

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 11, 73, and 74

[MB Docket Nos. 24–147 and 24–148; FCC 24–65; FR ID 226295]

Political Programming and Online Public File Requirements for Low Power Television Stations; Rules To Advance the Low Power Television, TV Translator and Class A Television Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on revisions to our rules relating to the Low Power Television service (LPTV Service). The LPTV Service includes low power television (LPTV) stations as well as television translator (TV translator) stations and Class A TV stations (Class A). The Commission created the LPTV Service in 1982 to bring local television service to viewers “otherwise unserved or underserved” by existing full power service providers. Today, these stations are an established component of the nation’s television system, delivering free over-the-air TV service, including locally produced programming, to millions of viewers in rural and discrete urban communities. In light of changes to the LPTV Service over the last forty years, we invite comment on changes to our rules and policies to ensure that LPTV Service continues to flourish and serve the public interest.

DATES: Comments may be filed on or before July 29, 2024, and reply comments may be filed on or before August 26, 2024.

ADDRESSES: Pursuant to §§ 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). You may submit comments and reply comments, identified by MB Docket Nos. 24–147 and 24–148, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: <https://www.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 hand or messenger delivery, by commercial courier, or by the U.S.

Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.

- Hand-delivered or messenger-delivered paper filings for the Commission’s Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC’s mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

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

FOR FURTHER INFORMATION CONTACT: Kim Matthews, Media Bureau, Policy Division, at (202) 418–2154, or by email at Kim.Matthews@fcc.gov; Shaun Maher, Video Division, Media Bureau at (202) 418–2324, or by email at Shaun.Maher@fcc.gov; Mark Colombo, Video Division, Media Bureau at (202) 418–7611, or by email at Mark.Colombo@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s Notice of Proposed Rulemaking (NPRM), FCC 24–65, adopted on June 5, 2024 and released on June 10, 2024. The full text of this document is available for download at <https://docs.fcc.gov/public/attachments/FCC-24-65A1.pdf>. To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to FCC504@fcc.gov or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

Paperwork Reduction Act. This document 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.

Providing Accountability Through Transparency Act. Consistent with the Providing Accountability Through Transparency Act, Public Law 118–9, a summary of this document will be available on <https://www.fcc.gov/proposed-rulemakings>.

Synopsis

I. Background

1. The LPTV Service was established over forty years ago as a secondary, niche service. At the time of its creation, the viability of the LPTV Service was not established and it was exempted from certain obligations applicable to other broadcasters, including certain recordkeeping and operating obligations. As the name suggests, stations in the LPTV Service have lower authorized power levels than full power TV stations. Because the LPTV Service operates at reduced power levels, the stations serve a much smaller geographic region than full power stations and can be fit into areas where a higher power station cannot be accommodated in the Table of TV Allotments or in accordance with section 307(b) of the Act. TV translator and Class A stations are technically equivalent to LPTV stations in most respects. While LPTV, TV translator, and Class A stations have many similarities under our rules, they are each a distinct class of broadcast television station, with differing rights and responsibilities.

2. Currently, there are approximately 1,829 licensed LPTV stations. These stations operate in all states and territories. LPTV stations are permitted to both originate programming or retransmit, with permission, the signal of another TV station. LPTV stations are not limited in the amount of programming they may originate or rebroadcast, and have fewer operating obligations than full power television stations. LPTV stations completed the transition from analog to digital operations in 2021.

3. There are approximately 3,118 licensed TV translators, most operating in the western regions of the United States. With limited exception, TV translators are not permitted to originate programming and may only simultaneously retransmit the signal of another TV station, with permission. TV translator stations are intended to provide service to areas where direct reception of full-service broadcast stations is either not possible or unsatisfactory because of distance or intervening terrain obstructions.

Although TV translators are not limited to operation within the contour of the station or stations they rebroadcast, they may be used to provide service to terrain-obstructed areas within a full-service station's service area. TV translators are often used to deliver the only over-the-air television service available to rural communities.

4. In addition, there are approximately 379 licensed Class A stations. In 2000, as instructed by Congress in the Community Broadcasters Protection Act of 1999 (CBPA), the Commission established the Class A television service. Class A stations are stations that operate at low power, like LPTV/TV translator stations, but are afforded primary interference protection status. The CBPA allowed certain qualifying LPTV stations to apply for Class A status. Class A stations completed a transition from analog to digital operations in 2015. Although they are not a secondary service, Class A stations are still subject to the various LPTV/TV translator licensing and technical requirements found in part 74 of our rules.

5. The LPTV Service has thrived since its creation in providing service to millions in local communities of all kinds across the nation. All such stations are currently required to operate in digital format. While some LPTV stations air "niche" programming, sometimes locally produced, to residents of specific ethnic, racial, or special interest communities, sometimes in foreign languages, others are affiliated with a television network, including the top four networks (ABC, CBS, Fox, and NBC). In addition, while some LPTV stations remain small, independently owned stations, others are part of large station groups. In some areas unserved by any other television station, an LPTV station may be the only television station providing local news, weather, and public affairs programming. Even in some well-served markets, LPTV stations may provide the only service targeted to the specific interests of residents of discrete geographical communities within those markets. In many instances, these stations are significant enough voices in their communities to attract requests to carry political advertising and may also carry sponsored programming pursuant to time brokerage, local marketing agreements, or other agreements.

