

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
) MB Docket No. 03-185
Amendment of Parts 73 and 74 of the)
Commission’s Rules to Establish Rules for Digital)
Low Power Television and Television Translator)
Stations)
)
Update of Parts 74 of the Commission’s Rules) MB Docket No. 22-2611
Related to Low Power Television and Television)
Translator Stations)

ORDER AND SIXTH NOTICE OF
PROPOSED RULEMAKING

Adopted: July 12, 2022

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Comment Date: 30 Days After Publication in the Federal Register
Reply Comment Date: 45 Days After Publication in the Federal Register

By the Commission:

I. INTRODUCTION

1. In this Order and Sixth Notice of Proposed Rulemaking (Order and NPRM), we seek to update Part 74 rules for low power television (LPTV) and TV translator services (collectively “LPTV/translator”)² to reflect the current operating environment, including the termination of analog operations in the LPTV/translator service as of July 13, 2021.³ In the Order, we delete or revise Commission rules that no longer have any practical effect given the completion of the LPTV/translator digital transition, or that are otherwise obsolete or irrelevant. We also make certain ministerial changes, for example, to delete analog rules that were found in Part 74, and add definitions and other information previously adopted in rulemaking proceedings but inadvertently omitted through oversight. In the NPRM, we seek comment on additional amendments, including proposing to adopt rules previously applicable to analog operations for digital operations, updating geographic coordinates to the current North American Datum (NAD) standard, modifying station identification requirements, requiring LPTV stations to transmit with a virtual channel that avoids conflicts with other stations, updating the process for filing applications with the Commission, and making certain technical modifications.

II. BACKGROUND

2. On October 25, 2021, in connection with the completion of the incentive auction and broadcast television spectrum repacking authorized by the Middle Class Tax Relief and Job Creation Act,⁴

¹ MB Docket No. 22-261 has been added since public release of this document on June 23, 2022. Comments and reply comments must be filed in both MB Docket No. 03-185 and MB Docket No. 22-261.

² 47 CFR, Part 74, Subpart G (Low Power TV, TV Translator, and TV Booster Stations).

³ See 47 CFR § 74.731(m) (July 13, 2021 LPTV/translator digital conversion deadline).

⁴ The Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402 (codified at 47 U.S.C. § 309(j)(8)(G)), 6403 (codified at 47 U.S.C. § 1452), 126 Stat. 156 (2012) (Spectrum Act).

the Commission adopted a new Table of TV Allotments for full power television stations⁵ and also amended Part 74 to remove references to channels and frequency bands that are no longer in-core television spectrum and/or references to analog TV operations which were no longer permitted.⁶ The Commission stated that “[a]s part of its ongoing efforts to ensure that its rules are current, [it] will, in a future proceeding, conduct a review of its rules to delete provisions relating to analog television and update other rules pertaining to television.”⁷ This item is part of that ongoing effort.⁸

3. *The Digital Transition and Analog Termination Deadlines.* Full power television stations largely completed their transition from analog to digital operations by June 12, 2009,⁹ and Class A television stations did the same by September 1, 2015.¹⁰ In 2011, when the Commission first adopted a digital transition deadline for LPTV/translators and established September 1, 2015 as the deadline (the “original transition deadline”), it found that “the Communications Act compelled low power television stations ultimately to convert to digital operation.”¹¹ The Commission reasoned that “allowing low power stations to continue operating in analog . . . would prevent consumers from enjoying the benefits of digital broadcast technology, including improved picture and sound quality, and additional program offerings through multicasting.”¹²

4. In the 2015 *LPTV DTV Third R&O*, the Commission recognized that the incentive auction would likely have a significant impact on LPTV/translator digital conversion plans¹³ and therefore extended the original transition deadline to 12 months after the completion of the 39-month post-incentive auction transition period, which became July 13, 2021.¹⁴ The Commission also set July 13, 2021 as the analog termination deadline – the date by which all LPTV/translator stations were required to terminate

⁵ 47 CFR § 73.622(j).

⁶ See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auction*, GN Docket No. 12-268, Order, FCC 21-111, para. 14 and n.48 (rel. Oct. 25, 2021).

⁷ *Id.* at para. 10, n.35.

⁸ We will consider a future Order updating, *inter alia*, rules in Part 73, Subparts E (Television Broadcast Stations); H (Rules Applicable to All Broadcast Stations); and J (Class A Television Broadcast Stations). Among other things, in the future Order we will delete the cross-references in Part 73 to various Part 74 rules that are being deleted in this Order, and vice versa.

⁹ See *DTV Delay Act*, Pub. L. No.111-4, 123 Stat. 112 (2009); Digital Television Transition and Public Safety Act of 2005, which is Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006) (*codified at* 47 U.S.C. §§ 309(j)(14) and 337(e)).

¹⁰ See *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, MB Docket No. 03-185, Second Report and Order, 26 FCC Rcd 10732, 10735, para. 7 (2011) (*LPTV DTV Second R&O*).

¹¹ *Id.* at 10738, para. 12 (also noting that “[the Communications Act] forbids permitting low power television stations to forever avoid converting to digital”).

¹² *Id.* at 10738-39, para. 12.

¹³ See *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television and Television Translator Stations*, MB Docket No. 03-185, Third Report and Order and Fourth Notice of Proposed Rulemaking, 30 FCC Rcd 14927, 14932, para. 8 (2015) (*LPTV DTV Third R&O*).

¹⁴ See *LPTV DTV Third R&O*, 30 FCC Rcd at 14932-33, para. 9. See also *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, GN Docket No. 12-268, Public Notice, 32 FCC Rcd 2786 (WTB/MB 2017) (*Closing and Channel Reassignment Public Notice*). Given the April 13, 2017 release date of the *Closing and Channel Reassignment Public Notice*, the LPTV/translator digital transition date was July 13, 2021.

all analog television operations, regardless of whether their digital facilities were operational.¹⁵ When extending the digital transition and analog termination deadline in 2015, the Commission affirmed its commitment to completing the LPTV/translator digital transition by a date certain, concluding that the new deadline must continue to be a “hard deadline” when all LPTV/translator stations terminate all analog operations regardless of whether their digital facilities are operational.¹⁶ The LPTV/translator transition was successfully completed,¹⁷ and the vast majority (97%) of LPTV/translator stations completed their transition and are now operating in digital.¹⁸ Thus, analog television is now a legacy service.

III. ORDER

A. Deletion of Obsolete Rules Recognizing the Digital Transition.

5. Given that LPTV/translator stations have ceased analog operations, we adopt revisions to certain Part 74 rules, as set forth in Appendix A and further described below. Because these revisions to the rules described in this section of the *Order* merely eliminate provisions of the rules that are obsolete due to the conversion from analog to digital television technology, we find good cause to conclude that notice and comment procedures are unnecessary and would not serve any useful purpose.¹⁹ Specifically, we eliminate in their entirety rules that provide for analog-to-analog and analog-to-digital interference protection requirements and other analog operating requirements.²⁰ We also eliminate the viewer

¹⁵ See 47 CFR § 74.731(m). In accordance with our rules, all licenses for analog operations automatically cancelled after 11:59 p.m. on July 13, 2021, without any affirmative action by the Commission. *Id.*

¹⁶ *LPTV DTV Third R&O*, 30 FCC Rcd at 14934-35, para. 14 (noting that “this requirement is necessary in order to ensure that analog LPTV and TV translator stations take all steps necessary to complete their digital construction in a timely manner”).

¹⁷ We note that a small number of TV translator stations licensed to the State of Alaska (the Alaska translator stations) remain operating in analog pursuant to a Commission waiver of the analog termination date. See *State of Alaska - Request for Waiver of Section 74.731(m) of the Commission's Rules*, 36 FCC Rcd 10765 (2021); see also Letter to State of Alaska from Barbara A. Kreisman, Chief, Video Division (Jan. 26, 2022), a copy of which is available at LMS File Nos. 0000179529, 0000179531, 0000179528, 0000179535, 0000179536, 0000179527, 0000179526, 0000179534, and 0000179533. We understand the licensee of these translator stations is actively transitioning and anticipates terminating analog service in the near future. In the event any of the Alaska translator stations have not completed their digital transition by the effective date of these rule changes discussed herein, we direct the Media Bureau to follow appropriate procedures to impose any necessary conditions on the station’s authorization to continue analog operations.

¹⁸ We note that some analog LPTV and translator stations have not yet completed construction of their digital facilities and have been granted additional time to do so. Since analog television operations are no longer permitted, except for the few Alaska translator stations noted above, these LPTV and translator stations must remain silent until such time as they complete construction.

¹⁹ 5 U.S.C. § 553(b)(3)(B) (providing that notice and comment are not required “when the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest”).

²⁰ 47 CFR §§ 74.706 (Digital TV (DTV) station protection); 74.707 (Low power TV and TV translator station protection); and 74.761 (Frequency tolerance). Where these rules are referred to in other rules, the digital licensing rule number is substituted. See, e.g., 47 CFR § 74.703(a) (Interference). The digital-to-digital interference protection standards are found in Sections 74.792 (Low power TV and TV translator station protected contour) and 74.793(b) (Low power TV and TV translator station protection of broadcast stations) of the rules. The “Purpose and permissible service requirements” currently found in Section 74.731 will now be found in Section 74.790 (Permissible service of TV translator and LPTV stations). We also delete 47 CFR § 74.736 (Emissions and bandwidth), which applies solely to analog television broadcasting, and remove analog references from 47 CFR § 74.793(b)-(c), (f), and (h).

notification requirement that terminated at the end of the digital transition on July 13, 2021, and the pre-transition digital construction period processing procedures.²¹

6. We also amend rule titles and language in rules to remove references to DTV, digital, and analog television service. Because LPTV/translators transitioned from analog to digital operations, there is no further need to differentiate between digital and analog or to reference analog service in the rules.²² We similarly delete references to analog interference rules.²³ Finally, we amend rule titles and language in rules to eliminate references to television boosters and UHF translator signal boosters, which were analog services,²⁴ and to delete references to companion digital channels, which referred to digital channels associated with stations' authorized analog channels, and digital conversion channels, which referred to previously authorized analog channels that were converted to digital operations.²⁵

²¹ 47 CFR § 74.798 (Digital television transition notices by broadcasters). This rule required stations to notify viewers of their transition from analog to digital and that requirement ended with the LPTV/translator stations' successful transition to digital operations. Since all stations were required to complete their digital conversion by July 13, 2021, and are either operating in digital or are silent, the rule is now obsolete. *See also supra* n.17. We also delete 47 CFR § 74.788 (Digital construction period). This rule provided, in part, for certain LPTV/translator stations to apply for a single six-month extension of their digital construction permit past the July 13, 2021 digital transition deadline, and set out construction responsibilities of Class A and LPTV/translator stations holding both analog and digital construction permits. The extended six-month time period ended January 10, 2022. LPTV/translator permittees, and licensees holding construction permits, are subject to the three-year construction period and tolling provisions set forth in 47 CFR § 73.3598(a) and (b).

²² 47 CFR §§ 74.701(b) (Definitions – Primary station); (j) (Digital television broadcast translator station); (k) (Digital low power TV station); (m) (Existing low power television or television translator station); (n) (Suitable in core channel); 74.735(b) (Power limitations); 74.787(a)-(b) (Digital licensing). Digital replacement translators and digital-to-digital replacement translators may continue to seek displacement if necessary, under § 74.787(a)(4) (Displacement applications), even though the specific language in § 74.787(a)(5)(i) is being removed because it is obsolete. In addition, because LPTV/translator permittees and licensees holding construction permits are subject to the three-year construction period and tolling provision set forth in 47 CFR § 73.3598(a) and (b), the requirements set forth in 47 CFR § 74.787(a)(5)(ii) are obsolete. We similarly remove the differentiations between digital and analog and references to analog service in 47 CFR §§ 74.790(a)-(k) (Permissible service of digital TV translator and LPTV stations); 74.791(a)-(c) (Digital call signs); 74.793(a)-(b) (Digital low power TV and TV translator station protection of broadcast stations); 74.794(a)(1) (Digital emissions); 74.795(a)-(b) (Digital low power TV and TV translator transmission system facilities); and 74.796(a) (Modification of digital transmission systems and analog transmission systems for digital operation).

