

Part 320 NEWSPAPER AND BROADCAST MEDIA JOBS PROGRAM

§ 320.1 Purpose and general description

The purpose of these regulations is to set forth the administrative process governing the newspaper and broadcast media jobs program designed to provide financial support and incentives for businesses which operate as newspaper and broadcast media businesses.

§ 320.2 Definitions

For the purposes of this Part:

(a) "Applicant" means a business entity that is located in New York State and has applied for benefits under this Program.

(b) "Average full-time employment" shall mean the average number of full-time positions employed by an eligible business in an eligible industry during a given period.

(c) "Average starting full-time employment" shall be calculated as the average number of full-time positions employed by an eligible business in an eligible industry in each of the three years of the Program in New York State. For year one, between January 1, 2024 and December 31, 2024; for year two, between January 1, 2025 and December 31, 2025; and, for year three, between January 1, 2026 and December 31, 2026.

(d) "Average ending full-time employment" shall be calculated as the average number of full-time positions employed by an eligible business in an eligible industry in each of the three years of the Program in New York State. For year one between January 1, 2025 and December 31, 2025; for year two, between January 1, 2026 and December 31, 2026; and for year three, between January 1, 2027 and December 31, 2027.

(e) "Based in the State of New York" shall mean that the eligible business is physically located within the State of New York, and any and all employees counted for the purposes of this Program are paying New York State income tax.

(f) "Broadcast media business" means any eligible business which:

(1) owns, manages, or otherwise operates a radio or television station licensed by the FCC pursuant to 47 U.S.C. §307 as incorporated in section 320.14(a) of this Part, to broadcast to a community geographically located within the State of New York, and which has been broadcasting continuously for at least one year prior to the tax year for which it is applying for a credit;

(2) discloses its ownership to the public at such times and in such manner consistent with FCC biennial filing requirements; and

(3) for the purposes of this Part, each FCC licensed broadcast station serving a separate geographic market shall be treated as a separate broadcast media business.

(g) "Business entity" shall mean a partnership, limited liability company, or a corporation.

(h) "Certificate of tax credit" means the document issued to an eligible business by the department after the department has verified that the eligible business has met all applicable eligibility criteria in section 320.4 of this Part. The certificate shall specify the exact amount of the tax credit under this Part that an eligible business may claim, pursuant to section 495 and section 496 of the Economic Development Law.

(i) "Commissioner" shall mean commissioner of the Department of Economic Development.

(j) "Department" shall mean the Department of Economic Development.

(k) "Eligible business" shall mean a print media or broadcast media business operating within an eligible industry, which also carries media liability insurance – inclusive of libel insurance, and has carried such insurance, continuously, for one year prior to wages being claimed. For the purposes of this subdivision, each newspaper serving a separate market, as determined by the department and defined in section 320.2(t) of this Part, shall be treated as a separate newspaper business and each FCC licensed broadcast station serving a separate geographic market shall be treated as a separate broadcast media business.

(l) "Eligible employee" shall mean an employee working full-time at an eligible business, as determined by the department, and based in the State of New York.

(m) "Eligible industry" means an eligible business operating predominantly in the newspaper publishing sector or the broadcast media sector. For the purpose of this definition, an eligible business "operating predominantly in the broadcast media sector" shall mean the eligible business owns, manages or otherwise operates a radio or television station licensed by the FCC pursuant to 47 U.S.C. §307 to a community geographically located within the State of New York. For the purpose of this definition, an eligible business "operating predominantly in the newspaper publishing sector" shall mean an eligible business entity which publishes newspapers.

(n) "Full-time position" shall mean a worker employed in a full-time wage paying job requiring at least 35 hours per week.

(o) "Independently owned" shall mean a business entity that is not a publicly traded entity or no more than five percent of the beneficial ownership of which is owned, directly or indirectly by a publicly traded entity. Beneficial ownership shall not include: (1) debt instruments, (2) any non-voting ownership interests, or (3) voting ownership interests that do not constitute de jure or de facto control of the entity.

(p) "Net employee increase" means an increase of at least one full-time employee between the average starting full-time employment and the average ending full-time employment of an eligible business for the year of application.

(q) "Newspaper" means any print or digital publication of general circulation which is published ordinarily not less frequently than once a week, and has been so for at least one year immediately preceding the year of application, which contains news, articles of opinion (such as editorials), features, advertising, or other matter regarded as of current interest. A publication which is distributed or made available primarily for advertising purposes to the public generally shall not be deemed to be a "newspaper" for the purpose of this Part.

(r) "Newspaper and Broadcast Media Jobs Tax Credit" shall mean a tax credit which shall provide a credit to eligible businesses operating within eligible industries as defined in this section. The Newspaper and Broadcast Media Jobs Tax Credit shall have two components. The newspaper and broadcast media new job

creation component shall allow a credit of five-thousand dollars (\$5,000) per net new job created at eligible businesses operating within eligible industries per year. The newspaper and broadcast media existing jobs component shall allow a credit equal to 50 percent of annual wages of an eligible employee per year. The calculation of such a credit shall only be applied to up to fifty thousand dollars (\$50,000) in wages paid annually per eligible employee.