II. Discussion

6. Given the maturation of the LPTV Service since its initiation, we seek comment in this proceeding about comprehensive updates to the regulations of the service. In sections A

through C below we invite comment on whether we should require certain LPTV stations to maintain an online public inspection file (OPIF). In sections D through L we propose updates and amendments to our rules to address advances in the LPTV Service, update our existing rules to provide clarifications and resolve inconsistencies in our rules, prevent abuse of our licensing processes, create an equal playing field, and ensure that LPTV/TV translator stations are able to fully utilize the country's limited spectral resources to provide television services. Specifically, we propose and/or seek comment on whether to:

- Require certain LPTV stations to maintain an online public inspection file.
- Adopt procedures for certain LPTV stations to establish an online public inspection file.
- Specify in our rules that public inspection and political broadcasting requirements are applicable to all LPTV stations.
- Make other changes to § 73.3526 of our rules to correct cross references and other inaccuracies relating to stations in the LPTV Service and commercial radio and TV stations and establish new reporting requirements for Class A and LPTV stations.
- Amend the method for calculating the maximum distance that a displaced or channel sharing station may move under the LPTV/TV translator displacement rule.
- Revise the LPTV/TV translator minor change rule to clarify the maximum distance that Class A and LPTV/TV translator stations may move.
- Require that Class A and LPTV/TV translator stations specify a community of license (COL) within their station's contour.
- Adopt minimum operating and defined minimum video program requirements for LPTV stations.
- Require that LPTV/TV translator stations seek authority to change designation between LPTV and TV translator status and require Class A and LPTV/TV translator stations to maintain a call sign consistent with their class of service.
- Require use of a "stringent" or "full-service" emission mask for channel 14 Class A and LPTV/TV translator stations to prevent interference to Land Mobile Radio (LMR) stations.
- Prohibit LPTV/TV translator station operations above TV channel 36.
- Remove the 30 day public notice comment period for displacement applications and clarify when an LPTV/TV translator station displaced by a full

power station's channel substitution may apply for displacement.

- Clarify the existing displacement rule and interference thresholds for actual and predicted interference, and amend the definition of displacement to include displacement by LMR stations; by protected television facilities in Canada and Mexico; and due to interference to TV translator input channels.

- Codify other rule clarifications consistent with precedent, including the use of emission masks at Distributed Transmission System (DTS) transmitter sites; the maximum grid resolution permitted with interference analyses; and application of the part 73 "program test authority" rule to LPTV/TV translator stations.

- Remove duplicate definitions and re-letter the definitions remaining in the part 74 rules, and make other editorial, non-substantive corrections to the part 11, 73, and 74 rules.

A. Requiring Certain LPTV Stations To Maintain an Online Public Inspection File

1. Existing Public File Requirements

7. To provide the public with access to information about station operations, the Commission's rules have long required broadcast television and radio stations to maintain a physical public inspection file, including a political file, at their respective stations or headquarters and to place in the file records that provide information about station operations. The purpose of the public inspection file requirement is to "make information to which the public already has a right more readily available, so that the public will be encouraged to play a more active part in dialogue with broadcast licensees."

8. The Commission promulgated its first political file rule in 1938. That initial rule was essentially identical to our current political file regulation in its requirement that the file be available for public inspection and include both candidate requests for time and the disposition of those requests, including the "charges made" for the broadcast time. In 1965, following action by Congress to allow greater public participation in the broadcast licensing process, the Commission adopted a broader public inspection file rule to enable inspection of broadcast applications, reports, and related documents at a station's main studio. The Commission noted that Congress' actions "zealously guarded the rights of the general public to be informed" and that the Commission's goal was to make

“practically accessible to the public information to which it is entitled.”

9. In 2012, the Commission replaced the decades-old requirement that commercial and noncommercial television stations maintain public files at their main studios with a requirement to post most of the documents in those files to a central, online public file hosted by the Commission. In 2016, the Commission expanded the online public inspection file (OPIF) to include cable operators, Direct Broadcast Satellite (DBS) providers, broadcast radio licensees, and satellite radio (also referred to as “Satellite Digital Audio Radio Service” or “SDARS”) licensees. The Commission’s goals were to modernize the procedures television broadcasters and other media entities use to inform the public about how they are serving their communities, make information concerning service more accessible to the public, and reduce the cost of compliance.

10. Section 73.3526, the online public inspection file rule for commercial television and radio stations, requires “[e]very permittee or licensee of an AM, FM, TV, or Class A TV station in the commercial broadcast services” to maintain a public inspection file with material identified in the rule. LPTV stations are not currently subject to § 73.3526. Among other required content, § 73.3526(e) specifies that the public inspection file must include a copy of the station’s current authorization, any application tendered for filing with the Commission together with related material, citizen agreements, contour maps, ownership reports and related materials, the political file, the Equal Employment Opportunity file, radio and television time brokerage agreements, must-carry or retransmission consent elections, radio and television joint sales agreements, shared service agreements, and foreign sponsorship disclosures. Section 73.3526(b) requires that television and radio station licensees or applicants subject to the rule place the contents of their public inspection file “in the online public file hosted by the Commission.”

11. When the Commission created the LPTV category of service in the LPTV Order, the Commission concluded that because the service was of undetermined viability and the stations are secondary, have small coverage areas, and are not required to serve a particular community or a specified coverage area, “minimal regulation of low power television is in the public interest notwithstanding the fact that it is a broadcast service.” Nevertheless, the Commission concluded that sections

312(a)(7) and (f) and 315 of the Act apply to LPTV stations. Section 312(a)(7) grants candidates for Federal office reasonable access to broadcasting stations. Section 315(a) states that, if a licensee permits one candidate for a public office to use its station, it must afford “equal opportunities” to all other candidates for that office to use the station. Section 315(b) provides that, during certain periods before an election, political candidates are entitled to “the lowest unit charge of the station for the same class and amount of time for the same period.” In addition, section 315(e) requires broadcast licensees to maintain and make available for public inspection certain records of requests to purchase broadcast time on the station. While LPTV stations must comply with the statutory requirements of sections 312(a)(7) and 315, the Commission did not amend the political programming and political file rules that apply to LPTV when it last amended the political programming and political file rules that apply to full power and Class A stations.