²³ 47 CFR § 74.735(c) (Power limitations).

²⁴ 47 CFR Part 74, Subpart G, Title; 47 CFR §§ 74.701(i) (Definitions – Television broadcast booster station); 74.702(c) (Channel assignments); 74.703(a)-(c) and (i) (Interference); 74.732(g)-(h) (Eligibility and licensing requirements); 74.734(a) (Attended and unattended operation); 74.735(b) (Power limitations); 74.751(b)(1) (Modification of transmission systems); 74.763(a) and (c) (Time of operation); 74.780 (Title – Broadcast regulations applicable to translators, and low power and booster stations); 74.781(a) and (c) (Station records); 74.784(d) (Rebroadcasts); 74.792(a) (Digital low power TV and TV translator station protected contour); 74.733 (UHF translator signal boosters); and 74.701(e) (Definitions – UHF translator signal booster). Analog UHF translator signal boosters were first authorized in 1963, 28 FR 13722, 13724 (1963), decades before the advent of digital television. At that time, the Commission also adopted rules that distinguished between VHF (channels 2 through 13) and UHF (channels 70 through 83) translators, *id.*, which did not carry over into digital processing and operations. Accordingly, we also delete 47 CFR § 74.701(c)-(d) (Definitions – VHF Translator and UHF Translator) and language in 47 CFR § 74.702(a)(1)-(2) (Channel assignments) that refers to these facilities.

²⁵ 47 CFR §§ 74.701(o)-(p) (Definitions – Companion digital channel and Digital conversion channel); and 74.787(a)(1)-(2) (Digital licensing – Applications for digital conversion and Applications for companion digital channel).

B. Additional Ministerial Rule Updates

7. We adopt additional non-substantive, technical revisions to certain Part 74 rules as set forth in Appendix A and further described below. We amend certain rules to provide LPTV/translator licensees and permittees with accurate information about current Commission forms.²⁶ We also delete duplicate sections that were contained in both the analog and digital portions of Part 74 of the rules.²⁷ We also add definitions of analog-to-digital replacement translators (DRTs) and digital-to-digital replacement translators (DTDRTs).²⁸

8. We also add an explanatory note to Section 74.709 to reference and explain the existence of a granted waiver with respect to the community of Los Angeles, California. Section 74.709 of the rules²⁹ requires LPTV/translator stations to protect certain channels for use by the land mobile radio service (LMRS) in thirteen U.S. cities listed in the rule. In 2008, the Commission's Public Safety and Homeland Security Bureau (PSHSB) granted a waiver pursuant to Section 337(c) of the Communications Act, as amended,³⁰ allowing the County of Los Angeles to use channel 15 in Los Angeles for public safety communications.³¹ Because this channel is adjacent to two channels contained in Section 74.709, we believe the public interest is served by including a Note explaining the existence of the 2008 waiver.

IV. SIXTH NOTICE OF PROPOSED RULEMAKING

9. In this *NPRM*, we propose and seek comment on adjustments to certain Part 74 rules, as set forth in Appendix B, including proposing to adopt certain Part 74 rules for digital LPTV/translator operations that were previously applicable to analog operations and removing or amending certain analog elements of those rules, updating coordinates used to determine predicted interference, clarifying how stations may identify their broadcasts over the air, requiring LPTV stations to transmit with a virtual channel that avoids conflicts with other stations, and making clarifications concerning certain procedures, including the use of the Commission's Licensing and Management System (LMS).

²⁶ 47 CFR §§ 74.751(b) (Modification of transmission systems); 74.787(a)(3)-(4) (Digital licensing); and 74.797 (Biennial Ownership Reports). We note that the numbering of our forms has changed with the transition of the Commission's broadcast licensing database from the Consolidated Database System (CDBS) to the Licensing and Management System (LMS). *See also* 47 CFR § 74.703(a) (updating location of Commission's main office).

²⁷ 47 CFR § 74.701(g) (Program origination). This section mirrored the digital-specific rule in 47 CFR § 74.701(l) (Digital program origination), which we retain. We modify 47 CFR §§ 74.789 (Broadcast regulations applicable to digital low power television and television translators), 74.787(a)(5)(viii), and 74.780 of the Commission's rules (Broadcast regulations applicable to translators, low power, and booster stations) to delete some rules that no longer exist and correct the titles of some rules. We also delete 47 CFR § 74.731 (Purpose and permissible service) because it is largely repeated at 47 CFR § 74.790 (Permissible service of digital TV translator and LPTV stations), with the exception of Section 74.731(m), which has been moved to Section 74.790(m). Finally, we retain pertinent text from 47 CFR § 74.790(f), and move it to paragraph (l) of that section, and make non-substantive editorial changes for clarity.

²⁸ *See* 47 CFR §§ 74.701 and 74.787(a)(5). The definitions were adopted in the Commission's order creating the digital-to-digital translator service in *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations*, MB Docket No. 03-185, Third Report and Order and Fourth Notice of Proposed Rulemaking, 30 FCC Rcd 14927, 14956-57, para. 65 (2015) and in the order creating the analog-to-digital replacement translator service in *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Replacement Digital Low Power Television Translator Stations*, MB Docket No. 08-253, Report and Order, 24 FCC Rcd 5931, 5933, para. 4 (2009).

²⁹ 47 CFR § 74.709 (Land mobile station protection).

³⁰ 47 U.S.C. § 337(c).

³¹ *See Request for Waiver of the Commission's Rules to Authorize Public Safety Communications in the 476-482 MHz Band (County of Los Angeles, California)*, Order, 23 FCC Rcd 18389 (PSHSB 2008).

A. Rules Applicable to LPTV/Translator Digital Operations

10. When the Commission initially adopted rules for digital LPTV/translators in 2004, it did not apply all of the Part 74 rules to digital LPTV/translators but instead adopted eleven rules specifically for digital LPTV/Translator stations³² and identified in Section 74.789 which of the Part 74 rules applicable to analog LPTV/translator operations would also apply to digital LPTV/translator operations.³³ Now that the LPTV/translator digital transition is completed, in order to maintain the status quo, we believe it is necessary and appropriate to apply the additional Part 74 rules not specifically identified in Section 74.789 to digital LPTV/translator operations, modified, as necessary for digital operations, and propose to eliminate the analog versions of those rules. These changes are reflected in Appendix B. We do not believe the transition to digital operation provides any basis to relieve LPTV/translator stations of these obligations and that their continued applicability is in the public interest. Specifically, we tentatively conclude that revised Section 74.702(b), which describes LPTV/translator stations' secondary status with respect to a primary station's proposal to change the Table of TV Allotments, should apply to digital LPTV/translator stations, consistent with existing practice. In addition, Section 74.702(a) and Section 74.786 reflect the same information pertaining to channel assignments. We tentatively conclude to retain the requirements in Section 74.702(a) and delete Section 74.786. Similarly, we tentatively conclude that Section 74.750, regarding the certification of equipment, should continue to apply to digital LPTV/translator stations, with certain proposed changes designed to reflect the completion of the LPTV/translator analog to digital transition. We also tentatively conclude that, in order to ensure the orderly organization of our rules, we should move certain aspects of technical requirements contained in Section 74.750(c) (subsections (c)(5) and (c)(8)) to digital rule Section 74.795(b)(6)-(b)(7). We seek comment on these tentative conclusions and proposed rules. We further tentatively conclude that we should adopt and apply to digital LPTV/translator stations the following rules, each of which would track and replace corresponding rules that have previously applied to analog LPTV/translator stations, including: a new Section 74.737 regarding antenna location, and a new Section 74.762 regarding frequency measurements.³⁴

11. In conjunction with the changes proposed above, we also tentatively conclude that we should delete Sections 74.789 and 74.787(a)(5)(viii). Given the changes adopted in the *Order* and the proposed changes in the *NPRM*, we tentatively conclude that there is no need to have rules specifying which Part 74 rules apply to digital LPTV/translators, as, with the elimination and proposed elimination of the analog rules, all rules in Part 74 will apply to digital. We seek comment on this tentative conclusion.

B. LPTV/Translator Protection of Land Mobile Radio Service

12. As discussed above, Sections 74.709(a) and (b) of the Commission's rules³⁵ require LPTV/translator stations to protect certain channels for use by LMRS in thirteen U.S. cities listed in the rule, which specifies a 130 kilometer radius from the coordinates for these cities as a threshold for determining interference. The 130 kilometer radius around each set of coordinates was calculated based on the 1927 North American Datum ("NAD 27"). As a result of improvements in technology and measuring capabilities, NAD 27 has been superseded by the 1983 North American Datum ("NAD 83"). The Commission's Office of Engineering and Technology and Office of the Managing Director have

³² See 47 CFR §§ 74.786 through 74.796.

³³ See generally *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, MB Docket No. 03-185, Report and Order, 19 FCC Rcd 19331 (2004) (*2004 Order*) (subsequent history omitted).

³⁴ We propose to adopt new station identification requirements in 47 CFR § 74.783 that apply to digital operations, as discussed *infra*.

³⁵ 47 CFR § 74.709 (Land mobile station protection).

previously explained that “[g]eodetic datum is a set of constants specifying the coordinate system used for calculating the coordinates of points on the Earth. NAD 83 was developed based on satellite and remote-sensing measurement techniques, and provides greater accuracy than the older NAD 27.”³⁶ Because it provides greater accuracy and the older NAD 27 is outdated, we propose to amend the rule to use NAD 83 for purposes of specifying these coordinates.³⁷ We further tentatively conclude that updating the coordinates in the rule to NAD 83 would serve the public interest by conforming the values with the coordinate system used in the Commission’s LMS database and with those found in Section 90.303(b) of the rules, which define the service that Section 74.709 protects.³⁸ As such, our proposal to conform the values in Section 74.709(a) to those of Section 90.303(b) would help to ensure that land mobile operations are appropriately considered and protected from LPTV/translator operations. There is no equivalent to Section 74.709(b) in the Part 90 rules, so we therefore propose to convert these values to NAD 83 by conforming them to the as-filed coordinates for the associated television station if the associated station still exists at the same location, or if it does not, converting them directly to NAD 83.

13. While we believe the coordinate updates proposed are in the public interest for the reasons discussed above, we do not anticipate that the proposed changes will alter the actual interference protection between LPTV/translator stations and LMRS. The coordinates in the rule are used only to determine whether an LPTV/translator application is outside of the relevant LMRS protected zone for the potentially affected channel and community. Another section of the rules separately requires the resolution of actual interference which may occur to land mobile operations.³⁹ We seek comment on these tentative conclusions and proposed changes.

C. LPTV Digital Data Services Act

14. We propose to delete the rule requiring LPTV stations that avail themselves of the provisions set forth in the LPTV Digital Data Services Act (DDSA) digital data service pilot project to comply with rules implementing the DDSA.⁴⁰ The DDSA mandated that the Commission issue regulations establishing a pilot project pursuant to which twelve specified LPTV stations could provide digital data services to demonstrate the feasibility of using LPTV stations to provide high-speed wireless digital data service, including Internet access, to unserved areas. When the Commission implemented the DDSA in 2002,⁴¹ the Commission had not yet authorized Class A or LPTV/translator stations to operate digital facilities. The DDSA and Section 74.785 of the rules therefore required the designated stations to comply with Commission rules that implemented the DDSA if they sought to participate in the digital pilot program. As previously noted, in 2004, the Commission authorized all LPTV/translator stations to operate in digital.⁴² Currently, all LPTV stations must operate in digital and may offer ancillary and

³⁶ *Amendment of Parts 1, 2, 25, 73, 74, 90, and 97 of the Commission’s Rules to Make Non-Substantive Editorial Revisions to the Table of Frequency Allocations and to Various Service Rules*, Memorandum Opinion and Order, 23 FCC Rcd 3775, 3796, para. 61, n.101 (OET/OMD 2008).

