually exclusive), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest. Consistent with this mandate, the Commission directed that, prior to the start of each auction, comment be sought on the use of a minimum opening bid and/or reserve price.

170. In the *Auction 114 Comment Public Notice,* OEA and MB proposed not establishing separate reserve prices for the construction permits in Auction 114. OEA and MB received no comment on this proposal and adopt it for Auction 114. The *Auction 114 Comment*

Public Notice did, however, propose to establish minimum opening bids for each construction permit, reasoning that a minimum opening bid, which has been used in other auctions, is an effective tool for accelerating the competitive bidding process. A minimum opening bid was proposed for each permit by taking into consideration the type of service and class of facility offered, market size, population covered by the proposed broadcast facility, and recent broadcast transaction data.

171. SSR suggests that OEA and MB revisit the minimum opening bids proposed in the *Auction 114 Comment Public Notice* for six FM allotments located on the island of Kauai, Hawaii. SSR asserts that ''the three Kauai FM Class A allotments each carry minimum opening bids that exceed the opening bids assigned to [the] three Kauai FM Class C3 allotments, notwithstanding the substantially greater facilities and service potential associated with the Class C3 channels.'' OEA and MB disagree that there is greater service potential associated with the Class C3 allotments than there is with the three Class A allotments. The three Class A allotments, in fact, cover substantially higher service populations than the three Class C3 allotments, and the proposed minimum opening bids for those licenses accounted for this. OEA and MB disagree, therefore, with SSR's suggestion that the minimum opening bids proposed for these six allotments are inconsistent. As a result, and because OEA and MB received no other comments on their proposed minimum opening bids, OEA and MB adopt the minimum opening bid amounts proposed in the *Auction 114 Comment Public Notice.* The specific minimum opening bid and upfront payment amounts for each construction permit are set forth in Attachment A to the *Auction 114 Procedures Public Notice.*

172. In the *Auction 114 Comment Public Notice,* OEA and MB proposed that in each round a qualified bidder will be able to place a bid on a given construction permit in any of up to nine different amounts. Under the proposal, the bidding system interface will list the nine acceptable bid amounts for each construction permit. OEA and MB received no comments on this proposal, and adopt it as proposed.

173. In the *Auction 114 Comment Public Notice,* OEA and MB proposed to use a minimum acceptable bid increment percentage of 10% to calculate the first of the acceptable bid amounts. This means that the minimum acceptable bid amount for a construction permit will be approximately 10% greater than the provisionally winning bid amount for the construction permit. To calculate the eight additional acceptable bid amounts, OEA and MB proposed in the *Auction 114 Comment Public Notice* to use an additional bid increment percentage of 5%. OEA and MB did not receive any comments on these proposals to use 10% and 5% respectively in their calculation of nine acceptable bid amounts for each construction permit. OEA's and MB's experience in previous broadcast auctions assures them that a minimum acceptable bid increment percentage of 10% and an additional bid increment percentage of 5% are sufficient to ensure active bidding. Therefore, OEA and MB will begin the auction with a minimum acceptable bid increment percentage of 10% and an additional bid increment percentage of 5%.

174. In Auction 114, the minimum acceptable bid amount for a construction permit will be equal to its minimum opening bid amount until there is a provisionally winning bid for the construction permit. After there is a provisionally winning bid for a construction permit, the minimum acceptable bid amount will be calculated by multiplying the provisionally winning bid amount by one plus the minimum acceptable bid percentage—*i.e.,* provisionally winning bid amount * 1.10, rounded up.

175. In Auction 114, the bidding system will calculate the eight additional bid amounts by multiplying the minimum acceptable bid amount by the additional bid increment percentage of 5%, and that result (rounded up) is the additional increment amount. The first additional acceptable bid amount equals the minimum acceptable bid amount plus the additional increment amount. The second additional acceptable bid amount equals the minimum acceptable bid amount plus two times the additional increment amount; the third additional acceptable bid amount is the minimum acceptable bid amount plus three times the additional increment amount; etc. Because the additional bid increment percentage is 5%, the calculation of the additional increment amount is (minimum acceptable bid amount) * (0.05), rounded up. The first additional acceptable bid amount equals (minimum acceptable bid amount) + (additional increment amount); the second additional acceptable bid amount equals (minimum acceptable bid amount) + (2*(additional increment amount)); the third additional acceptable bid amount equals (minimum acceptable bid amount) + (3*(additional increment amount)); etc.