12. LPTV stations do have certain recordkeeping obligations aside from the political programming requirements described above. Section 74.781 requires LPTV stations to “maintain adequate station records” and make them available to the Commission upon request. Section 74.781(c) also requires that records “shall be maintained for inspection,” although that sentence mentions only translator stations. The records required to be maintained include the station authorization, official correspondence with the Commission, contracts, and “other pertinent documents.” In addition, § 74.780 of the rules also contains some recordkeeping obligations. For example, LPTV stations must retain records of programming that is a “political matter or matter involving the discussion of a controversial issue of public importance” pursuant to Commission’s sponsorship identification rules. In addition, LPTV stations must provide to the Commission upon request a copy of any network affiliation contract between the station and a national network.

13. The implementation of the online file was a significant achievement in the Commission’s ongoing efforts to improve public access to important station information. Since it was launched in 2012, more than 19,875,413 documents have been successfully uploaded into the online file, and the site receives 108,583 unique visitors every two weeks. Today, all full power and Class A television broadcast stations, cable operators, full-service radio broadcasters, DBS providers, and

SDARS licensees have fully transitioned to OPIF. Despite initial concerns, NAB characterized the initial implementation of the online file as “uneventful.” The benefits of the online public file, versus maintaining files in main studios or other station offices, are clear. The evolution of the internet and the spread of broadband infrastructure have transformed the way society accesses information today. Prior to OPIF, reviewing a local public inspection file typically involved the substantial expense and inconvenience of traveling to the station. Maintaining station records instead in a centralized, online file permits review with a quick and essentially costless internet search and increases transparency to the public. OPIF also is consistent with the online document retention procedures used by most businesses today to increase efficiency, reduce storage costs, and improve access.

2. Application of Public File to Certain LPTV Stations

14. As noted above, to “zealously guard[] the rights of the general public to be informed” and to make “practically accessible to the public information to which it is entitled,” full power and Class A television stations must comply with the public file rule. Yet LPTV stations, including stations that are leaders in their local markets and provide services comparable to those of full power and Class A stations, are currently required to make only certain records, including political file materials, available to the public and to provide certain records to the Commission upon request. We believe that the benefits of OPIF described above also would support requiring certain LPTV stations to comply with the same OPIF obligations as full power and Class A stations, and we seek comment on this issue. We seek comment on how, specifically, the public uses the public file to safeguard the value of the public airways. For instance, what information from broadcasters’ public files does the public routinely seek? Has the trend toward consumption of video media not changed the informational or civic value of the public file—and, if so, how? Have any studies or other information-gathering activity utilizing public file information been completed by civil society or public interest groups, and what do those studies or analyses reveal, if anything? Given the fact that LPTV is now an established service, the increased relevance of the LPTV Service generally, and the category of LPTV stations with top-four network

affiliations specifically, we seek comment on whether to require certain LPTV stations to comply with the online public inspection file requirements of § 73.3526 of our rules. We invite comment on whether, for the reasons described below, we should modify our rules to extend the same OPIF requirements applicable to full power and Class A television stations to top-four network affiliated LPTV stations. We also invite comment on whether we should include LPTV stations affiliated with other national TV networks in the requirement to maintain an OPIF or, rather than tying any OPIF requirement for LPTV stations to network affiliation, if we should instead apply the OPIF requirement to LPTV stations that are among the top-four TV stations in each market based on the Nielsen ratings. Are there any other ways of differentiating among LPTV stations for purposes of imposing OPIF requirements?

15. It has been over 40 years since the implementation of the LPTV Service. Today, there are almost 1,900 LPTV stations currently operating and providing important programming to the communities they serve. Many LPTV stations now serve as a significant source of programming in their communities, especially those that are network affiliates. Given these developments, has the LPTV Service become sufficiently well-established at this point in time to require that certain LPTV stations comply with the same or similar public file requirements that apply to full power and Class A TV stations? As LPTV stations have evolved to become, in some cases, a significant presence in their local markets, should such stations have a similar public inspection file obligation to ensure that this information is readily available to the public and the Commission? Is the Commission's prior justification for imposing minimal obligations on all LPTV stations now less compelling for certain categories of stations? Is there any reason not to extend OPIF obligations to at least some LPTV stations? Would the burden of requiring any category of LPTV station to comply with the same OPIF obligations as full power and Class A stations outweigh the benefits to the public? What are the costs associated with differentiating among LPTV stations for these purposes?

16. Should stations with a top-four television network affiliation be subject to the OPIF requirements for the same reasons as full power and Class A stations—to zealously guard the rights of the general public to be informed and to make practically accessible to the public information to which it is

entitled? Would expansion of the online public file to this category of LPTV stations improve public access to the files of affiliated stations by clearly identifying the records LPTV stations are required to make available to the public in the centralized, online file? In proposing to focus only on LPTV stations that are affiliated with a top-four television network, our goal is to limit the OPIF obligation to those LPTV stations that carry programming that is more likely to be widely viewed. Such stations have greater resources and thus can more easily address any implementation issues that may arise. Top-four network affiliates are generally the top-rated stations in their local markets. In addition, LPTV stations affiliated with a top-four network are more likely to be carried by multichannel video programming distributors (MVPDs) despite their status as low power stations, thereby extending their reach. We seek comment on the current extent of such MVPD carriage of non-class A LPTV stations. We note that the Commission has previously imposed different requirements on top-four network affiliates in light of the greater resources at their disposal and in recognition of the important role these stations play in providing local news and public affairs programming to their communities. We also believe that top-four network affiliated LPTV stations are more likely to have the kinds of materials required to be retained in OPIF, such as political file material, than LPTV stations that are not network affiliates. Thus, we believe that requiring these stations to comply with OPIF would make important information about the stations more easily accessible and provide the public the opportunity to ensure that these stations are properly discharging their duty to operate in the public interest. We seek comment on these issues.