³⁷ *Id.*

³⁸ Section 90.303(b) defines the specific center points used to permit land mobile operations, which represent the specific locations that Section 74.709(a) is designed to protect. See 47 CFR § 90.303(a) (stating that “coordinates are referenced to the North American Datum 1983 (NAD83).”) and (b).

³⁹ 47 CFR § 74.703(e) (Interference) provides that “[LPTV/translator] stations are being authorized on a secondary basis to existing land mobile uses and must correct whatever interference they cause to land mobile stations or cease operation.”

⁴⁰ See LPTV Digital Data Services Act (P.L. 106-554, 114 Stat. 4577, Dec. 21, 2000 (DDSA); 47 CFR § 74.785 (DDSA or digital pilot program).

⁴¹ The DDSA was implemented by the Commission in *Implementation of LPTV Digital Data Services Pilot Project*, Order, 16 FCC Rcd 9734 (2001); Order on Reconsideration, 17 FCC Rcd 2988 (2002); 47 CFR § 74.785.

⁴² See *2004 Order*.

supplementary services, including the services contained in the pilot project of the DDSA.⁴³ We note that none of the stations identified in the statute are currently providing service pursuant to an experimental authorization issued under the DDSA, and that some of the stations have been cancelled.⁴⁴ For these reasons, we believe that this rule currently serves no useful purpose. Therefore, we tentatively conclude that a rule requiring stations to comply with the Commission's order implementing the DDSA should be deleted, and we seek comment on those tentative conclusions.

D. Station Identification

15. Section 74.783(a) requires analog LPTV/translator stations not originating local programming to provide station identification.⁴⁵ When the Commission adopted its rules for digital LPTV/translator operations in 2004, it declined to adopt a separate rule for digital stations, choosing instead to allow such LPTV/translator stations the flexibility to identify themselves in different manners, including following the analog station identification provisions in Section 74.783(a).⁴⁶ Now that the LPTV/translator digital transition is complete and analog operations have terminated, we tentatively conclude that we should require digital LPTV/translator stations to comply with the station identification provisions set forth in Section 74.783 applicable to analog operations, which we now propose to update to reflect digital operations. We do not believe the transition to digital operation provides any basis to relieve LPTV/translator stations of the station identification obligation, and we believe the continued application of the established rule for station identification is in the public interest. We seek comment on these tentative conclusions and the proposed rule in Appendix B.

16. In addition, proposed Section 74.783(a)(1) provides alternative methods for stations to identify their broadcasts over the air.⁴⁷ In Sections 74.783(a)(1) and (c), we propose to include the option for LPTV/translator stations to use the Program and System Information Protocol (PSIP) to transmit the station's call sign as the "short channel name" on at least one stream of programming that the LPTV/translator station transmits.⁴⁸ We seek comment on this proposed change.

⁴³ See 47 CFR §§ 74.790(i); 73.624(c) and (e). The Commission's ancillary and supplementary rules provide that broadcasters may offer services that "include, but are not limited to computer software distribution, data transmissions, teletext, interactive materials, aural messages, paging services, audio signals, subscription video, and any other services that do not derogate DTV broadcast stations' obligations under paragraph (b) of this section." 47 CFR §§ 73.624(c). See also 47 CFR § 74.790(i). One difference between the Commission's ancillary and supplementary rules and the DDSA is that the rules require that ancillary and supplementary services may not derogate the station's required signal to viewers, while the DDSA does not.

⁴⁴ At the time the statute was enacted, the LPTV stations to which it applied were KHLM-LP, Houston, Texas; WTAM-LP, Tampa, Florida; WWRJ-LP, Jacksonville, Florida; WVBG-LP, Albany, New York; KHHI-LP, Honolulu, Hawaii; KPHE-LP (K19DD), Phoenix, Arizona; K34FI, Bozeman, Montana; WXOB-LP, Richmond, Virginia; WIIW-LP, Nashville, Tennessee; and "[a] station and repeaters . . . [to provide] service to communities in the Kenai Peninsula Borough and Matanuska Susitna Borough." According to LMS, two of these stations (K34FI and K44GE (formerly K65GZ)) have been cancelled. According to Bureau staff, no LPTV stations in Alaska expressed an interest in participating in the digital pilot program. In addition, one of the stations is now a Class A television station, and the DDSA only applies to LPTV stations.

⁴⁵ See 47 CFR § 74.783(a). Proposed 47 CFR § 74.783(c) governs station identification requirements for LPTV stations originating local programming.

⁴⁶ See *2004 Order*, 19 FCC Rcd at 19395, para. 192 (declining to establish identification requirements for digital LPTV and TV translator stations).

⁴⁷ 47 CFR § 74.783(a)(1) (Station identification).

⁴⁸ ATSC A/65C defines the standard protocol -- referred to as PSIP -- for the transmission of data tables compatible with digital multiplex bit streams via terrestrial broadcasts. The "short channel name" is a seven character field in the Terrestrial Virtual Channel Table that stations use to comply with the digital transmission standard set forth in ATSC A/65C as incorporated in Section 73.682(d) of our rules. See 47 CFR § 73.682(d). For example, a station would enter in the short channel name field the station's call sign, e.g., K20DA-D.

17. We note that in order to identify a station using the PSIP short channel name, a station must request and be assigned a transport stream ID (TSID). If a station has requested and been assigned a TSID, we propose to require the LPTV/translator station to broadcast with the station's assigned TSID during its hours of operation.⁴⁹ The TSID requirement would be in addition to, and not in place of, one of the other identification requirements. We propose the same requirement with respect to a station's bit stream ID (BSID), which has the same function as the TSID, but in the ATSC 3.0 context. We seek comment on these proposals.

18. We also seek comment on codifying the Bureau's practice of requiring LPTV stations to transmit with a virtual channel that avoids conflicts with any full power or Class A station's virtual channel in cases where a contour overlap would arise, or with virtual channels chosen by other LPTV stations.⁵⁰ LPTV licensees are not required to comply with the virtual channel assignment methodology found in ATSC A/65C Annex B,⁵¹ as full power and Class A stations are, and we are not proposing to require them to do so. However, absent this rule change, LPTV stations could potentially create contour overlap with full power and Class A stations, leading to virtual channel conflicts.

19. Furthermore, we tentatively conclude that we should adopt Section 74.791(d), as stated in Appendix B, to reflect the staff's current call sign assignment protocol for LPTV/translator stations. Section 74.783(d) provides that an LPTV/translator station call sign will be made up of the letters K or W, the station's channel number, and "two additional letters."⁵² For certain channel numbers, however, all two letter combinations have been exhausted for several years, and consistent with the Commission's policy that all stations have a unique call sign, stations have been assigned a three letter call sign beginning with "AAA" continuing sequentially through the alphabet for the third letter. This three letter protocol is built into the Commission's LMS system. Considering the necessity of modifying the two letter protocol due to the exhaustion of such combinations, and the fact that any change would affect the staff's ability to continue timely processing applications, we tentatively conclude that we should amend Section 74.791 to add paragraph (d) to reflect the staff's current call sign assignment protocol. We seek comment on these tentative conclusions.

E. Technical Modifications

20. Section 74.708(b) requires LPTV/translator stations to protect previously filed Class A applications, and Section 74.710(a) requires LPTV/translator stations to protect previously filed LPTV/translator applications.⁵³ These subsections reference the Bureau's practice that if two applications are filed on different days and otherwise have equal processing priority, the filing earlier in time will receive priority. We tentatively conclude that these requirements should be maintained in the rules but moved into the Commission's digital rules in Section 74.787(c).⁵⁴ We seek comment on this tentative conclusion.

21. Sections 74.735(c) and 74.750(f) of the rules reference vertically polarized transmitting antennas.⁵⁵ We note that despite the reference, the Commission's LMS filing system does not and has not allowed stations to specify a vertical antenna. Further, television viewers' home receive antennas are generally horizontally, not vertically, polarized. Given these limitations, we propose to modify the

⁴⁹ See proposed Section 74.783(d).

⁵⁰ *2004 Order*, 19 FCC at 19413, para. 243. See proposed Section 74.790(n).

⁵¹ ATSC A/65C, Annex B (2006); 47 CFR § 73.682(d) (incorporating the 2006 version of Annex B into the Commission's rules by reference).

⁵² See 47 CFR § 74.783(d).

⁵³ 47 CFR §§ 74.708(b) and 74.710(a).

⁵⁴ 47 CFR § 74.787(c).

⁵⁵ 47 CFR §§ 74.735(c) (Power limitations) and 74.750(f) (Transmission system facilities).

language in Sections 74.735(c) and in revised 74.750(f) to remove the reference to vertical-only antennas. We also propose to clarify, consistent with the similar rule applicable to full-power stations,⁵⁶ that the horizontal power is to be higher than or equal to the vertical power in all directions, and require documentation that the antenna meets this requirement.⁵⁷ We seek comment on these proposals.

22. Next, Section 74.735(c)(4) currently requires that horizontal plane patterns be plotted “to the largest scale possible on unglazed letter-size polar coordinate paper.”⁵⁸ This requirement is outdated and not consistent with current licensee and Commission staff practices. We propose to instead require licensees to submit patterns in the form of a .pdf attachment to an application filed in LMS, and propose to clarify that similar plots are required for elevation or matrix patterns submitted in the LMS form.⁵⁹ This approach would provide flexibility to applicants and conform to modern practices. We seek comment on this proposal.

23. Section 74.751(b) permits a licensee to relocate facilities less than 500 feet (152.4 meters) without requesting prior authorization.⁶⁰ The language of the rule, however, is in conflict with the Commission staff’s standard processing practice, which is to require a licensee to file a minor modification application whenever a station seeks to relocate its antenna. OET Bulletin No. 69 (OET Bulletin)⁶¹ provides guidance on the use of Longley-Rice methodology for evaluating TV service coverage and interference in accordance with the Commission’s rules.⁶² When the LPTV/translator stations were authorized for digital transmission in 2004, the rules permitted the use of the OET Bulletin, as opposed to contour analysis.⁶³ Because the most precise antenna location provides the most accurate results when using the OET Bulletin, the staff has consistently required a minor modification application for all antenna relocations, and the industry has routinely submitted such minor modification applications. We propose to revise the language of the rule to reflect current staff practice and modify Section 74.751(b)(4) to require LPTV/translator licensees and permittees to file an application in LMS on FCC Form 2100, Schedule C, requesting authorization for all station relocations. We seek comment on this proposal.

24. We also propose to delete two subsections of Section 74.751(b) as irrelevant and unnecessary. Section 74.751(b)(6)⁶⁴ permits relocation of a station’s transmitter without authorization in only certain instances. Because the antenna location, rather than the transmitter location, is the relevant consideration in determining interference, service, and loss, as required by the Commission’s rules and policies, we propose to delete Section 74.751(b)(6) entirely regarding the transmitter’s location, as it is not relevant in this analysis. Section 74.751(c) requires LPTV/translator licensees to notify the Commission in writing of any other equipment changes they make that are not specifically referenced in

⁵⁶ See 47 CFR § 73.682(a)(14) (TV transmission standards) (“It shall be standard to employ horizontal polarization.”). See also 47 CFR § 73.316(a) (FM antenna systems).

⁵⁷ This proposed requirement is consistent with stations being primarily horizontal, with a possible vertical component less than or equal to the horizontal component.

⁵⁸ 47 CFR § 74.735(c)(4).

⁵⁹ See proposed Sections 74.735(c)(6) and 74.735(c)(7).

⁶⁰ 47 CFR § 74.751(b)(4)(i) (Modification of transmission systems).