176. In the *Auction 114 Comment Public Notice,* OEA and MB proposed to retain the discretion to change the minimum acceptable bid increment percentage, the additional bid increment percentage, and the number of acceptable bid amounts if OEA and MB determine that circumstances so dictate, consistent with past practice. OEA and MB also proposed to retain the discretion to limit (a) the amount by which a minimum acceptable bid for a construction permit may increase compared with the corresponding provisionally winning bid, and (b) the additional increment amount. For example, OEA and MB could set a $1,000 limit on increases in minimum acceptable bid amounts over provisionally winning bids. Thus, if calculating a minimum acceptable bid using the minimum acceptable bid increment percentage results in a minimum acceptable bid amount that is $1,200 higher than the provisionally winning bid on a construction permit, the minimum acceptable bid amount would instead be capped at $1,000 above the provisionally winning bid.

177. OEA and MB received no comments on these proposals concerning changes of bid amounts, and adopt the discretion to utilize them. OEA and MB typically exercise this discretion based on their monitoring of ongoing bidding, and reserve such discretion for Auction 114. If OEA and MB exercise this discretion, they will alert bidders by announcement in the bidding system during the auction.

2. Provisionally Winning Bids

178. Consistent with practice in past auctions, the bidding system, at the end of each bidding round, will determine a provisionally winning bid for each construction permit based on the highest bid amount received for that permit. A provisionally winning bid will remain the provisionally winning bid until there is a higher bid on the same construction permit at the close of a subsequent round. Provisionally winning bids at the end of the auction become the winning bids.

179. The bidding system will assign a pseudo-random number to each bid submitted in the round. If identical high bid amounts are submitted on a construction permit in any given round (*i.e.,* tied bids), the tied bid with the lowest pseudo-random number wins the tiebreaker and becomes the provisionally winning bid. The remaining bidders, as well as the provisionally winning bidder, can submit higher bids in subsequent rounds. However, if the auction were to close with no other bids being placed,

the winning bidder would be the one that placed the provisionally winning bid. If the construction permit receives any bids in a subsequent round, the provisionally winning bid again will be determined by the highest bid amount received for the construction permit.

180. As a reminder, provisionally winning bids count toward activity for purposes of the activity rule.

3. Bid Removal

181. In the *Auction 114 Comment Public Notice,* OEA and MB explained bid removal procedures in the bidding system. Each qualified bidder has the option of removing any bids placed in a round provided that such bids are removed before the close of that bidding round. By removing a bid within a round, a bidder effectively ''unsubmits'' the bid. Removing a bid will affect a bidder's activity because a removed bid no longer counts toward bidding activity for the round. Once a round closes, a bidder may no longer remove a bid. As stated in the *Auction 114 Comment Public Notice,* bidders will not be able to withdraw any bid after the close of the round in which that bid was placed. Bidders are cautioned to select bid amounts carefully because no bid withdrawals will be allowed, even if a bid was mistakenly or erroneously made.

4. Bidding Results

182. After Auction 114 closes, OEA and MB will provide a means for the public to view and download reports of all bids placed during each round of the auction and all bid results, including bidder identities and bid amounts.

5. Auction Announcements

183. Commission staff will use auction announcements to report necessary information to bidders, such as schedule changes. All auction announcements will be available by clicking a link in the bidding system.

VI. Post-Auction Procedures

184. The public notice announcing the close of bidding and auction results will be released several days after bidding has ended in Auction 114. The *Auction 114 Closing Public Notice* will also establish the deadlines for submitting down payments, final payments, and the long-form applications (FCC Form 2100, Schedule 301–FM) for the auction.

A. Down Payments

185. The Commission's rules provide that, unless otherwise specified by public notice, within ten business days after release of the auction closing public notice for Auction 114, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission to 20% of the net amount of its winning bids (gross bids less any applicable new entrant bidding credits).