(s) "Participant" means an applicant that has submitted a complete application and been approved by the department to participate in the Program.

(t) "Print media" means newspaper for the purposes of this Part, and shall include print and digital outlets.

(u) "Program" means the newspaper and broadcast media jobs program which is in effect annually and expires on December 31, 2027.

(v) "Separate Market" shall be defined in terms of the geographic market served by the broadcast media entity and shall mean, for radio stations, its Nielsen Radio Metro Market or for stations located outside these designated metro market areas, a station's signal contour coverage area consistent with the geographic market definitions used by the Federal Communications Commission to enforce its local radio ownership rules (47 C.F.R. § 73.3555(a); 2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules, 18 FCC Rcd. 13620, 13724-13730 (2003) *et seq* as incorporated in section 320.14(b) of this Part. For television, a station's geographic market shall be its Designated Market Area (DMA) as determined by Nielsen Media Research and consistent with the FCC's television ownership rules (47 CFR § 73.3555 (b) as incorporated in section 320.14(c) of this Part. For the newspaper publishing sector it shall mean separate and distinct publication titles which each undertake separate and distinct marketing, or outreach or have separate audiences to reach subscribers, consumers, readers, and members.

§320.3 Application and approval process

(a) The commissioner shall establish procedures and a timeframe for business entities to submit applications.

(b) An eligible business must submit a complete application as prescribed by the commissioner. As part of the application, each eligible business must:

(1) provide evidence in a form and manner prescribed by the commissioner of their business eligibility;

(2) agree to allow the Department of Taxation and Finance to share the business entity's tax information with the department;

(3) agree to allow the Department of Labor to share its tax and employer information with the department. However, any information shared as a result of this Program shall not be available for disclosure or inspection under the State Freedom Of Information Law;

(4) allow the department and its agents access to any and all books and records the department may require to monitor compliance; and

(5) agree to provide any additional information required by the department relevant to this Part.

(c) Applications shall be processed on a pro rata basis. In the event qualified applications exceed the annual funding allocation, awards shall be equally pro-rated by a consistent percentage. Provided, however, that the pro-rated percentage may not result in a reduction of more than 50 percent as compared to the maximum available for a non-pro-rated award. Therefore, in instances where qualified applications exceed twice the program's available annual funding allocation, awards will be adjusted up to the maximum 50 percent pro-ration, processed in the order in which the applications were received, with any remaining applications unable to receive funding. After reviewing an applicant's completed application and determining that the applicant meets the eligibility criteria as set forth in section 320.4 of this Part, the department may admit the applicant into the Program and issue them a certificate of tax credit. An applicant that does not meet the eligibility criteria set forth in section 320.4 of this Part shall not be accepted into the Program.

(d) An eligible business may not receive in excess of (1) three hundred thousand dollars (\$300,000) in tax credits annually under the existing jobs component of this Program and (2) twenty thousand dollars (\$20,000) in tax credits annually under the new job creation component of this Program. No wages used by a taxpayer either as the basis for the allowance of the credit provided for under this Part or used in the calculation of the credit provided for under this Part shall be used by such taxpayer to claim any other credit allowed pursuant to the New York State Tax Law.

§ 320.4 Eligibility criteria for the credit

(a) To be eligible for the tax credit, an applicant must:

(1) be an eligible business as defined in section 320.2(k) of this Part operating within an eligible industry as defined in section 320.2(m) of this Part; and

(2) be independently owned or, in the case of a newspaper business only, even if not independently owned, demonstrate a reduction in print circulation or in the number of full-time equivalent employees of at least 20 percent over the previous five years; and

(3) operate predominantly in an eligible industry and be located within the State of New York.

(b) In the case of a broadcast media business, "operate predominantly in an eligible industry" shall mean operating in the broadcast media sector where the business entity owns, manages or otherwise or operates a radio or television station licensed by the FCC pursuant to 47 U.S.C. §307 to a community geographically located within the State of New York.

(c) For purposes of this section, each FCC licensed broadcast station serving a separate market shall be treated as a separate broadcast media business.

§ 320.5. Calculation of the newspaper and broadcast media jobs tax credit.

(a) The Newspaper and Broadcast Media Jobs Tax Credit shall contain two components – (1) the newspaper and broadcast media new job creation component and (2) the newspaper and broadcast media existing jobs component.

(b) The newspaper and broadcast media new job creation component. An eligible business that meets the eligibility requirements of section 320.4 of this Part and demonstrates a net full time employee increase, may be issued a certificate of tax credit equal to five thousand dollars (\$5,000) annually per each full-time net employee increase as defined in this Part. An eligible business may not receive in excess of twenty thousand dollars (\$20,000) annually for each newspaper business or broadcast media business under this component of the Program.