⁶¹ See 47 CFR § 74.793(b) (referencing the OET Bulletin No. 69 in Section 73.623(c)); see also 47 CFR § 74.793(e) (citing to Section 73.622(e)).

⁶² See OET Bulletin No. 69, “Longley-Rice Methodology for Evaluating TV Coverage and Interference,” Feb. 6, 2004, <https://transition.fcc.gov/oet/info/documents/bulletins/oet69/oet69.pdf>. The OET Bulletin was adopted in 1997 and updated in February 2004. *Id.*

⁶³ 2004 Order, 19 FCC at 19368, para. 105.

⁶⁴ 47 CFR § 74.751(b)(6).

paragraphs (a) and (b) of this section.⁶⁵ We do not believe this information is relevant to the Commission's application decision-making processes, and we note that staff does not routinely receive such notifications. Therefore we propose to delete the subsection. We seek comment on these proposals.

25. Section 74.790(g)(3) provides that "LPTV station[s] must transmit an over-the-air video program signal at no direct charge to viewers at least comparable in resolution to that of its associated analog (NTSC) LPTV station or, in the case of an on-channel digital conversion, that of its former analog LPTV station."⁶⁶ We propose to update the quality standard set forth in the rule to reflect that 480i video resolution is "comparable in resolution to analog television programming," consistent with the update the Commission made to its full power station rules in § 73.624(b).⁶⁷ We seek comment on whether this proposed quality standard is an appropriate standard for LPTV stations, and whether there is any reason to have different standards for LPTV and full power stations. Furthermore, we tentatively conclude that the D/U ratios for ATSC 3.0 into TV and vice versa for predicting interference to stations are assumed to be similar, and need not be differentiated in the rules beyond TV service. We seek comment on this tentative conclusion.

26. Finally, certain rules specify the filing of a letter or similar submissions for relief with the Commission. We propose to update such rules to instead require submission in LMS, the Commission's broadcast licensing database. Doing so is consistent with current licensee and Commission staff practices for both LPTV/translators and full power licensees and permittees. Specifically, we propose to amend our rules to require LPTV/translator licensees and permittees to file written reports, submissions, letters, notifications, or other required filings in LMS.⁶⁸ We believe that this proposed amendment is in the public interest because it will streamline application submission, processing, and record keeping, and provide a centralized location for public inspection of all licensing-related matters. We seek comment on these proposals.

F. Cost-Benefit and Diversity, Equity and Inclusion Analysis

27. Finally, we seek comment on the benefits and costs associated with adopting the proposals set forth in this *NPRM*. In addition to any benefits to the public at large, are there also benefits to industry through adoption of any of our proposals? We also seek comment on any potential costs that would be imposed on licensees, regulatees, and the public if we adopt the proposals contained in this *NPRM*. Comments should be accompanied by specific data and analysis supporting claimed costs and benefits.

28. As part of our continuing effort to advance digital equity for all,⁶⁹ including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, we invite comment on how the proposals set forth in the *NPRM* can advance equity in the provision of broadcast services for all people of the United States, without discrimination on the basis of race, color, religion,

⁶⁵ 47 CFR § 74.751(c).

⁶⁶ 47 CFR § 74.790(g)(3); *see also* 2004 Order, 19 FCC Rcd at 19348-9, para. 51.

⁶⁷ *See Promoting Broadcast Internet Innovation through ATSC 3.0*, MB Docket No. 20-145, Report and Order, 35 FCC Rcd 14492, 14507, para. 30 (2020).

⁶⁸ 47 CFR §§ 74.703(h) (Interference); 74.734(a)(4) (Attended and unattended operation); 74.751(c) (Modification of transmission systems); 74.763(b) (Time of operation); and 74.784(b) (Rebroadcasts).

⁶⁹ Section 1 of the Communications Act of 1934, as amended, provides that the FCC "regulat[es] interstate and foreign commerce in communication by wire and radio so as to make [such service] available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex." 47 U.S.C. § 151.

national origin, sex, or disability.⁷⁰ Specifically, we seek comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority.

V. PROCEDURAL MATTERS

A. Ex Parte Rules - Permit-But-Disclose

29. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁷¹ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

B. Filing Requirements—Comments and Replies

30. *Filing Requirements—Comments and Replies.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority

⁷⁰ The term "equity" is used here consistent with Executive Order 13985 as the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality. *See* Exec. Order No. 13985, 86 Fed. Reg. 7009, Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (Jan. 20, 2021).

⁷¹ 47 CFR §§ 1.1200 *et seq.*

Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

- Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.⁷²
- During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

C. Regulatory Flexibility Act

31. *Final Regulatory Flexibility Act Analysis.* Because the rule changes in the *Order* are being adopted without notice and comment, the Regulatory Flexibility Act⁷³ does not apply.

32. *Initial Regulatory Flexibility Act Analysis.* As required by the Regulatory Flexibility Act of 1980, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in the Sixth Notice of Proposed Rulemaking. The IRFA is set forth in Appendix C. Written public comments are requested in the IRFA. These comments must be filed in accordance with the same filing deadlines as comments filed in response to the Sixth Notice of Proposed Rulemaking, as set forth on the first page of this document and have a separate and distinct heading designating them as responses to the IRFA.

D. Paperwork Reduction Act

33. The *Order* does not contain any new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA).⁷⁴ In addition, 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 2002.⁷⁵

34. The Sixth Notice of Proposed Rulemaking proposes new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens and pursuant to the Paperwork Reduction Act of 1995, Public Law 104-13, invites the general public and the Office of Management and Budget (OMB) to comment on these information collection requirements. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

E. Congressional Review Act

35. The Bureau has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that these rules are non-major under the Congressional Review Act, 5 U.S.C. § 804(2). The Commission will send a copy of this *Order* to Congress and the Government Accountability office, pursuant to 5 U.S.C. § 801(a)(1)(A).

⁷² *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (2020).

⁷³ 5 U.S.C. § 601 *et seq.* *See id.* § 601(2).

⁷⁴ The Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 109 Stat. 163 (1995) (codified in Chapter 35 of title 44 U.S.C.).

⁷⁵ The Small Business Paperwork Relief Act of 2002 (SBPRA), Pub. L. No. 107-198, 116 Stat. 729 (2002) (codified in Chapter 35 of title 44 U.S.C.); *see* 44 U.S.C. 3506(c)(4).

36. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

37. *Additional Information.* For additional information on this proceeding, please contact Joyce Bernstein, Video Division, Media Bureau at (202) 418-1647 or Joyce.Bernstein@fcc.gov, or Mark Colombo, Video Division, Media Bureau at (202) 418-7611 or Mark.Colombo@fcc.gov.

VI. ORDERING CLAUSES

38. Accordingly, **IT IS ORDERED**, pursuant to the authority contained in sections 1, 4, 301, 303, 307, 308, 309, 310, 316, 319, 336, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 301, 303, 307, 308, 309, 310, 316, 319, 336, and 403, this Order and Sixth Notice of Proposed Rulemaking **IS ADOPTED**.

39. **IT IS FURTHER ORDERED** that, pursuant to the authority contained in sections 1, 4, 301, 303, 307, 308, 309, 310, 316, 319, and 336 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 301, 303, 307, 308, 309, 310, 316, 319, 336, and in section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. § 553(b)(3)(B), part 74 of the Commission's rules, 47 CFR part 74, **IS AMENDED** as set forth in Appendix A, and such rule amendments shall be effective thirty (30) days after the date of publication in the Federal Register.

40. **IT IS FURTHER ORDERED** that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, **SHALL SEND** a copy of the Order and Sixth Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

41. **IT IS FURTHER ORDERED**, that pursuant to section 801(a)(1)(A) of the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A), the Commission **SHALL SEND** a copy of this Order and Sixth Notice of Proposed Rulemaking to Congress and to the Government Accountability Office.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A
Final Regulations

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 74 as follows:

PART 74 – EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

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

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

2. The heading for subpart G is revised to read as follows:

Subpart G – Low Power TV and TV Translator Stations

3. Section 74.701 is amended by:

- a. Revising paragraphs (b), (c), and (d);
- b. Removing and reserving paragraphs (e), (g), and (i);
- c. Revising paragraphs (j), (k), and (m); and
- d. Removing paragraphs (n), (o), and (p).

The revisions read as follows:

§ 74.701 Definitions.

* * * * *

(b) *Primary station.* The television station which provides the programs and signals being retransmitted by a television broadcast translator station.

(c) *Analog to Digital Replacement Translator (DRT).* A television translator licensed to a full power television station that allows it to restore service to any loss areas that may have occurred as a result of

its transition from analog to digital.

(d) *Digital to Digital Replacement Translator (DTDRT)*. A television translator licensed to a full power television station that allows it to restore service to any loss areas that may have occurred as a result of the station being assigned a new channel pursuant to the Incentive Auction and repacking process.

* * * * *

(j) *Television broadcast translator station ("TV translator station")*. A station operated for the purpose of retransmitting the programs and signals of a television broadcast station, without significantly altering any characteristic of the original signal other than its frequency, for the purpose of providing television reception to the general public.

(k) *Low power TV station ("LPTV station")*. A station authorized under the provisions of this subpart that may retransmit the programs and signals of a television broadcast station, may originate programming in any amount greater than 30 seconds per hour for the purpose of providing television reception to the general public and, subject to a minimum video program service requirement, may offer services of an ancillary or supplementary nature, including subscription-based services. (*See* § 74.790.)

* * * * *

(m) *Existing low power television or television translator station*. When used in this subpart, the terms existing low power television and existing television translator station refer to a low power television station or television translator station that is either licensed or has a valid construction permit.

4. Section 74.702 is amended by:

a. Revising paragraphs (a)(1) and (2); and

- b. Removing and reserving paragraph (c).

The revisions read as follows:

§ 74.702 Channel assignments.

(a) * * *

(1) Any one of the 12 standard VHF Channels (2 to 13 inclusive) may be assigned to a low power TV or TV translator station.

(2) Any one of the UHF Channels from 14 to 36, inclusive, may be assigned to a low power TV or TV translator station. In accordance with § 73.603(c) of this chapter, Channel 37 will not be assigned to such stations.

* * * * *

5. Section 74.703 is amended by:

- a. Revising paragraphs (a), (b), and (c); and
- b. Removing and reserving paragraph (i).

The revisions read as follows:

§ 74.703 Interference.

(a) An application for a new low power TV or TV translator station or for a change in the facilities of such an authorized station will not be granted when it is apparent that interference will be caused.

Except where there is a written agreement between the affected parties to accept interference, or where it can be shown that interference will not occur due to terrain shielding and/or Longley-Rice terrain dependent propagation methods, the licensee of a new low power TV or TV translator station shall

protect existing low power TV and TV translator stations from interference within the protected contour defined in § 74.792 and shall protect existing Class A TV stations within the protected contours defined in § 73.6010 of this chapter. Such written agreement shall accompany the application. Copies of OET Bulletin No. 69 may be inspected during normal business hours at the Federal Communications Commission's Reference Information Center, located at the address of the FCC's main office indicated in 47 CFR 0.401(a). This document is also available through the Internet on the FCC Home Page at <http://www.fcc.gov/oet/info/documents/bulletins/#69>.

(b) It shall be the responsibility of the licensee of a low power TV or TV translator station to correct at its expense any condition of interference to the direct reception of the signal of any full-power TV broadcast station operating on the same channel as that used by the low power TV or TV translator station or an adjacent channel which occurs as a result of the operation of the low power TV or TV translator station. Interference will be considered to occur whenever reception of a regularly used signal is impaired by the signals radiated by the low power TV or TV translator station, regardless of the quality of the reception or the strength of the signal so used. If the interference cannot be promptly eliminated by the application of suitable techniques, operation of the offending low power TV or TV translator station shall be suspended and shall not be resumed until the interference has been eliminated. If the complainant refuses to permit the low power TV or TV translator station to apply remedial techniques that demonstrably will eliminate the interference without impairment of the original reception, the licensee of the low power TV or TV translator station is absolved of further responsibility.