B. Final Payments

186. The Commission's rules provide that each winning bidder must submit the balance of the net amount of its winning bids within ten business days after the applicable deadline for submitting down payments.

C. Long-Form Applications

187. The Commission's rules provide that within thirty days following the close of bidding and notification to the winning bidders, unless a longer period is specified by public notice, each winning bidder must electronically submit a separate, properly completed long-form application for each permit won, and required exhibits, along with the applicable application filing fee. Winning bidders for FM construction permits will electronically file FCC Form 2100, Schedule 301–FM, in MB's Licensing and Management System (LMS), and required exhibits for each construction permit won through Auction 114. Each Auction 114 winning bidder must submit a consolidated long-form and short-form application filing fee with each separate long-form application. *See* 47 CFR 1.1104, Table 3. This consolidated application filing fee must be paid in addition to the winning bid amount. Winning bidders claiming new entrant status must include an exhibit demonstrating their eligibility for the bidding credit. Further instructions on these and other filing requirements will be provided to winning bidders in the auction closing public notice.

188. A winning bidder will be required to provide, as part of its long-form application, any agreement or arrangement it has entered into and a summary of the specific terms, conditions, and parties involved in any agreement it has entered into. This applies to any bidding consortia, joint venture, partnership, or agreement, understanding, or other arrangement entered into relating to the competitive bidding process, including any agreement relating to the post-auction market structure. Failure to comply with the Commission's rules can result in enforcement action.

D. Default and Disqualification

189. Any winning bidder that defaults or is disqualified after the close of the auction (*i.e.,* fails to remit the required down payment by the specified deadline, fails to submit a timely long-form application, fails to make full and timely final payment, or is otherwise disqualified) is liable for a default payment as described in 47 CFR 1.2104(g)(2). A default payment consists of a deficiency payment, equal to the difference between the amount of the Auction 114 bidder's winning bid and the amount of the winning bid the next time a construction permit covering the same spectrum is won in an auction, plus an additional payment equal to a percentage of the defaulter's bid or of the subsequent winning bid, whichever is less.

190. The percentage of the applicable bid to be assessed as an additional payment for defaults in a particular auction is established in advance of the auction. Accordingly, in the *Auction 114 Comment Public Notice,* OEA and MB proposed to set the additional default payment for this auction at 20% of the applicable bid. OEA and MB received no comments on this proposal, and it is therefore adopted for the reasons described in the *Auction 114 Comment Public Notice.*

191. Finally, in the event of a default, the Commission has the discretion to re-auction the construction permit or offer it to the next highest bidder (in descending order) at its final bid amount. In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing authorizations held by the applicant.

E. Refund of Remaining Upfront Payment Balance

192. If a bidder is due a refund, the bidder must request a refund in writing with the information listed below. All refunds of upfront payment balances will be returned to the payer of record as identified on the FCC Form 159, or on the wire transfer, unless the payer submits written authorization instructing otherwise. Bidders are encouraged to use the Refund icon found in the *Review or Modify Existing Applications* table on the *FRN Selection* screen in the AAP or the of the Refund Form link available on the *Auction Application Submit Confirmation* page in the AAP to access the form. After the required information is completed on the blank form, the form must be printed, signed, and submitted to the

Commission by email or fax as instructed below.

193. If you have selected not to access the Refund Form, the Commission is requesting that all information listed below be supplied in writing:

Name, address, contact and phone number of Bank
Routing Number (capable to accepting ACH payments)
Account Number to Credit
Name of Account Holder
FCC Registration Number (FRN)

All refund requests must be submitted to the Revenue & Receivables Operations Group/Auctions either by fax at (202) 418–2843 or by email to *RROGWireFaxes@fcc.gov.*

Note: Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Scott Radcliffe at (202) 418–7518 or Theresa Meeks at (202) 418–2945.

VII. Procedures Matters

A. Paperwork Reduction Act

194. The Office of Management and Budget (OMB) has approved the information collections in the Application to Participate in an FCC Auction, FCC Form 175. The *Auction 114 Procedures Public Notice* does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198. The Commission will be submitting a non-substantive change request to OMB concerning OMB 3060–0600 related to the certification requirement for Auction 114 applicants adopted herein, and the Commission will not require Auction 114 applicants to make this certification in FCC Form 175 until OMB has approved the non-substantive change request.