(c) The newspaper and broadcast media existing jobs component. An eligible business that meets the eligibility requirements of section 320.4 of this Part, may be issued a certificate of tax credit equal to 50 percent of annual wages of an eligible employee per year. The calculation of such a credit shall only be applied

to up to fifty thousand dollars (\$50,000) in wages paid annually per eligible employee per year.

(d) The Newspaper and Broadcast Media Jobs Tax Credit is refundable as provided in the New York State Tax Law.

§ 320.6 Allocation of credit

The total amount of tax credits listed on certificates of tax credit issued by the commissioner may not exceed thirty (30) million dollars for each year the credit is available. Within this amount, the newspaper and broadcast media new job creation component may not exceed four (4) million dollars per year and the newspaper and broadcast media existing jobs component may not exceed twenty-six (26) million dollars per year. Fifty percent of the newspaper and broadcast media existing jobs component credits will be set-aside for eligible businesses of same ownership with one hundred (100) or fewer New York based employees over the taxable year. Fifty percent of the newspaper and broadcast media existing jobs component credits will be set-aside for eligible businesses of same ownership with over one hundred (100) employees New York based employees over the taxable year.

§ 320.7 Removal from Program

(a) The commissioner shall remove a participant in the Program for failing to meet any of the requirements set forth in section 320.3(b) of this Part, or for failing to meet the eligibility requirements set forth in section 320.4 of this Part.

(b) If the commissioner has removed a participant in the Program pursuant to subdivision (a) of this section, the commissioner shall notify such participant of such removal in writing. Such notice of removal shall explain the reason or reasons for the removal from the Program.

§ 320.8 Appeals.

(a) Sections 320.9-320.11 of this Part shall apply to all appeals taken as a result of a participant being removed from the Program pursuant to section 320.7(a) of this Part.

§ 320.9 Designation of appeal officers

(a) The commissioner may designate any impartial person or persons to act as an appeal officer.

§ 320.10 Notice of appeal

(a) A participant that received a notice of removal pursuant to section 320.7(b) of this Part may send a written notice (notice of appeal) to the commissioner appealing the removal by no later than 30 days from the date of the mailing of the notice. Failure by a participant to appeal the commissioner's denial or removal of certification within the aforementioned 30-day period will be deemed a waiver of the participant's right to an appeal.

(b) The notice of appeal must contain specific factual information and documentation supporting the basis for the appeal and all legal arguments that are the basis for the participant's challenge to the removal.

(c) All notice of appeals must be sent to the name and address indicated on the notice of removal.

(d) Counsel to the department may file a response to the notice of appeal with the appeal officer. Any response should address the factual and legal allegations contained in the notice of appeal. A copy of the response shall be sent to the participant, or to the attorney representing the participant.

§320.11 Authority of appeal officer

(a) The appeal officer shall evaluate the merits of the appeal and any response from counsel to the department. Where the appeal officer deems it appropriate, the appeal officer may require the participant or counsel to the department to address additional issues and/or submit additional information regarding the appeal. If the appeal officer requires submission of additional documents by either participant or counsel to the department, both parties shall receive copies of all submissions.

(b) Nothing in this section shall preclude the appeal officer from obtaining information from any outside source, as they deem appropriate.

(c) The appeal officer shall determine whether they deem it necessary to conduct a fact-finding hearing, and the level of formality of any hearing conducted.

§ 320.12 Appeal officer's report

(a) The appeal officer shall prepare a report and make recommendations to the commissioner. The recommendations may be in the form of a proposed decision which will contain findings of fact and conclusions of law. This report, along with the entire record, shall be transmitted to the commissioner, the counsel to the department, and the business entity that filed the appeal.

§ 320.13 Cap on tax credit

The total amount of tax credits listed on certificates of tax credit issued by the commissioner pursuant to this Part may not exceed thirty million (\$30,000,000) dollars per year the credit is authorized.

§ 320.14 Incorporation by reference

- (a) 47 U.S.C. §307. Filed in the Office of the Secretary of State of the State of New York. Published by the Law Revision Counsel of the U.S. House of Representatives. Title 47, United States Code, was revised as of July 28, 2025 and is available for public inspection and copying at the following address: New York State Department of Economic Development, 625 Broadway, 8th floor, Albany, NY 12245.
- (b) 47 CFR § 73.3555(a). Filed in the Office of the Secretary of State of the State of New York. Published by the Office of the Federal Register. Title 47 of the Code of Federal Rules was revised as of July 28, 2025 and is available for public inspection and copying at the following address: New York State Department of Economic Development, 625 Broadway, 8th floor, Albany, NY 12245.
- (c) 47 CFR § 73.3555(b). Filed in the Office of the Secretary of State of the State of New York. Published by the Office of the Federal Register. Title 47 of the Code of Federal Rules was revised as of July 28, 2025 and is available for public inspection and copying at the following address: New York State Department of Economic Development, 625 Broadway, 8th floor, Albany, NY 12245.