(c) It shall be the responsibility of the licensee of a low power TV or TV translator station to correct any condition of interference which results from the radiation of radio frequency energy outside its assigned channel. * * *

* * * * *

§ 74.706 [Removed and Reserved]

6. Remove and reserve § 74.706.

§ 74.707 [Removed and Reserved]

7. Remove and reserve §74.707.
8. Section 74.709 is amended by adding a note at the end of the section to read as follows:

§ 74.709 Land mobile station protection.

* * * * *

Note 1 to § 74.709. The Chief, Public Safety and Homeland Security Bureau waived the rules of this section to allow channel 15 to be used for land mobile operation in Los Angeles County, CA (DA 08-2823; adopted December 30, 2008). Notwithstanding the channels listed in paragraph (a) or (b)(2) of this section, the waiver requires LPTV and translator stations to protect this land mobile operation.

§ 74.731 [Removed and Reserved]

9. Remove and reserve § 74.731.

§ 74.732 [Amended]

10. Section 74.732 is amended by removing and reserving paragraphs (g) and (h).

§ 74.733 [Removed and Reserved]

11. Remove and reserve § 74.733.

12. Section 74.734 is amended by revising the first sentence of paragraph (a) introductory text to read as follows:

§ 74.734 Attended and unattended operation.

(a) Low power TV and TV translator stations may be operated without a designated person in attendance if the following requirements are met:

* * *

13. Section 74.735 is amended by revising paragraphs (b) introductory text, (b)(2), and (c) introductory text to read as follows:

§ 74.735 Power limitations.

* * * * *

(b) The maximum ERP of a low power TV or TV translator station (average power) shall not exceed:

* * * * *

(2) 15 kW for UHF channels 14-36.

(c) The limits in paragraph (b) of this section apply separately to the effective radiated powers that may be obtained by the use of horizontally or vertically polarized transmitting antennas. * * *

* * * * *

§ 74.736 [Removed and Reserved]

14. Remove and reserve § 74.736.

15. Section 74.751 is amended by revising paragraphs (b) introductory text and (b)(1) to

read as follows:

§ 74.751 Modification of transmission systems.

* * * * *

(b) Formal application (FCC Form 2100, Schedule C) is required for any of the following changes:

(1) Replacement of the transmitter as a whole, except replacement with a transmitter of identical power rating which has been certificated by the FCC for use by low power TV and TV translator stations, or any change which could result in a change in the electrical characteristics or performance of the station.

* * * * *

§ 74.761 [Removed and Reserved]

16. Remove and reserve § 74.761.

17. Section 74.763 is amended by revising paragraph (a) and the first sentence of paragraph

(c) to read as follows:

§ 74.763 Time of operation.

(a) A low power TV or TV translator station is not required to adhere to any regular schedule of operation. However, the licensee of a TV translator station is expected to provide service to the extent that such is within its control and to avoid unwarranted interruptions in the service provided.

* * * * *

(c) Failure of a low power TV or TV translator station to operate for a period of 30 days or more, except for causes beyond the control of the licensee, shall be deemed evidence of discontinuation of operation and the license of the station may be cancelled at the discretion of the FCC. * * *

* * * * *

18. Revise § 74.780 to read as follows:

§ 74.780 Broadcast regulations applicable to translators and low power stations.

The following rules are applicable to TV translator and low power TV stations:

- (a) 47 CFR part 5 - Experimental authorizations.
- (b) 47 CFR 73.658 - Affiliation agreements and network program practices; territorial exclusivity in non-network program arrangements.
- (c) 47 CFR part 11 - Emergency Alert System (for low power TV stations locally originating programming as defined by § 74.701(h)).
- (d) 47 CFR 73.1030 - Notifications concerning interference to radio astronomy, research, and receiving installations.
- (e) 47 CFR 73.1206 - Broadcast of telephone conversations.
- (f) 47 CFR 73.1207 - Rebroadcasts.
- (g) 47 CFR 73.1208 - Broadcast of taped, filmed, or recorded material.
- (h) 47 CFR 73.1211 - Broadcast of lottery information.
- (i) 47 CFR 73.1212 - Sponsorship identifications; list retention; related requirements.

-
- (j) 47 CFR 73.1216 - Licensee-conducted contests.
 - (k) 47 CFR 73.1515 - Special field test authorizations.
 - (l) 47 CFR 73.1615 - Operation during modification of facilities.
 - (m) 47 CFR 73.1635 - Special temporary authorizations (STA).
 - (n) 47 CFR 73.1650 - International agreements.
 - (o) 47 CFR 73.1680 - Emergency antennas.
 - (p) 47 CFR 73.1692 - [Reserved].
 - (q) 47 CFR 73.1940 - Legally qualified candidates for public office.
 - (r) 47 CFR 73.2080 - Equal employment opportunities (for low power TV stations only).
 - (s) 47 CFR 73.3500 - Application and report forms.
 - (t) 47 CFR 73.3511 - Applications required.
 - (u) 47 CFR 73.3512 - Where to file; number of copies.
 - (v) 47 CFR 73.3513 - Signing of applications.
 - (w) 47 CFR 73.3514 - Content of applications.
 - (x) 47 CFR 73.3516 - Specification of facilities.
 - (y) 47 CFR 73.3517 - Contingent applications.
 - (z) 47 CFR 73.3518 - Inconsistent or conflicting applications.

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- (aa) 47 CFR 73.3519 - Repetitious applications.
- (bb) 47 CFR 73.3521 - Mutually exclusive applications for low power TV and TV translator stations.
- (cc) 47 CFR 73.3522 - Amendment of applications.
- (dd) 47 CFR 73.3525 - Agreements for removing application conflicts.
- (ee) 47 CFR 73.3533 - Application for construction permit or modification of construction permit.
- (ff) 47 CFR 73.3536 - Application for license to cover construction permit.
- (gg) 47 CFR 73.3538 (a)(1), (3), and (4) and (b) - Application to make changes in an existing station.
- (hh) 47 CFR 73.3539 - Application for renewal of license.
- (ii) 47 CFR 73.3540 - Application for voluntary assignment or transfer of control.
- (jj) 47 CFR 73.3541 - Application for involuntary assignment of license or transfer of control.
- (kk) 47 CFR 73.3542 - Application for emergency authorization.
- (ll) 47 CFR 73.3544 - Application to obtain a modified station license.
- (mm) 47 CFR 73.3545 - Application for permit to deliver programs to foreign stations.
- (nn) 47 CFR 73.3550 - Requests for new or modified call sign assignments.
- (oo) 47 CFR 73.3561 - Staff consideration of applications requiring Commission action.
- (pp) 47 CFR 73.3562 - Staff consideration of applications not requiring action by the Commission.
- (qq) 47 CFR 73.3564 - Acceptance of applications.

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- (rr) 47 CFR 73.3566 - Defective applications.
- (ss) 47 CFR 73.3568 - Dismissal of applications.
- (tt) 47 CFR 73.3572 - Processing of TV broadcast, low power TV, and TV translator station applications.
- (uu) 47 CFR 73.3580 - Local public notice of filing of broadcast applications.
- (vv) 47 CFR 73.3584 - Petitions to deny.
- (ww) 47 CFR 73.3587 - Informal objections.
- (xx) 47 CFR 73.3591 - Grants without hearing.
- (yy) 47 CFR 73.3593 - Designation for hearing.
- (zz) 47 CFR 73.3594 - Local public notice of designation for hearing.
- (aaa) 47 CFR 73.3597 - Procedures on transfer and assignment applications.
- (bbb) 47 CFR 73.3598 - Period of construction.
- (ccc) 47 CFR 73.3601 - Simultaneous modification and renewal of license.
- (ddd) 47 CFR 73.3603 - Special waiver procedure relative to applications.
- (eee) 47 CFR 73.3612 - Annual employment report (for low power TV stations only).
- (fff) 47 CFR 73.3613 - Availability to FCC of station contracts (network affiliation contracts for low power TV stations only).

19. Section 74.781 is amended by revising paragraph (a) and the first sentence of paragraph (c) to read as follows:

§ 74.781 Station records.

(a) The licensee of a low power TV or TV translator station shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, contracts, permission for rebroadcasts, and other pertinent documents.

* * * * *

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator, except that the station records of a translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. * * *

* * * * *

§ 74.784 [Amended]

20. Section 74.784 is amended by removing and reserving paragraph (d) and removing the parenthetical authority citation at the end of the section.

21. Section 74.787 is amended by:

- a. Revising the section heading and paragraph (a) heading;
- b. Removing and reserving paragraphs (a)(1) and (2);
- c. Revising the fourth sentence of paragraph (a)(3) and paragraphs (a)(4) and (a)(5)(i);
- d. Removing and reserving paragraph (a)(5)(ii);
- e. Revising paragraph (a)(5)(iii);

- f. Removing and reserving paragraph (a)(5)(iv);
- g. Revising paragraph (a)(5)(v) to remove the first sentence;
- h. Revising paragraphs (vii), and (viii), (b) heading, and (b)(1) introductory text.

The revisions read as follows:

§ 74.787 Licensing.

(a) *Applications for low power television and television translator stations.* * * *

(3) * * * Such applications shall be accepted on a first-come, first-served basis, and shall be filed on FCC Form 2100, Schedule C. * * *

(4) *Displacement applications.* A low power television, television translator, or DRT or DTDRT station which is causing or receiving interference or is predicted to cause or receive interference to or from an authorized TV broadcast station or allotment or other protected station or service, may at any time file a displacement relief application for change in channel, together with technical modifications that are necessary to avoid interference or continue serving the station's protected service area, provided the proposed transmitter site is not located more than 30 miles from the reference coordinates of the existing station's community of license. *See* § 76.53 of this chapter. A displacement relief application shall be filed on FCC Form 2100, Schedule C, and will be considered a minor change and will be placed on public notice for a period of not less than 30 days to permit the filing of petitions to deny. These applications will not be subject to the filing of competing applications. Where a displacement relief application for a low power television or television translator station becomes mutually exclusive with the application(s) for new low power television or television translator stations, or with other non-displacement relief applications for facilities modifications of low power television or television translator stations, priority will be afforded to the displacement application for the low power television or television translator station to the exclusion

of other applications. Mutually exclusive displacement relief applications for low power television and television translator stations shall be resolved via the Commission's rules in part 1 of this chapter and broadcast competitive bidding rules in §§ 1.2100 through 1.2209 and 73.5000 through 73.5009 of this chapter. Such applicants shall be afforded an opportunity to submit settlements and engineering solutions to resolve mutual exclusivity pursuant to § 73.5002(d) of this chapter.

(5) * * *

(i) Applications for new DRTs and DTDRTs are no longer accepted.

* * * * *

(iii) Displacement applications for DRTs and DTDRTs shall be given processing priority over all other low power television and TV translator new, minor change, or displacement applications except displacement applications for other DRTs and DTDRTs with which they shall have co-equal priority.

* * * * *

(v) * * *

* * * * *

(vii) Analog-to-digital and digital-to-digital replacement television translators may operate only on those television channels designated for broadcast television in § 74.702.

(viii) The following sections are applicable to analog-to-digital and digital-to-digital replacement television translator stations:

(A) Section 74.703 - Interference.

- (B) Section 74.709 - Land mobile station protection.
- (C) Section 74.734 - Attended and unattended operation.
- (D) Section 74.735 - Power limitations.
- (E) Section 74.751 - Modification of transmission systems.
- (F) Section 74.763 - Time of operation.
- (G) Section 74.769 - Familiarity with FCC rules.
- (H) Section 74.780 - Broadcast regulations applicable to translators and low power stations.
- (I) Section 74.781 - Station records.
- (J) Section 74.784 - Rebroadcasts.