B. Congressional Review Act

195. The Commission has determined, and 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 *Auction 114 Procedures Public Notice* to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

C. Final Regulatory Flexibility Analysis

196. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission incorporated Initial Regulatory Flexibility Analyses (IRFAs) in the *Broadcast Competitive Bidding Notice* released in November 1997, and other Commission Notice of Proposed Rulemakings (collectively, *Competitive Bidding NPRMs*) pursuant to which Auction 114 will be conducted. Final Regulatory Flexibility Analyses (FRFAs) likewise were prepared in the *Broadcast Competitive Bidding Order* and other Commission rulemaking orders (collectively, *Competitive Bidding Orders*) pursuant to which Auction 114 will be conducted. In this proceeding, OEA and MB incorporated those prior FRFAs in an IRFA in the *Auction 114 Comment Public Notice,* and sought written public comment on the proposals in the *Auction 114 Comment Public Notice,* including comment on the IRFA. No comments were filed addressing the IRFA. This FRFA supplements the FRFAs in the *Competitive Bidding Orders,* and reflects the actions taken in the *Auction 114 Procedures Public Notice,* which establishes the procedures to be used for Auction 114. This FRFA conforms to the RFA, and it (or summaries thereof) will be published in the **Federal Register**.

197. *Need for, and Objectives of, the Public Notice.* The *Auction 114 Procedures Public Notice* implements auction procedures for those entities that seek to bid in Auction 114 to acquire construction permits for FM broadcast stations. The *Auction 114 Procedures Public Notice* resolves all open issues, and addresses comments filed in response to the *Auction 114 Comment Public Notice.* The *Auction 114 Procedures Public Notice* adopts procedural rules and terms and conditions governing Auction 114, and the post-auction application and payment processes, as well as sets the minimum opening bid amounts for each of the FM broadcast construction permits that are subject to being assigned by competitive bidding.

198. To promote the efficient and fair administration of the competitive bidding process for all Auction 114 participants, including small entities, the *Auction 114 Procedures Public Notice* adopts the following procedures:

- A requirement that any applicant seeking to participate in Auction 114 certify in its short-form application, under penalty of perjury, that it has read the public notice adopting procedures for Auction 114 and that it has familiarized itself with those procedures and the requirements for obtaining a construction permit for an FM station;
- Use of anonymous bidding/limited information procedures, which the Commission will not make public until after bidding has closed: (1) the permits that an applicant selects for bidding in its short-form application; (2) the amount of any upfront payment made by or on behalf of an applicant; (3) any applicant's bidding eligibility; and (4) any other bidding-related information that might reveal the identity of the bidder placing a bid;
- Establishment of an additional default payment of 20% under 47 CFR 1.2104(g)(2) in the event a winning bidder defaults or is disqualified after the auction closes;
- Use of a simultaneous multiple-round auction format, consisting of sequential bidding rounds with a simultaneous stopping rule;
- Provision of delegated authority to OEA, in conjunction with MB, to exercise its discretion to delay, suspend, or cancel bidding in Auction 114 for any reason that affects the ability of the competitive bidding process to be conducted fairly and efficiently;
- Retention by OEA of discretion to adjust the bidding schedule in order to manage the pace of Auction 114;
- Adoption of a specific minimum opening bid amount, a specific number of bidding units, and a specific upfront payment amount for each construction permit to be offered in this auction;
- Establishment of a bidder's initial bidding eligibility in bidding units based on that bidder's upfront payment;
- Establishment of an activity rule requiring the bidder to be active on 100% of its bidding eligibility in each bidding round;
- Provision of three activity waivers for each bidder to allow it to preserve eligibility during the course of the auction;
- Use of minimum acceptable bid amounts and additional bid increments, along with a proposed methodology for calculating such amounts, while retaining discretion to change the methodology if circumstances dictate; and
- A procedure for breaking ties if identical high bid amounts are submitted on a construction permit in a given round.

199. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA.* No comments were filed addressing the impact of the procedures and policies on small entities.