17. We also seek comment on what burdens the obligation to maintain an online public file would impose on LPTV stations with a top-four television network affiliation. Since LPTV stations currently must maintain certain records and provide these records to the Commission upon request, would there be a significant additional burden for LPTV stations with a top-four affiliation to maintain these same records in an OPIF file? We believe our proposal to use the online public file rather than paper files may result in modest costs upfront but will ultimately allow these stations to realize savings by no longer having to keep a local file on a going-forward basis. We note, as described above, that the OPIF for full power and

Class A stations has been a significant achievement that improves transparency and defied initial concerns. We also believe that LPTV stations affiliated with a top-four television network can more easily address any implementation issues that may arise than other LPTV stations. We invite comment on these views.

18. Should we extend OPIF requirements to LPTV stations that are affiliated with TV networks other than the top-four? If so, what other LPTV network affiliates should be included in the OPIF requirement? Is there any reason to exclude any LPTV network affiliate from OPIF obligations and, if so, what are those? As noted above, approximately 15% of LPTV stations are affiliated with any network. How would inclusion of LPTV stations with other network affiliations alter the benefits and burdens of requiring certain LPTV stations to maintain an OPIF?

19. Should we instead extend OPIF requirements to LPTV stations that are among the top-four television stations in each television market (Designated Market Area) based on ratings regardless of the station's network affiliation? If we were to adopt this approach, we propose to calculate whether a station is rated among the Top 4 by cross-reference to the Commission's media ownership rules defining the Top 4 criteria in § 73.3555(b)(1) of our rules. We invite comment on this proposal and on any alternative methods of calculating whether a station is among the Top 4 rated stations in the market.

20. Should we adopt some other measure for identifying those LPTV stations to which we should extend OPIF requirements? If we were to use an approach based on ratings rather than network affiliation, should we account for instances in which the LPTV station makes use of multicast streams, satellite stations, or translators? Should the ratings of these stations or streams be combined with the ratings of the primary station or stream to determine the station's ratings in the DMA? The Commission has previously expressed concern about using rankings or ratings, noting that those thresholds are subject to change and "would be difficult to measure and administer, and would provide uncertainty to broadcasters, as they are not as able to predict or control ratings." Do those same concerns apply if we were to use rankings for purposes of determining which LPTV stations are subject to OPIF?

21. If we focused on ratings, how would we account for stations that over time moved in or out of the top-four rating category? For instance, should we require any station that was rated within

the top-four in the market within a specific period of time, such as a two year period, to maintain an online public file? If a station is in the top-four for one month during a two-year period, should the station be required to maintain an OPIF for the entire two-year period? Should a different period of time apply and why? Should we recalculate the ratings/rankings at an established time each year for purposes of determining which LPTV stations are covered? Once a station achieves top-four status, should it be required to maintain an OPIF in perpetuity? That is, should we have a no backsliding requirement, such that once a station is covered under our OPIF requirements, it would remain covered? Would the fact that an LPTV station already incurred the modest cost of establishing an OPIF file, and the likely savings that would result from no longer having to maintain a local file, justify such a requirement? How would focusing on the top-four television stations in each television market alter the benefits and burdens of requiring a certain specified category of LPTV stations to maintain an OPIF?

22. If we require certain LPTV stations to comply with the OPIF obligations in § 73.3526 of our rules, we intend to implement efficiencies used in prior transition phases to OPIF in order to reduce the burden on these stations. Specifically, we propose to require that LPTV stations upload only those OPIF documents not otherwise filed with the Commission or available on the Commission's website. Any document or information required to be kept in the public file and that is required to be filed with the Commission electronically would be imported to the online public file and updated by the Commission. Given these measures to minimize the burdens, would the benefits of imposing an OPIF requirement on top-four network affiliated LPTV stations or any other category of LPTV stations, including improving public access to information about LPTV station operations, outweigh any costs?

23. In addition, if we were to require certain LPTV stations to post political file information in OPIF, we propose to do so consistent with prior transitions. Specifically, we propose that LPTV licensees required to comply with OPIF must upload documents to the online political file only on a going-forward basis, and will not be required to upload their existing political files. Under this proposal, LPTV licensees could continue to maintain at the station those documents already in place in their political file at the time any new rules in this proceeding become effective, and

in that way decrease the burden on LPTV licensees. We seek comment on this proposal. Should we permit LPTV stations that are not required to maintain an OPIF to voluntarily maintain an OPIF? Should we permit LPTV stations that will be obligated to maintain an OPIF to elect voluntarily to upload to OPIF existing political file material (*i.e.*, material that they would otherwise not be required to upload under the proposed rules)?

24. If we require certain LPTV stations to comply with the online public inspection file requirements of § 73.3526 of our rules, those LPTV stations would be required to maintain in their OPIF, and thus make available for public inspection, the material identified in that rule, including a copy of the station's current authorization, any application tendered for filing with the Commission together with related material, citizen agreements, contour maps, ownership reports and related materials, the political file, the Equal Employment Opportunity file, must-carry or retransmission consent elections and foreign sponsorship disclosures. Pursuant to § 73.3526(b), LPTV station licensees and applicants subject to the rule would be required to place the contents of their public inspection file "in the online public file hosted by the Commission." Under our current rules, as discussed above, LPTV stations currently must maintain certain materials, including the current instrument of authorization, official correspondence with the FCC, contracts, permission for rebroadcasts, and "other pertinent documents," and make them available to the Commission upon request. If certain LPTV stations are covered by OPIF, we also propose that those stations include in their online file the list required to be "available for public inspection" pursuant to § 73.1212(e). Stations not required to maintain an OPIF would maintain the list as specified in § 74.781(c). Is there any reason LPTV stations should be exempt from making the documents identified in § 73.3526 available for public inspection in OPIF?