(b) *Definitions of “major” and “minor” changes to low power television and television translator stations.*

(1) Applications for major changes in low power television and television translator stations include:

* * * * *

§ 74.788 [Removed and Reserved]

22. Remove and reserve § 74.788.

23. Revise § 74.789 to read as follows:

§ 74.789 Broadcast regulations applicable to low power television and television translator stations.

The following sections are applicable to low power television and television translator stations:

- (a) Section 74.600 - Eligibility for license.
- (b) Section 74.703 - Interference.
- (c) Section 74.709 - Land mobile station protection.
- (d) Section 74.732 - Eligibility and licensing requirements.
- (e) Section 74.734 - Attended and unattended operation.
- (f) Section 74.735 - Power limitations.
- (g) Section 74.751 - Modification of transmission systems.
- (h) Section 74.763 - Time of operation.
- (i) Section 74.769 - Familiarity with FCC rules.
- (j) Section 74.780 - Broadcast regulations applicable to translators and low power stations.
- (k) Section 74.781 - Station records.
- (l) Section 74.784 - Rebroadcasts.

24. Section 74.790 is amended by revising the section heading and paragraphs (a), (b) introductory text, (b)(1) introductory text, (b)(1)(ii), (b)(2), (c) through (f), (g) introductory text, (g)(1), (3), and (4), and (h) through (k) and adding paragraphs (l) and (m) to read as follows:

§74.790 Permissible service of TV translator and LPTV stations.

- (a) TV translator stations provide a means whereby the signals of broadcast stations may be retransmitted to areas in which direct reception of such stations is unsatisfactory due to distance or intervening terrain barriers.

(b) Except as provided in paragraph (f) of this section, a TV translator station may be used only to receive the signals of a TV broadcast station, another TV translator station, a TV translator relay station, a television intercity relay station, a television STL station, or other suitable sources such as a CARS or common carrier microwave station, for the simultaneous retransmission of the programs and signals of a TV broadcast station. Such retransmissions may be accomplished by any of the following means:

(1) Reception of TV broadcast station programs and signals directly through space and conversion to a different channel by one of the following transmission modes:

* * * * *

(ii) Digital signal regeneration (*i.e.*, signal demodulation, decoding, error processing, encoding, remodulation, and frequency upconversion) and suitable amplification; or,

(2) Demodulation, remodulation, and amplification of TV broadcast station programs and signals received through a microwave transport.

(c) The transmissions of each TV translator station shall be intended for direct reception by the general public, and any other use shall be incidental thereto. A TV translator station shall not be operated solely for the purpose of relaying signals to one or more fixed receiving points for retransmission, distribution, or further relaying.

(d) Except as provided in paragraphs (e) and (f) of this section, the technical characteristics of the retransmitted signals shall not be deliberately altered so as to hinder reception on consumer TV broadcast receiving equipment.

(e) A TV translator station shall not retransmit the programs and signals of any TV broadcast station(s) without the prior written consent of such station(s). A TV translator may multiplex on its output channel the video program services of two or more TV broadcast stations, pursuant to arrangements

with all affected stations, and for this limited purpose, is permitted to alter a TV broadcast signal.

(f) A TV translator station may transmit locally originated visual and/or aural messages limited to emergency warnings of imminent danger, to local public service announcements (PSAs) and to seeking or acknowledging financial support deemed necessary to the continued operation of the station.

Acknowledgments of financial support may include identification of the contributors, the size and nature of the contribution and the advertising messages of the contributors. The originations concerning financial support and PSAs are limited to 30 seconds each, no more than once per hour. Emergency transmissions shall be no longer or more frequent than necessary to protect life and property. Such originations may be accomplished by any technical means agreed upon between the TV translator and TV station whose signal is being retransmitted, but must be capable of being received on consumer TV broadcast reception equipment.

(g) An LPTV station may operate under the following modes of service:

(1) For the retransmission of programming of a TV broadcast station, subject to the prior written consent of the station whose signal is being retransmitted.

* * * * *

(3) Whenever operating, an LPTV station must transmit at least one over-the-air video program signal at no direct charge to viewers at least comparable in resolution to that of its associated analog (NTSC) LPTV station or, in the case of an on-channel digital conversion, that of its former analog LPTV station.

(4) An LPTV station may dynamically alter the bit stream of its signal to transmit one or more video program services in any established DTV video format.

(h) An LPTV station is not subject to minimum required hours of operation and may operate in either of the two modes described in paragraph (g) of this section for any number of hours.

(i) Upon transmitting a signal that meets the requirements of paragraph (g)(3) of this section, an LPTV station may offer services of any nature, consistent with the public interest, convenience, and necessity, on an ancillary or supplementary basis in accordance with the provisions of § 73.624(c) and (g) of this chapter.

(j) An LPTV station may not be operated solely for the purpose of relaying signals to one or more fixed receiving points for retransmission, distribution or relaying.

(k) An LPTV station may receive input signals for transmission or retransmission by any technical means, including those specified in paragraph (b) of this section.

(l) As necessary, a TV translator shall modify, to avoid TV reception tuning conflicts with other stations, the Program System and Information Protocol (PSIP) information in the TV broadcast signal being retransmitted.

(m) Low power television and TV translator stations may no longer operate any facility in analog (NTSC) mode.

25. Revise § 74.791 to read as follows:

§ 74.791 Call signs.

(a) *Low power stations.* Call signs for low power stations will be made up of a prefix consisting of the initial letter K or W followed by the channel number assigned to the station and two additional letters and a suffix consisting of the letters -D.

(b) *Television translator stations.* Call signs for digital television translator stations will be made up of a prefix consisting of the initial letter K or W followed by the channel number assigned to the station and two additional letters and a suffix consisting of the letter -D.

(c) *Low power television stations and Class A television stations.* Low power television and Class A television stations may be assigned a call sign with a four-letter prefix pursuant to § 73.3550 of this chapter. Low power stations with four-letter prefixes will be assigned the suffix –LD and digital Class A stations with four-letter prefixes will be assigned the suffix –CD.

26. Section 74.792 is amended by revising the section heading and paragraphs (a) introductory text and (a)(3) to read as follows:

§ 74.792 Low power TV and TV translator station protected contour.

(a) A low power TV or TV translator will be protected from interference from other low power TV, TV translator or Class A TV stations within the following predicted contours:

* * * * *

(3) 51 dBu for stations on Channels 14 through 36.

* * * * *

27. Section 74.793 is amended by:

- a. Revising the section heading and paragraphs (a), (b), and (c);
- b. Removing and reserving paragraph (f); and
- c. Revising paragraph (h).

The revisions read as follows:

§ 74.793 Low power TV and TV translator station protection of broadcast stations.

(a) An application to construct a new low power TV or TV translator station or change the facilities of

an existing station will not be accepted if it fails to meet the interference protection requirements in this section.

(b) Except as provided in this section, interference prediction analysis is based on the interference thresholds (D/U signal strength ratios) and other criteria and methods specified in § 73.623(c)(2) through (4) of this chapter. Predictions of interference to co-channel TV broadcast, Class A TV, LPTV, and TV translator stations will be based on the interference thresholds specified therein for “DTV-into-DTV.”

(c) The following D/U signal strength ratio (dB) shall apply to the protection of stations on the first adjacent channel. The D/U ratios correspond to the LPTV or TV translator station's specified out-of-channel emission mask.

Table 1 to Paragraph (c)

Simple mask	Stringent mask	Full service mask
-7	-12	Lower (-28)/Upper (-26)

* * * * *

(h) Protection to the authorized facilities of low power TV and TV translator stations shall be based on not causing predicted interference to the population within the service area defined and described in §74.792, except that a digital low power TV or TV translator station must not cause a loss of service to 2.0 percent or more of the population predicted to receive service from the authorized low power TV or TV translator station.

28. Section 74.794 is amended by revising paragraph (a)(1) to read as follows:

§ 74.794 Digital emissions.

(a)

(1) An applicant for a LPTV or TV translator station construction permit shall specify that the station will be constructed to confine out-of-channel emissions within one of the following emission masks: Simple, stringent, or full service.

* * * * *

29. Section 74.795 is amended by revising the section heading and paragraphs (a) and (b) introductory text to read as follows:

§ 74.795 Low power TV and TV translator transmission system facilities.

(a) A low power TV or TV translator station shall operate with a transmitter that is either certificated for licensing based on the following provisions or has been modified for digital operation pursuant to § 74.796.

(b) The following requirements must be met before low power TV and TV translator transmitter will be certificated by the FCC:

* * * * *

30. Section 74.796 is amended by revising the section heading and paragraph (a) to read as follows:

§ 74.796 Modification of transmission systems.

(a) The provisions of § 74.751 shall apply to the modification of low power TV and TV translator transmission systems.

* * * * *

31. Section 74.797 is amended by:

- a. Revising the first and second sentences; and
- b. Removing “subsection” in the second sentence and adding “section” in its place.

The revision reads as follows:

§ 74.797 Biennial Ownership Reports.

The Ownership Report for Commercial Broadcast Stations (FCC Form 2100, Schedule 323) must be electronically filed by December 1 in all odd-numbered years by each licensee of a low power television station or other Respondent (as defined in § 73.3615(a) of this chapter). A licensee or other Respondent with a current and unamended biennial ownership report (i.e., a report that was filed pursuant to this section) on file with the Commission that is still accurate and which was filed using the version of the report that is current on October 1 of the year in which its biennial ownership report is due may electronically validate and resubmit its previously filed biennial ownership report. * * *

§ 74.798 [Removed and Reserved]

32. Remove and reserve § 74.798.

APPENDIX B
Proposed Regulations

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 74 to read as follows:

PART 74 - EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

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

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

2. Section 74.702 is amended by revising paragraph (b) to read as follows:

§ 74.702 Channel assignments.

* * * * *

(b) Changes in the Table of TV Allotments (§ 73.622(j) of this chapter), authorizations to construct new full power television stations or to authorizations to change facilities of existing such stations, may be made without regard to existing or proposed low power TV or TV translator stations. Where such a change results in a low power TV or TV translator station causing actual interference to reception of the full power television station, the licensee or permittee of the low power TV or TV translator station shall eliminate the interference or file an application for a change in channel assignment pursuant to § 73.3572 of this chapter.

* * * * *

3. Section 74.703 is amended by revising paragraph (h) to read as follows:

§ 74.703 Interference.

* * * * *

(h) In each instance where suspension of operation is required, the licensee shall submit a full report to the FCC after operation is resumed containing details of the nature of the interference, the source of the interfering signals, and the remedial steps taken to eliminate the interference. This report shall be filed via a Resumption of Operations notice in the FCC's Licensing and Management System (LMS).

§ 74.708 [Removed and Reserved]

4. Remove and reserve § 74.708.

5. Section 74.709 is amended by revising the tables in paragraphs (a) and (b)(2) to read as follows:

§ 74.709 Land mobile station protection.