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

Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comment filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed procedures as a result of those comments. The Chief Counsel did not file any comments in response to the procedures proposed in the *Auction 114 Comment Public Notice.*

201. *Description and Estimate of the Number of Small Entities to Which the Procedures Will Apply.* 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. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. 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. 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.

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

203. The specific competitive bidding procedures and minimum opening bid amounts described in the *Auction 114 Procedures Public Notice* will affect all applicants participating in Auction 114. The number of entities that may apply to participate in Auction 114 is unknown. Based on the number of applicants in prior FM auctions, OEA and MB estimate that the number of applicants for Auction 114 may range from approximately 130 to 260. This estimate is based on the number of applicants who filed short-form applications to participate in previous open auctions of FM construction permits held to date, an average of 1.7 short-form applications were filed per construction permit offered, with a median of 1.2 applications per permit. The actual number of applicants for Auction 114 could vary significantly as any individual's or entity's decision to participate may be affected by a number of factors beyond the Commission's control.

204. The procedures adopted in the *Auction 114 Procedures Public Notice* will apply to small entities in the industries identified in the chart in Table 1 by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard and in the chart in Table 2. Where available, OEA and MB also provide additional information regarding the number of potentially affected entities in the industries identified in Tables 1 and 2.

TABLE 1—2022 U.S. CENSUS BUREAU DATA BY NAICS CODE

Regulated industry	NAICS code	SBA size standard (million)	Total firms	Total small firms	% Small firms
Radio Broadcasting Stations	516110	$47	2,616	2,136	81.65

Affected Entities in this industry include FM Translator Stations and Low Power FM Stations, Educational Broadcasting Services (Radio), Low Power FM Stations, NCE and Public Broadcast Stations (Radio).

TABLE 2—BROADCAST ENTITY DATA

Broadcast station owners (as of August 8, 2025)	SBA size standard ($47 million)		
Affected entity	Number commercial licensed	Small firms	% Small entities
Radio Stations (AM & FM) Groups	2,881	2,863	99.38

As of December 31, 2025, there were 4,342 licensed commercial AM radio stations and 6,589 licensed commercial FM radio stations, for a combined total of 10,931 commercial radio stations. There were 4,755 licensed noncommercial (NCE) FM radio stations, 1,994 low power FM (LPFM) stations, and 8,867 FM translators and boosters. Additionally, there were 1,389 licensed commercial television stations, 388 licensed noncommercial educational (NCE) television stations, 397 Class A TV stations, 1,760 LPTV stations and 3,092 TV translator stations.

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

206. For Auction 114, no new reporting, recordkeeping, or other compliance requirements for small entities or other auction applicants were proposed. Moreover, complying with the adopted procedures should not require small entities to hire professionals to participate, given that the procedures are consistent with existing Commission procedures used in prior FM broadcast auctions and new participants will have numerous resources available to them at no cost from the Commission. The Commission designed the auction application process itself to minimize reporting and compliance requirements for applicants, including small business applicants, and the *Auction 114 Procedures Public Notice* remains consistent with this approach. For example, in the first part of the Commission's two-phased auction application process, parties desiring to participate in an auction file streamlined, short-form applications in which they certify under penalty of perjury as to their qualifications, and to having reviewed the *Auction 114 Procedures Public Notice.* Eligibility to participate in bidding is based on an applicant's short-form application and certifications, as well as remittance of a timely and sufficient upfront payment. In the second phase of the process, winning bidders file a more comprehensive long-form application. Thus, an applicant that fails to become a winning bidder does not need to file a long-form application or provide the additional showings and more detailed demonstrations required of a winning bidder, thereby saving small entities and other applicants the time and expense associated with unnecessary filings.

207. Auction 114 applicants, including small entities, will become qualified to bid in Auction 114 only if they comply with the following: (1) submission of a short-form application that is timely and is found to be substantially complete, and (2) timely submission of a sufficient upfront payment for at least one of the construction permits that the applicant selected on its FCC Form 175. In accordance with the terms of 47 CFR 1.2105(b)(2), an applicant whose application is found to contain deficiencies will have a limited opportunity to bring its application into compliance with the Commission's competitive bidding rules during a resubmission window. In addition, each Auction 114 applicant must maintain the accuracy of its previously filed short-form application electronically using the FCC Auction Application Portal (AAP) in the Auction Application System (AAS).