3. Public File Statutory Authority

25. We note that we have broad authority under Title III of the Act to regulate radio communications, including classification of stations, prescription of the nature of services to be rendered, and the authority to establish the licensing procedures for broadcast stations when the public interest is found to be served. Section 303(b) provides that we have authority to "prescribe the nature of the service" offered by licensed stations. And section

303(r) of the Act provides that we have authority to "[m]ake such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of th[e] Act." We tentatively conclude that the OPIF obligations for LPTV stations on which we seek comment herein fall within this broad grant of authority because they would promote public understanding of various issues concerning the operation of the station and better inform the public about how the station is serving the community. Improving public access to information about certain LPTV stations also is consistent with the goal of sections 309 and 311 of the Act to permit public participation in broadcast licensing. In addition, section 315(e) of the Act requires licensees to make their political files available for public inspection. We believe that requiring LPTV licensees to make certain records available for public inspection in OPIF would further the Act's goal of ensuring that the public can access important information about the station and, with respect to political files, assist candidates and others seeking information about political advertisements being carried on the station. We invite comment on these views.

B. Procedures for LPTV Stations To Establish an OPIF

26. If we were to require that certain LPTV stations comply with the OPIF requirements in § 73.3526, such as those affiliated with a top-four TV network or those rated in the top four in a DMA or otherwise, we propose that the Media Bureau issue a Public Notice with an initial/draft list of those LPTV stations that fall within the affected group, based on generally accepted industry data. Licensees and other interested parties would be given a period of time to file comments on the initial/draft list in order to ensure it correctly identifies those LPTV stations subject to the OPIF requirement. The Media Bureau would subsequently issue a Public Notice including a final list of LPTV stations subject to the OPIF requirement in accordance with our rules and set a deadline by which each such LPTV station must begin to maintain the OPIF on the Commission's OPIF platform. Upon release of the Public Notice, the Commission would also send a copy of the public notice to the authorized representative of each station as reflected in the Commission's Licensing and Management System (LMS). We invite comment on this approach. We also seek comment on whether these

proposals appropriately accommodate small entities.

27. If, after the Media Bureau issues a final list of LPTV stations that are subject to the OPIF requirement, an LPTV station's network affiliation or ratings ranking changes such that it would either become or no longer be covered by the OPIF rule, we propose that the LPTV station must notify the Commission within 10 days of the change in their affiliation or ranking. If we tie the OPIF requirement to LPTV stations ranked in the top-four in the market, such a change would be calculated based on rankings averaged over a 12-month period. Specifically, we propose that LPTV stations be required to send written notice to the Commission at an email address to be provided by the Media Bureau in the Public Notice that includes the final list of LPTV stations. The email would request either that an OPIF be created for the station or that the station be deleted from the list of LPTV stations with an OPIF requirement. The LPTV station would also be required to include the date the station's affiliation or ranking changed, and details of the station's change in circumstance (*i.e.*, its new affiliation or ranking information). For LPTV stations with a new OPIF requirement, this filing would initiate the process of the Commission creating an OPIF for that LPTV station. The Media Bureau would by letter inform the station of the deadline by which the LPTV station must upload documents to its OPIF. We propose that stations with a new OPIF requirement be required to begin uploading all required OPIF documents within 60 days of the date of the letter. For LPTV stations that notify the Commission that they are no longer subject to the OPIF rule, the Media Bureau would provide written confirmation to the licensee by letter verifying they are no longer subject to the rule. The station would be required to upload a copy of the letter to its OPIF to ensure members of the public are aware it is no longer subject to the OPIF rule. The OPIF would remain publicly accessible for historical and investigatory purposes. We seek comment on these proposed procedures. How should the procedures change if we were to require stations to maintain an OPIF in perpetuity once they are required to do so? For example, in such a situation, would the LPTV station still have to notify the Commission about its change in rank/affiliation? Would there be other requirements that would no longer be needed (*e.g.*, no need to upload a letter discussing the station's change in rank/affiliation)?

28. If we were to base an OPIF requirement on a station's market ranking should we adopt a waiting period before we impose an OPIF requirement on a station that becomes a top-four ranked station or drops out of the top-four to ensure that the change in market ranking is not short-lived? If so, how long should the waiting period be? As noted above, if we use an approach based on station ratings, that calculation is averaged over a 12-month period. If we adopt a waiting period, what should the waiting period be if we used an approach based on ratings? Should other procedures apply if we adopt a requirement based on a top-four market rating? If so why? We seek comment on these issues.

C. Recordkeeping and Political Broadcasting Obligations Applicable to All LPTV Stations

29. As discussed above, LPTV stations are currently required by § 74.781(a) of the rules to "maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, contracts, permission for rebroadcasts, and other pertinent documents." Section 74.781(b) also requires LPTV stations to retain certain information about tower lighting. Section 74.781(c) specifies a location where records must be "maintained for inspection," but that sentence appears to refer only to translators, not LPTV stations. If we were to require a subset of LPTV stations to comply with § 73.3526, we propose to revise § 74.781(c) to reference the requirement that certain LPTV stations maintain an OPIF and to specify where LPTV stations must retain records not included in OPIF. Our proposed revisions to § 74.781 would specify where records for LPTV stations, including the political file, can be accessed by the Commission and the public.

30. In addition, we believe it is appropriate to require that all LPTV stations maintain records for public inspection, including those that do not have an OPIF requirement as a result of this proceeding. We interpret the requirement in § 74.781(c) that station records be "maintained for inspection" as mandating that such records be maintained for public inspection, as that paragraph separately mandates that station records also be made available to the Commission. While the inspection requirement in § 74.781(c) could be read to apply only to translators, we note that requirement was adopted in 1975, prior to the establishment of the LPTV Service. As both § 74.781(a) and (b) clearly apply to both translators and

LPTV stations, we believe § 74.781(c) is best read as not intended to limit the application of the inspection requirement solely to translators. Nothing in the Commission's order adding LPTV stations to § 74.781 suggests that the Commission intended to carve out LPTV stations from the inspection requirement. Moreover, we tentatively conclude that it would serve the public interest to require LPTV stations maintain records for public inspection. Accordingly, we propose to revise the inspection requirement in § 74.781(c) to clarify that the rule applies to both translators and LPTV stations. We seek comment on these proposed changes to § 74.781(c). Is there any reason to exempt LPTV stations not subject to an OPIF requirement from a public inspection requirement? Is there any reason translators should be subject to a public inspection requirement and not LPTV stations?