(a) * * *

Table 1 to Paragraph (a)

City	Channels	Coordinates	
		Latitude	Longitude
Boston, MA	14, 16	42°21'24.4"	071°03'23.2"
Chicago, IL	14, 15	41°52'28.1"	087°38'22.2"
Cleveland, OH	14, 15	41°29'51.2"	081°49'49.5"
Dallas, TX	16	32°47'09.5"	096°47'38"
Detroit, MI	15, 16	42°19'48.1"	083°02'56.7"
Houston, TX	17	29°45'26.8"	095°21'37.8"
Los Angeles, CA	14, 16, 20	34°03'15"	118°14'31.3"
Miami, FL	14	25°46'38.4"	080°11'31.3"
New York, NY	14, 15, 16	40°45'06.4"	073°59'37.5"
Philadelphia, PA	19, 20	39°56'58.4"	075°09'19.6"
Pittsburgh, PA	14, 18	40°26'19.2"	079°59'59.2"
San Francisco, CA	16, 17	37°46'38.7"	122°24'43.9"
Washington, DC	17, 18	38°53'51.4"	077°00'31.9"

(b) * * *

(2) * * *

Table 2 to Paragraph (b)(2)

City	Channel	Coordinates	
		Latitude	Longitude
San Diego, CA	15	32°41'52.7"	116°56'06.3"
Waterbury, CT	20	41°31'02.3"	073°00'58.4"
Washington, DC	14	38°57'17.4"	077°00'15.9"
Washington, DC	20	38°57'49.9"	077°06'17.2"
Champaign, IL	15	40°04'10"	087°54'46"
Jacksonville, IL	14	39°45'52.1"	090°30'29.5"
Ft. Wayne, IN	15	41°05'35.2"	085°10'41.9"
South Bend, IN	16	41°36'20"	086°12'46"
Salisbury, MD	16	38°24'15.4"	075°34'43.7"
Mt. Pleasant, MI	14	43°34'24.1"	084°46'21"
Hanover, NH	15	43°42'30.2"	072°09'14.3"
Canton, OH	17	40°51'04.2"	081°16'36.4"
Cleveland, OH	19	41°21'19.2"	081°44'23.5"
Oxford, OH	14	39°30'26.2"	084°44'08.8"
Zanesville, OH	18	39°55'42"	081°59'07"
Elmira-Corning, NY	18	42°06'22"	076°52'16"
Harrisburg, PA	21	40°20'43.1"	076°52'08.3"
Johnstown, PA	19	40°19'47.3"	078°53'44.1"
Lancaster, PA	15	40°15'45"	076°27'50"
Philadelphia, PA	17	40°02'30.9"	075°14'21.9"
Pittsburgh, PA	16	40°26'46.2"	079°57'50.2"
Scranton, PA	16	41°10'58.3"	075°52'19.7"
Parkersburg, WV	15	39°20'59.8"	081°33'55.4"
Madison, WI	15	43°03'03"	089°29'13"

* * * * *

§ 74.710 [Removed and Reserved]

6. Remove and reserve § 74.710.

7. Section 74.734 is amended by revising the first sentence of paragraph (a)(4) to read as follows:

§ 74.734 Attended and unattended operation.

(a) * * *

(4) A notification must be filed with the FCC via a Change of Control Point Notice in LMS providing the name, address, and telephone number of a person or persons who may be called to secure suspension of operation of the transmitter promptly should such action be deemed necessary by the FCC. * * *

* * * * *

8. Section 74.735 is amended by revising the first and second sentences of paragraphs (c) introductory text and (c)(2) and paragraph (c)(4) and adding paragraphs (c)(6) and (7) to read as follows:

§ 74.735 Power limitations.

* * * * *

(c) The limits in paragraph (b) of this section apply to the effective radiated power in the horizontally polarized plane. For either omnidirectional or directional antennas, where the ERP values of the vertically and horizontally polarized components are not of equal strength, the ERP limits shall apply to the horizontal polarization, and the vertical ERP shall not exceed the horizontal ERP in any direction. *

* *

(2) Relative field horizontal plane pattern (patterns for both horizontal and vertical polarization should be included if elliptical or circular polarization is used) of the proposed directional antenna. A value of 1.0 should be used for the maximum radiation in the horizontal polarization. * * *

* * * * *

(4) All horizontal plane patterns must be plotted in a PDF attachment to the application in a size sufficient to be easily viewed.

* * * * *

(6) If an elevation pattern is submitted in the application form, similar tabulations and PDF attachments shall be provided for the elevation pattern.

(7) If a matrix pattern is submitted in the application form, similar tabulations and PDF attachments shall be provided as necessary to accurately represent the pattern.

9. Revise § 74.737 to read as follows:

§ 74.737 Antenna location.

(a) An applicant for a new low power TV or TV translator station or for a change in the facilities of an authorized station shall endeavor to select a site that will provide a line-of-sight transmission path to the entire area intended to be served and at which there is available a suitable signal from the primary station, if any, that will be retransmitted.

(b) The transmitting antenna should be placed above growing vegetation and trees lying in the direction of the area intended to be served, to minimize the possibility of signal absorption by foliage.

(c) A site within 8 kilometers of the area intended to be served is to be preferred if the conditions in paragraph (a) of this section can be met.

(d) Consideration should be given to the accessibility of the site at all seasons of the year and to the availability of facilities for the maintenance and operation of the transmitting equipment.

(e) The transmitting antenna should be located as near as is practical to the transmitter to avoid the use of long transmission lines and the associated power losses.

(f) Consideration should be given to the existence of strong radio frequency fields from other transmitters at the site of the transmitting equipment and the possibility that such fields may result in the retransmissions of signals originating on frequencies other than that of the primary station being rebroadcast.

10. Revise § 74.750 to read as follows:

§ 74.750 Transmission system facilities.

(a) A low power TV or TV translator station shall operate with a transmitter that is either certificated for licensing under the provisions of this subpart or type notified for use under part 73 of this chapter.

(b) External preamplifiers also may be used provided that they do not cause improper operation of the transmitting equipment, and use of such preamplifiers is not necessary to meet the provisions of § 74.795(b).

(c) - (d) [Reserved]

(e) The following procedures shall apply:

(1) Any manufacturer of apparatus intended for use at low power TV or TV translator stations may request certification by following the procedures set forth in part 2, subpart J, of this chapter.

(2) Low power TV and TV translator transmitting apparatus that has been certificated by the FCC will normally be authorized without additional measurements from the applicant or licensee.

(3) Applications for certification of modulators to be used with existing certificated TV translator apparatus must include the specifications electrical and mechanical interconnecting requirements for

the apparatus with which it is designed to be used.

(4) Other rules concerning certification, including information regarding withdrawal of type acceptance, modification of certificated equipment, and limitations on the findings upon which certification is based, are set forth in part 2, subpart J, of this chapter.

(f) The transmitting antenna system may be designed to produce horizontal, elliptical, or circular polarization.

(g) Low power TV or TV translator stations installing new certificated transmitting apparatus incorporating modulating equipment need not make equipment performance measurements and shall so indicate on the station license application. Stations adding new or replacing modulating equipment in existing low power TV or TV translator station transmitting apparatus must have a qualified person examine the transmitting system after installation. A report of the methods, measurements, and results must be kept in the station records. However, stations installing modulating equipment solely for the limited local origination of signals permitted by § 74.790 need not comply with the requirements of this paragraph (g).

11. Section 74.751 is amended by:

- a. Revising paragraph (b)(4); and
- b. Removing and reserving paragraphs (b)(6) and (c).

The revision reads as follows:

§ 74.751 Modification of transmission systems.

* * * * *

(b) * * *

(4) Any horizontal change of the location of the antenna.

* * * * *

12. Revise § 74.762 to read as follows:

§ 74.762 Frequency measurements.

(a) The licensee of a low power TV station or a TV translator station must measure the frequency of its output channel as often as necessary to ensure operation consistent with the Advanced Television Systems Committee (ATSC) standard (see § 73.682 of this chapter), and at least once each calendar year at intervals not exceeding 14 months.

(b) In the event that a low power TV or TV translator station is found to be operating inconsistent with the standard in paragraph (a) of this section, the licensee promptly shall suspend operation of the transmitter and shall not resume operation until transmitter has been restored to its assigned frequency.

13. Section 74.763 is amended by revising paragraph (b) to read as follows:

§ 74.763 Time of operation.

* * * * *

(b) In the event that causes beyond the control of the low power TV or TV translator station licensee make it impossible to continue operating, the licensee may discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC via a Suspension of Operations Notice filing in LMS, not later than the 10th day of discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30 day period, the FCC shall be notified via a Resumption of Operations Notice filing in LMS of the date normal operations resumed. If causes beyond the control of the licensee make it

impossible to comply within the allowed period, a request for Special Temporary Authority (see § 73.1635 of this chapter) shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary via LMS.

* * * * *

14. Revise § 74.783 to read as follows:

§ 74.783 Station identification.

(a) Each low power TV and TV translator station not originating local programming as defined by § 74.701(h) must transmit its station identification as follows:

(1) By transmitting the call sign in the short channel name field of the Program and System and Information Protocol (PSIP) (or its ATSC 3.0 equivalent) for at least one stream on the station; or

(2) By arranging for the primary station, whose signal is being rebroadcast, to identify the translator station by transmitting an easily readable visual presentation or a clearly understandable aural presentation of the translator station's call letters and location. Two such identifications shall be made between 7 a.m. and 9 a.m. and 3 p.m. and 5 p.m. each broadcast day at approximately one hour intervals during each time period. Television stations which do not begin their broadcast day before 9 a.m. shall make these identifications in the hours closest to these time periods at the specified intervals.

(b) Licensees of television translators whose station identification is made by the television station whose signals are being rebroadcast by the translator, must secure agreement with this television station licensee to keep in its file, and available to FCC personnel, the translator's call letters and location, giving the name, address, and telephone number of the licensee or his service representative to be contacted in the event of malfunction of the translator. It shall be the responsibility of the translator licensee to furnish current information to the television station licensee for this purpose.

(c) A low power TV station shall comply with the station identification procedures given in § 73.1201 of this chapter when locally originating programming, as defined by § 74.701(h), on its primary stream. Other streams may use the method in paragraph (a)(1) of this section. The identification procedures given in paragraphs (a) and (b) of this section are to be used at all other times.

(d) Transport Stream ID (TSID) values are identification numbers assigned to stations by the FCC and stored in the Commission's online database. Two sequential values are assigned to each station.

(1) All low power TV stations shall transmit their assigned odd-numbered TSID, if one has been assigned. All TV translator stations shall transmit their assigned odd-numbered TSID, if one has been assigned, or else the assigned TSID of the originating station if one has not been assigned to the TV translator station.

(2) In ATSC 3.0, a similar value is used called a Bit Stream ID (BSID). LPTV/translator stations operating in ATSC 3.0 mode shall utilize their assigned even-numbered TSID as their BSID, and transmit it as otherwise required in paragraph (d)(1) of this section.

15. Section 74.784 is amended by revising paragraph (b) to read as follows:

§ 74.784 Rebroadcasts.

* * * * *

(b) The licensee of a low power TV or TV translator station shall not rebroadcast the programs of any other TV broadcast station or other station authorized under the provisions of this subpart without obtaining prior consent of the station whose signals or programs are proposed to be retransmitted. The FCC shall be notified of the call letters of each station rebroadcast, and the licensee of the low power TV or TV broadcast translator station shall certify it has obtained written consent from the licensee of the station whose programs are being retransmitted. This notification shall be provided by e-mail to TVRebroadcast@fcc.gov, the Video Division's e-mail box.

* * * * *

§ 74.785 [Removed and Reserved]

16. Remove and reserve § 74.785.

§ 74.786 [Removed and Reserved]

17. Remove and reserve § 74.786.

18. Section 74.787 is amended by removing paragraph (a)(5)(viii) and adding paragraph (c) to read as follows:

§ 74.787 Licensing.

* * * * *

(c) Licensing. An application to construct a new low power TV or TV translator station or change the facilities of an existing station will not be accepted if it fails to protect an authorized Class A, low power TV, or TV translator station or an application for such a station filed prior to the date the low power TV or TV translator application is filed.

§ 74.789 [Removed and Reserved]

19. Remove and reserve § 74.789.

20. Section 74.790 is amended by revising paragraph (g)(3) and adding paragraph (n) to read as follows:

§ 74.790 Permissible service of TV translator and LPTV stations.

* * * * *

(g) * * *

(3) Whenever operating, an LPTV station must transmit at least one over-the-air video program signal at no direct charge to viewers at a resolution of at least 480i (vertical resolution of 480 lines, interlaced).

* * * * *

(n) An LPTV station shall transmit at least the minimum Program System and Information Protocol (PSIP) information necessary for receivers to display the station's programming. The station is not required to utilize any specific virtual channel number but must avoid creating a contour overlap with any full power TV or Class A TV station's virtual channel or creating a contour overlap with another LPTV station using the same virtual channel.