208. In the second phase of the process, there are additional compliance requirements only applicable to winning bidders. As with other winning bidders, any small entity that is a winning bidder will be required to comply with the terms of the following rules, among others: (1) 47 CFR 1.2107(b), by submitting as a down payment within 10 business days after release of the auction closing public notice sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission for Auction 114 to 20% of the amount of its winning bid or bids; (2) 47 CFR 1.2109(a), by submitting within 10 business days after the down payment deadline the balance of the amount for each of its winning bids; and (3) 47 CFR 73.5005(a), by electronically filing a properly completed long-form application and required exhibits for each construction permit won through Auction 114.

209. Further, as required by 47 CFR 1.2105(c), reports concerning prohibited communications must be filed with the Chief of the Auctions Division, as detailed in the *Auction 114 Procedures Public Notice.*

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

211. OEA and MB intend that the procedures adopted in the *Auction 114 Procedures Public Notice,* meant to facilitate participation in Auction 114, will result in both operational and administrative cost savings for small entities and other auction participants. Most of the processes and procedures adopted for Auction 114 are consistent with existing Commission policies and procedures used in prior FM broadcast auctions. Thus, some small entities may already be familiar with such procedures and have the processes and procedures in place to facilitate compliance and minimize their costs to comply. All auction participants, including small entities and those that may be new to the Commission's auction process, will have access to numerous resources that will be available at no cost from the Commission. For example, small entities and other auction participants will be provided with various materials on the pre-bidding process in advance of the short-form application filing window, which include step-by-step instructions on how to complete the short-form application (FCC Form 175). Moreover, the Commission has taken steps to ensure that the AAS is simple to use, and that FCC Form 175 is easy to complete. In addition to the educational materials, small entities and other would-be participants will have access to Commission personnel to help guide their participation in Auction 114, which should help facilitate participation without the need to hire professionals.

212. The Commission also offers a wide variety of free educational materials, demonstrations, and other information and resources regarding the bidding system that will be used in Auction 114. In addition, the Commission, prior to the beginning of bidding in this auction, will hold a mock auction to allow qualified bidders the opportunity to familiarize themselves with both the processes and systems that will be used in Auction 114. During the auction, participants will be able to access and participate in bidding via the internet using a web-based system, or telephonically, providing two cost-effective methods of participation and avoiding the cost of travel for in-person participation. Further, small entities as well as other auction participants will be able to avail themselves of a telephone hotline for assistance with auction processes and procedures as well as a technical support telephone hotline to assist with issues such as access to or navigation on AAS and use of the FCC's auction bidding system. These mechanisms are made available to facilitate participation by all qualified bidders and may result in significant cost savings for small business entities that utilize these mechanisms. These resources, coupled with the description and communication of the bidding procedures before bidding begins in Auction 114, should ensure that the auction will be administered predictably, efficiently and fairly, thus providing certainty for small entities as well as other auction participants.

213. Alternatively, throughout this proceeding, OEA and MB considered various processes and procedures beyond those discussed above but determined that their approach here minimizes significant economic impact to small entities as much as possible.

Moreover, OEA and MB note that commenters did not object to the proposals OEA and MB discuss above, nor did they suggest other types of resources or materials the Commission could provide beyond those OEA and MB offered.

214. *Report to Congress.* The Commission will send a copy of the *Auction 114 Procedures Public Notice,* including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Auction 114 Procedures Public Notice,* including this FRFA to the Chief Counsel for Advocacy of the SBA and will publish a copy of the *Auction 114 Procedures Public Notice* and this FRFA (or summaries thereof) in the **Federal Register**.

Federal Communications Commission.

Gary Michaels,

Senior Deputy Chief, Auctions Division, Office of Economics and Analytics.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 107, 171, 172, and 173

[Docket No. PHMSA–2025–0105 (HM–268Q)]

RIN 2137–AG19

Hazardous Materials: Allowing Fireworks Certification Agencies (FCAs) To Approve Professional Fireworks

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule expands the authority of a Fireworks Certification Agency (FCA) to obtain the ability to approve fireworks constructed to certain requirements. These amendments will streamline PHMSA's fireworks approval process and provide the industry with improved regulatory flexibility.