31. We also propose to update the list of political programming rules applicable to LPTV stations to align that list with existing and longstanding statutory requirements pursuant to sections 312 and 315 of the Act. Should we specify that LPTV stations are subject to §§ 73.1941 through 73.1944 of the Commission's rules, in addition to 73.1940? These rules codify the statutory requirements of sections 312(a)(7) and 315 of the Act, which apply to LPTV stations. The Commission originally adopted the rules in their current format in 1991, and said that the rules were intended to "accurately and closely reflect the language, intent, and requirements of the broadcasting portions" of the Act and to provide "detailed and practical advice" to broadcasters, candidates, and the public regarding broadcasters' requirements and the rights afforded to candidates by the Act. The rules were also adopted "to promote achievement of the Act's objectives while being responsive to the evolving sales practices of broadcast stations." We tentatively conclude that revising our rules to specify that the current versions of §§ 73.1940 through 73.1944 are applicable to LPTV stations would more accurately reflect the statutory obligations of LPTV stations and conform our requirements regarding LPTV stations to the requirements contained in sections 312(a)(7) and 315 of the Act. We seek comment on this tentative conclusion.

D. Other Proposed Changes to § 73.3526

32. Finally, we propose to make other changes to § 73.3526 of our rules to correct cross references and other inaccuracies, clarify existing

requirements, establish a filing frequency for Class A stations to certify they have met their ongoing eligibility requirements, and require Class A and LPTV stations to disclose time brokerage agreements (TBAs) and joint service agreements (JSAs).

33. First, we propose to add to § 73.3526(e)(11)(iii), which addresses the requirement to file an annual Children's Television Programming Report, a reference to Class A television stations. Class A stations have been required to prepare and file such reports since the Class A service was first established, but a reference to Class A was inadvertently omitted from this provision of the rules. Further, § 73.3526(a)(2) specifically requires Class A stations to comply with § 73.3526(e)(11). Second, we propose to correct § 73.3526(a)(2) to indicate that all commercial radio and television stations must comply with § 73.3526(e)(19), which requires stations to retain in OPIF documentation sufficient to demonstrate that the station is in compliance with the requirements set forth in § 73.1212(j)(7) of the Commission's rules. Third, we propose to correct § 73.3526(a)(2) to indicate that commercial radio and television stations must comply with § 73.3526(e)(14) and (16). These provisions expressly apply to commercial radio and TV stations, but § 73.3526(a)(2) does not include a cross reference to both those provisions with respect to these stations. We seek comment on these rule clarifications.

34. Third, we propose to correct § 73.3526(a)(2) to indicate that Class A stations (including those established pursuant to the LPPA) must comply with § 73.3526(e)(17), which requires that Class A stations include in OPIF documentation sufficient to demonstrate that the station is continuing to meet the ongoing Class A eligibility and service requirements set forth in § 73.6001. In addition, we propose to establish how often Class A stations must provide such documentation and what type of documentation is required. As part of a Class A station's continuing eligibility obligation, it must broadcast a minimum of 18 hours per day and air an average of at least three hours per week of locally produced programming each quarter. Based on these ongoing eligibility requirements, we tentatively conclude that a quarterly filing is appropriate. All documentation would be required to be filed in a station's OPIF by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October–December; April 10 for the quarter January–March, etc.) and must be retained in the OPIF until final action has been taken on the station's

next license renewal application. As to the type of documentation Class A stations may provide, the Media Bureau has generally accepted a certification of compliance as sufficient documentation. We propose to codify this requirement. However, given Congress' clear focus on locally produced programming, we seek comment on whether to require that Class A stations also include a list of locally produced programming sufficient to demonstrate that the station aired an average of three hours per week of locally produced programming each quarter. How burdensome would providing such a list be and what would that burden consist of? If we were to adopt such a requirement, what information should be included (e.g., time, date, duration, and title of each program aired)? We also propose that, like issue/programs lists, Class A stations be able to choose the format of the information. We seek comment on these clarifications and proposals.

35. Finally, we propose to amend § 73.3526(a)(2) to indicate that Class A and LPTV stations must retain in their OPIF any TBA or JSA relating to the station. Full power commercial TV stations and commercial radio stations are currently subject to this requirement, but our rules do not clearly apply this requirement to Class A stations. We propose to amend our rules to apply this requirement to both Class A and LPTV stations. The obligation to retain TBAs in particular was adopted to "make it easier for the Commission and others to properly monitor time brokerage to ensure that licensees retain control of their stations and adhere to the Communications Act, Commission Rules and policies and the antitrust laws." The Commission has noted that this requirement would impose "only a minimal burden on licensees." For similar reasons, the Commission also requires radio and television licensees to place copies of any JSAs in the public inspection file. The obligation to disclose these agreements in a station's public inspection file applies even if the agreement would not result in the arrangement being counted in determining the brokering licensee's compliance with local and national multiple ownership rules. We tentatively conclude that Class A and LPTV stations, like commercial television and radio stations, should also disclose such agreements for the same reasons disclosure is required for the commercial television and radio stations, and seek comment on this view. Is there any reason to exempt Class A and LPTV stations from this

requirement? We seek comment on these proposals.