21. Section 74.791 is amended by adding paragraph (d) to read as follows:

§ 74.791 Call signs.

* * * * *

(d) Call sign protocol. The use of the initial letter generally will follow the pattern used in the broadcast service, i.e., stations west of the Mississippi River will be assigned an initial letter K and those east, the letter W. The two letter combinations following the channel number will be assigned in order, and requests for the assignment of the particular combinations of letters will not be considered. The channel number designator for Channels 2 through 9 will be incorporated in the call sign as a 2-digit number, i.e., 02, 03, etc., so as to avoid similarities with call signs assigned to amateur radio stations. In the event that the two letter combination following the channel numbers reaches ZZ, the next subsequent call sign shall have three letters, beginning with AAA.

22. Section 74.795 is amended by:

- a. Removing "and" at the end of paragraph (b)(4);
- b. Removing the period at the end of paragraph (b)(5) and adding "; and" in its place; and
- c. Adding paragraphs (b)(6) and (7).

The additions read as follows:

§ 74.795 Low power TV and TV translator transmission system facilities.

* * * * *

(b) * * *

(6) The apparatus must be equipped with automatic controls that will place it in a non-radiating condition when no signal is being received on the input channel, either due to absence of a transmitted signal or failure of the receiving portion of the facilities used for rebroadcasting the signal of another station. The automatic control may include a time delay feature to prevent interruptions caused by fading or other momentary failures of the incoming signal; and

(7) Wiring, shielding, and construction shall be in accordance with accepted principles of good engineering practice.

* * * * *

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APPENDIX C

Initial Regulatory Flexibility Act Analysis

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

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

2. The NPRM seeks comment on a number of proposals as part of the Commission's effort to update its rules following the termination of analog operations in the low power television (LPTV) and TV translator services. The NPRM proposes to adopt certain rules previously applicable to analog operations for digital operations.

3. The NPRM also proposes to delete the rule requiring LPTV stations that avail themselves of the provisions set forth in the LPTV Digital Data Services Act (DDSA) digital data service pilot project to comply with the Commission's rules implementing the DDSA.

4. Regarding LPTV/translator call signs, the NPRM proposes to amend the Commission's rules to account for the fact that with respect to some channel numbers, all two letter call sign combinations have been exhausted, and consistent with the Commission's policy that all stations have a unique call sign, the NPRM proposes to codify the current practice of assigning a three letter call sign beginning with "AAA" continuing sequentially through the alphabet for the third letter in such cases.

5. The NPRM seeks comment on updating the means by which stations may identify their broadcasts over the air. The Commission proposes to offer the option to place the call sign in the PSIP short channel name of at least one stream. Additionally, the NPRM seeks to mandate the broadcast of the station's assigned TSID (or BSID, which is the ATSC 3.0 functional equivalent), assuming one is assigned.

6. Consistent with current staff practice, the NPRM seeks comment on its proposal to require a minor modification application on FCC Form 2100, Schedule C for all station relocations, including those under 500 feet. The NPRM also seeks comment on codifying the staff's practice of requiring LPTV stations to transmit with a virtual channel that avoids conflicts with any full power or Class A station's virtual channel in cases where a contour overlap would arise, or with virtual channels chosen by other LPTV stations. The NPRM also seeks comment on updating various filing requirements that currently specify submission by letter or other means to the FCC to instead require submission in the Commission's Licensing and Management System (LMS).

7. The NPRM also seeks comment on removing references in the rules to the use of vertical-only antennas, and to require that the horizontal power is higher than or equal to the vertical power in all directions. The NPRM also seeks to clarify what documentation is required when applications are submitted with various kinds of directional patterns.

¹ 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

² 5 U.S.C. § 603(a).

³ *Id.*

8. The NPRM seeks comment on updating the coordinates found throughout Section 74.709 from NAD 27 to NAD 83 and otherwise conforming the values in Section 74.709(a) with those found in Section 90.303. These coordinates are used only to determine where the Commission will or will not grant applications. Section 74.703(e) still requires the resolution of actual interference, so the proposed adjustments to Section 74.709(a) will not change the required amount of interference protection between LPTV/translator stations and land mobile operations.

9. Finally, the NPRM proposes to update the quality standard set forth in Section 74.790(g)(3) to reflect that 480i video resolution is “comparable in resolution to analog television programming,” consistent with the update the Commission made to its full power station rules.

B. Legal Basis

10. The proposed action is authorized under Sections 1, 4, 301, 303, 307, 308, 309, 310, 316, 319, and 336 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 301, 303, 307, 308, 309, 310, 316, 319, 336.

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

11. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rule revisions, if adopted.⁴ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”⁵ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act (SBA).⁶ 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.⁷ Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

12. *Television Broadcasting.* This industry is comprised of “establishments primarily engaged in broadcasting images together with sound.”⁸ These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public.⁹ These establishments also produce or transmit visual programming to affiliated broadcast television stations,

⁴ 5 U.S.C. § 603(b)(3).

⁵ 5 U.S.C. § 601(6); *see infra* note 6 (explaining the definition of “small business” under 5 U.S.C. § 601(3)); *see* 5 U.S.C. § 601(4) (defining “small organization” as “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field, unless an agency establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register”); 5 U.S.C. § 601(5) (defining “small governmental jurisdiction” as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand, unless an agency establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of the agency and which are based on such factors as location in rural or sparsely populated areas or limited revenues due to the population of such jurisdiction, and publishes such definition(s) in the Federal Register”).

⁶ 5 U.S.C. § 601(3) (incorporating by reference the definition of “small business concern” in 15 U.S.C. § 632(a)(1)). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.” *Id.*

⁷ 15 U.S.C. § 632(a)(1)-(2)(A).

⁸ *See* U.S. Census Bureau, 2017 NAICS Definition, “515120 Television Broadcasting,” <https://www.census.gov/naics/?input=515120&year=2017&details=515120>.

⁹ *Id.*

which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies businesses having \$41.5 million or less in annual receipts as small.¹⁰ 2017 U.S. Census Bureau data indicate that 744 firms in this industry operated for the entire year.¹¹ Of that number, 657 firms had revenue of less than \$25,000,000.¹² Based on this data we estimate that the majority of television broadcasters are small entities under the SBA small business size standard.

13. The Commission estimates that as of March 2022, there were 1,373 licensed commercial television stations.¹³ Of this total, 1,280 stations (or 93.2%) had revenues of \$41.5 million or less in 2021, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on June 1, 2022, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates as of March 2022, there were 384 licensed noncommercial educational (NCE) television stations, 383 Class A TV stations, 1,840 LPTV stations and 3,231 TV translator stations.¹⁴ The Commission however does not compile, and otherwise does not have access to financial information for these television broadcast stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of these television station licensees, we presume that all of these entities qualify as small entities under the above SBA small business size standard.

14. *Radio Stations.* This industry is comprised of “establishments primarily engaged in broadcasting aural programs by radio to the public.”¹⁵ Programming may originate in their own studio, from an affiliated network, or from external sources.¹⁶ The SBA small business size standard for this industry classifies firms having \$41.5 million or less in annual receipts as small.¹⁷ U.S. Census Bureau data for 2017 show that 2,963 firms operated in this industry during that year.¹⁸ Of this number, 1,879 firms operated with revenue of less than \$25 million per year.¹⁹ Based on this data and the SBA's small

¹⁰ See 13 CFR § 121.201, NAICS Code 515120.

¹¹ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 515120, <https://data.census.gov/cedsci/table?y=2017&n=515120&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

¹² *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

¹³ Broadcast Station Totals as of March 31, 2022, Public Notice, DA 22-365 (rel. April 5, 2022) (*March 2022 Broadcast Station Totals PN*), <https://www.fcc.gov/document/broadcast-station-totals-march-31-2022>.

¹⁴ *Id.*

¹⁵ See U.S. Census Bureau, *2017 NAICS Definition*, “515112 Radio Stations,” <https://www.census.gov/naics/?input=515112&year=2017&details=515112>.

¹⁶ *Id.*

¹⁷ See 13 CFR § 121.201, NAICS Code 515112.

¹⁸ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 515112, <https://data.census.gov/cedsci/table?y=2017&n=515112&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. We note that the US Census Bureau withheld publication of the number of firms that operated for the entire year.

¹⁹ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that

(continued....)

business size standard, we estimate a majority of such entities are small entities.

15. The Commission estimates that as of September 2021, there were 4,519 licensed commercial AM radio stations, 6,682 licensed commercial FM radio stations and 4,211 licensed noncommercial (NCE) FM radio stations.²⁰ The Commission however does not compile, and otherwise does not have access to financial information for these radio stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of radio station licensees, we presume that all of these entities qualify as small entities under the above SBA small business size standard.

16. We note, however, that in assessing whether a business concern qualifies as "small" under the above definition, business (control) affiliations²¹ must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of "small business" requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific radio or television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and is therefore possibly over-inclusive. An additional element of the definition of "small business" is that the entity must be independently owned and operated. Because it is difficult to assess these criteria in the context of media entities, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and similarly may be over-inclusive.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

17. The Commission seeks comment on whether stations should be able to now make certain required notifications through filings procedures in LMS as opposed to by letter, as has been the case. In addition, the Commission tentatively concludes it will modify Section 74.751(b)(4) to require LPTV/translator licensees and permittees to file a minor modification application requesting authorization for all station relocations, including those less than 500 feet (152.4 meters).²² In past practice, the staff has not permitted stations to move to another tower that is less than 500 feet away from its current location without filing a minor modification application – this rule change would codify the staff's current practice. Should the Commission ultimately decide to adopt these requirements, they would result in a modified paperwork obligation. If adopted, the Commission will seek approval and the corresponding burdens to account for this modified reporting requirement.

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

18. The RFA requires an agency to describe any significant alternatives that it has considered

operated with sales/value of shipments/revenue in the individual categories for less than \$100,000, and \$100,000 to \$249,999 to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in these categories). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

²⁰ Broadcast Station Totals as of September 30, 2021 Press Release (MB Oct. 4, 2021) (September 30, 2021 Broadcast Station Totals), <https://docs.fcc.gov/public/attachments/DOC-376230A1.pdf>.

²¹ "[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both." 13 CFR § 21.103(a)(1).

²² 47 CFR § 74.751(b)(4) (Modification of transmission systems). The rule as currently written exempts station relocations of less than 500 feet from the application process.

in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.²³

19. The NPRM seeks comment on a number of proposals that would codify the staff's current practices or better reflect technological advancements in the industry. For example, the NPRM seeks comment on codifying the staff's practice of requiring LPTV stations that voluntarily transmit with a virtual channel to choose one that avoids conflicts with any full-power or Class A station's virtual channel in cases where a contour overlap would arise, or with virtual channels chosen by other LPTV stations. Moreover, the NPRM proposes removing references in the rules to the use of vertical-only antennas, and requires that the horizontal power is higher than or equal to the vertical power in all directions, consistent with the requirements for full-power stations. These proposals are an attempt to simplify, streamline, and modernize existing rules and procedures that will enable LPTV stations to more easily comply with licensing requirements through familiar and low cost measures.

20. The NPRM also seeks comment on updating the coordinates in Section 74.709 from NAD 27 to NAD 83 in order to conform the values with those found in Part 90 of the Commission's rules. These coordinates are used only to determine whether the Commission will or will not grant applications. Section 74.703(e) still requires the resolution of actual interference, and so the Commission would not need to balance the interference protection afforded to land mobile operation with the updated, streamlined benefits for small entities as a result of this proposal.

21. Further, the NPRM seeks comment on updating various filing requirements that currently specify submission by letter or other means to the FCC to instead require submission in LMS. The Commission anticipates that this option will lessen the physical burden on small entities. The Commission will have to consider the benefits and costs of allowing LPTV stations to submit certain notifications in LMS.

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

22. None.

²³ See 5 U.S.C. § 603(c).