DATES: This final rule is effective September 8, 2026.

The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of September 8, 2026.

FOR FURTHER INFORMATION CONTACT: Eugenio Cardez, Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration (PHMSA), 1200 New Jersey Avenue SE, Washington, DC 20590, 202–366–8553, *eugenio.cardez@dot.gov.*

I. PHMSA Action

A. What action is PHMSA taking in this Final Rule?

PHMSA is expanding the authority of an FCA to obtain the ability to approve fireworks constructed to the requirements of APA 87–1A *Standard for the Construction, Classification, Approval, and Transportation of Consumer Fireworks* to include those fireworks constructed to meet the requirements of APA 87–1B, *Standard for the Construction, Classification, Approval, and Transportation of Display Fireworks,* and APA 87–1C, *Standard for the Construction, Classification, Approval, and Transportation of Entertainment Industry and Technical (EI&T) Pyrotechnics.* To accommodate the expansion of fireworks approvals under all three APA 87–1 standards, PHMSA is amending the following provisions in the Hazardous Materials Regulations (HMR; 49 CFR parts 171 to 180):

- 49 CFR part 107: PHMSA is revising the references to include all three APA 87–1 standards.
- 49 CFR part 171: PHMSA is revising the definition for ''FC number'' and adding a reference to § 173.65 to the APA publications in § 171.7(f).
- 49 CFR part 172: PHMSA is revising Special Provision 200 to state that fireworks, pyrotechnic devices, or fuses may be certified for transportation by a DOT-approved FCA in accordance with the provisions of 49 CFR 173.65. PHMSA is revising three proper shipping name entries in the Hazardous Material Table (HMT) to reference the revised Special Provision 200. PHMSA is making conforming amendments to 49 CFR 172.320.
- 49 CFR part 173: PHMSA is revising 49 CFR 173.64 to reference provisions applicable to FCAs and revising 49 CFR 173.65 to retitle the provision and facilitate the approval of professional fireworks by FCAs.

B. Does this action apply to me?

Effective 30 days after publication of this final rule, FCAs subject to 49 CFR 107.402 will have the ability to obtain the authority to approve fireworks constructed to the APA 87–1B and APA 87–1C standards in addition to the currently authorized APA 87–1A standard. Currently, FCAs only have the authority to certify fireworks constructed to the APA 87–1A standard. After the effective date of this final rule, FCAs may also seek approval from PHMSA to certify fireworks constructed to the APA 87–1B and APA 87–1C standards.

C. Why is PHMSA taking this action?

PHMSA is taking this action in response to commenter feedback to provide fireworks manufacturers the flexibility to choose between either paying FCAs for expedited review and certification or relying on PHMSA's free—but sometimes longer—approval process. These amendments streamline PHMSA's fireworks approval process and provide the industry with greater regulatory flexibility. PHMSA finds these revisions will not have any adverse impact on safety.

II. Summary of Comments Received in Response to the Notice of Proposed Rulemaking

PHMSA published a notice of proposed rulemaking (NPRM), cited as *HM–268Q,* to gather feedback on expanding an FCA's authority to approve fireworks constructed to the APA 87–1B and APA 87–1C standards.[1] Please refer to the NPRM for background and discussion of the proposed change.

The following table alphabetically lists commenters to the NPRM:

Commenter name	Docket No.
American Pyrotechnics Association	PHMSA–2025–0105–0003
Council on Safe Transportation of Hazardous Articles, Inc. (COSTHA)	PHMSA–2025–0105–0010
Dangerous Goods Advisory Council (DGAC)	PHMSA–2025–0105–0012
National Fireworks Association	PHMSA–2025–0105–0009
Next FX, Inc	PHMSA–2025–0105–0008
Phantom Fireworks Companies	PHMSA–2025–0105–0013
Precocious Pyrotechnics Inc	PHMSA–2025–0105–0005

[1] 90 FR 28534 (Jul. 1, 2025).