E. Revision to Rules Regarding Relocation of Facilities

1. Calculating Distance for Displaced and Channel Sharing Stations

36. We next propose to modify our rules to resolve an inconsistency in calculating the distance a displaced or channel sharing station may relocate its facilities. The LPTV/TV translator rules contain limits on how far a station may relocate its transmission facilities. These limits were established to ensure that LPTV/TV translator modification applications for "minor change" remained just that. This was intended to ensure that stations continue to provide coverage to viewers that rely on their service, so that their viewers were not left behind when a station is displaced or chooses to relocate. Currently, a displaced LPTV/TV translator station may propose a change in transmitter site of not more than "30 miles from the reference coordinates of the existing station's community of license." Further, the Commission's channel sharing rules apply this rule to Class A and LPTV/TV translator station relocations resulting from a proposed channel sharing arrangement. In contrast, a Class A or LPTV/TV translator station that is seeking to relocate its facility through a minor modification is limited to moving not greater than "30 miles (48 kilometers) from the reference coordinates of the existing station's antenna location."

37. Thus, there is an inconsistency between the manner in which these rules calculate the distance of a proposed relocation. Furthermore, because Class A and LPTV/TV translator stations are not included in the Table of TV Allotments and not assigned a COL when licensed, using a station's COL as a reference point can be subject to abuse. As outlined later in this NPRM, although licensees may input a COL for their station in LMS, our rules do not currently have a procedure governing how Class A and LPTV/TV translator station may select a COL. As a result, a licensee can change the COL for their station in LMS at any time, and theoretically could specify a COL that has no association with the actual location of the station's facilities. This could undermine the purpose of the existing rule, to limit displacement and channel sharing relocations to 30 miles, if a station was to first modify its COL to designate a location that is within 30 miles of the location where a station wants to relocate the facility or channel

share, and then files a channel sharing or displacement application thereafter.

38. To resolve the inconsistency, close a possible loophole in our rules, and harmonize our rules with respect to all Class A and LPTV/TV translator facility relocations, we propose to amend our displacement and channel sharing rules to eliminate the reference to a station's COL and incorporate the language of the minor change rule that measures distance from the reference coordinates of the "existing station's antenna location." Even though later in this item we propose a process for Class A and LPTV/TV translator stations to designate a COL, we believe that use of the COL as a reference point for displacement could continue to undermine the purpose of our displacement rule. Given the contour size and the hyper local nature of the LPTV Service, precision is necessary in order to stand by the original intent of the rule, which is to ensure minimized disruption to the existing audience when station facilities are relocated. Therefore, changing our rules to measure a station's proposed relocation based on the reference coordinates of its antenna location provides a better reference point for the station's service area. Conversely, measuring relocations based on the reference coordinates of a station's entire COL could continue to allow stations to potentially thwart the intent of the 30-mile relocation distance limit. We seek comment on this proposal.

2. The 30-Mile Distance Limit

39. We also seek comment on clarifying the distance that Class A and LPTV/TV translator stations are allowed to move in a single minor modification application or a displacement application. As noted above, moves in either situation are currently limited to "30 miles (48 kilometers)" in order to ensure continuity of service. For purposes of consistency and clarity, we propose to revise the rules that currently reference the 30-mile limit to state that a facility may not be relocated greater than 48.3 kilometers and to make clear that the distance calculation may not be "rounded down." We understand that Media Bureau staff permitted stations proposing a relocation of up to 30.49 miles to "round-down" the distance calculation to 30 miles to comply with the distance limitation. We propose to prohibit rounding of the distance calculation. Additionally, we propose to revise our rules to remove the imprecise miles-to-kilometers conversion and instead solely state that facility relocations may be not greater than 48.3 kilometers. Any value over 48.3 kilometers, even by less than a tenth of

a kilometer, will not be considered rule compliant. We seek comment on these proposals. While there exists the possibility of a waiver of our rules, should we establish exceptions in certain circumstances to allow stations to relocate their facility to a location more than 48.3 kilometers from their reference coordinate. We seek comment on what exceptions, if any, should be set forth in our rules. Finally, we seek comment on whether to adopt a different distance limit for transmitter site relocations that are proposed in minor modification applications. Commenters proposing a different distance limit should explain why their proposed limit is more appropriate than the current 30-mile limit and how it aligns with our goal of ensuring existing viewers are not harmed.

3. Establishing Community of License Designations and Coverage Requirements

40. We next propose to require that Class A and LPTV/TV translator stations specify a COL that is associated with their station's actual service area. As noted above, Class A and LPTV/TV translator stations are not allotted in the Table of TV Allotments. As a "fill-in" type service, their facilities can be authorized at any location so long as they do not cause interference to any other authorized television stations and as a secondary service their facilities can be easily displaced. As a result, the Commission has not previously imposed a rule or methodology for Class A or LPTV/TV translator stations to be formally assigned a COL. Because our existing rules do not provide a clear rule or methodology, the Media Bureau has been processing requests for changes in a Class A and LPTV/TV translator station's COL only when at least a portion of the proposed community is located within the station's protected contour.

41. Formalizing the COL designation process and providing set standards for how a Class A and LPTV/TV translator station can select a COL will ensure that COL's listed in LMS and used by Stations actually reflects their service area. Although we believe that Class A and LPTV/TV translator stations should continue to possess the flexibility to determine where best to locate their stations' facilities, we believe that stations should be required to designate a COL that has a connection with its station's operations. Further, this will also ensure that Class A and LPTV/TV translator stations continue to utilize their COL to create a connection with the communities they in fact serve and allow viewers and the Commission to

fully evaluate whether a station has been operating in the public interest convenience and necessity. We propose the following criteria be applied for all Class A and LPTV/TV translator stations when designating a COL. First, we tentatively conclude that all Class A and LPTV/TV translator stations should be required to designate a COL whose boundary at least partially overlaps with the station's "protected service contour." We propose defining "protected service contour" as the protected contour provided for in § 74.792 of our rules for LPTV/TV translator stations and § 73.6010 of our rules for Class A stations. For purposes of determining whether a COL's boundary "overlaps with a station's protected service contour," we propose to examine the legal boundary of the community that has been designated by any Federal, state, local, or tribal governmental entity. In designating a COL, a station would be required to provide a map demonstrating that the contour overlaps with the COL's legal boundary. Second, we tentatively conclude that any amount of overlap between the Station's protected service contour and legal boundary of its COL will be deemed sufficient for a station to designate a community as its COL. We tentatively find that this standard is appropriate given the relatively small size of the coverage area of many Class A and LPTV/TV translator stations. For that reason, we tentatively conclude a more stringent coverage requirement, such as a percentage of population or land area, may be unworkable and limit a station's COL options. We seek comment on our tentative conclusions and invite alternative proposals and standards by which Class A and LPTV/TV translator stations may select a COL.

42. We also seek comment on whether we should require that a station serve the COL it has selected for a minimum period of time prior to being permitted to voluntarily change it. We propose to require Class A and LPTV/TV translator to serve their designated COL for at least one year before allowing them to change it. This will help ensure that when a station is licensed, it is not only intending to provide service to its community, but it in fact does so. Further, because a public interest benefit of designating a COL is to foster a connection between the station and the community it serves, we believe that such a restriction on community of license changes is justified. While stations in the LPTV Service are not in the Table of TV Allotments and are not held to our analysis under section 307(b) of the Act, we find that they still

must operate in the public interest, convenience, and necessity. As result, by designating a COL stations are committing to provide service to that area, in many cases unserved and underserved areas, for at least a certain period of time. We seek comment on this proposal and whether there should be any exceptions to the rule. For example, we tentatively find it would be appropriate to allow stations to modify their COL prior to the one year if the station is displaced or for circumstances beyond a station's control, such as natural disaster or other act of God, that cause the station to no longer be able to cover its COL. We propose not to consider independent business decisions or finances, as a basis for changing a COL within the one year period. What are other exceptions we should consider as a basis for a change in COL sooner than one year? Should exceptions be enumerated in our rules or, given the unique facts and circumstances that may be present in such cases, should we rely exclusively on our existing waiver standard?

43. Finally, we propose that within six months of the effective date of any new COL rule we adopt in this proceeding, all Class A and LPTV/TV translators must designate a COL that is rule compliant. We propose to require all Class A and LPTV/TV translator stations designate a COL by filing an application for modification of license and pay the appropriate filing fee. Stations whose current COL meets the requirement of the new rule, should it be adopted, do not need to take any action. To help ease the initial transition, we propose to waive any application filing fee during this six month period for requests that solely seeking to designate a COL that is rule compliant. We seek comment on these proposals.

F. Establishing Minimum Operating Hours for LPTV Stations

44. We propose adopting minimum operating hours for LPTV stations and seek comment on whether LPTV/TV translator stations should be required to certify with regard to their minimum operating hours on certain applications. Currently, LPTV stations are not subject to minimum required hours of operation and are not required to adhere to any regular schedule of operation. When the service was originally created, the Commission decided to not adopt such requirements given the undetermined viability of the service and because LPTV stations are low power, serve a small service area, have secondary interference protection status, and are not allotted in the Table of TV

Allotments to serve a particular community or a specified coverage area. As a result, the Commission, at that time, concluded that "minimal regulation of low power television is in the public interest, notwithstanding the fact that it is a broadcast service."

45. While there are no set minimum operating hours for LPTV stations, they are subject to specific rules if they discontinue operations for certain periods of time and remain silent for extended periods. Like all broadcast stations, an LPTV station that fails to operate for more than 10 days must notify the Commission that it is silent. If a station remains silent for more than 30 days, it must seek authority to remain silent. Unlike full power stations, failure of an LPTV 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 Commission. Finally, as with all broadcast stations, an LPTV station's license will automatically expire, as a matter of law, if the station fails to transmit a broadcast signal for any consecutive twelve-month period, notwithstanding any provision, term, or condition of the license to the contrary. Therefore, an LPTV station can operate briefly (for a few minutes or hours) every 30 days and avoid being deemed as having permanently discounted operations under § 74.763(c) of our rules, or do the same once per year and avoid automatic expiration of its license under section 312(g) of the Act. In either instance, however, we tentatively find that the extremely minimal nature of those operations and the inherent lack of benefit to viewers from such minimal operations undermines the public interest benefit of the station and results in the underutilization of finite TV band spectrum. We tentatively find that these practices also threaten to undermine the value of the LPTV Service generally. We believe that adoption of minimum operating hours for LPTV stations will ensure that stations have a clear awareness of their public interest obligations to the viewers they have been licensed to serve, and prevent warehousing and underutilization of spectrum. We seek comment on this analysis.

46. We propose that all LPTV stations be required to operate not less than 14 hours per calendar week. We tentatively conclude that requiring LPTV stations to operate a minimum of 14 hours per calendar week will not be a burdensome requirement. We seek comment on this proposal. While the Commission felt

such a requirement was not necessary when the service was originally created, 40 years later we tentatively conclude that additional requirements are needed to ensure that all licensed stations are operating in the public interest by serving their viewers as intended. Other broadcast services have minimum operating requirements, including other low power, secondary services. For example, when the Commission was considering rules for its new Low Power FM (LPFM) radio service it noted that while it was "sympathetic with the position of some commenters that the market, not the Commission, should determine the hours a station operates," it ultimately concluded that adoption of a minimum operating requirement for LPFM stations would ensure effective utilization of channels. Despite LPFM being a secondary service, the Commission went on to find that such a requirement was not excessive and should not impose an inordinate burden on LPFM licensees. Similarly, we tentatively conclude that adopting a minimum operating requirement will achieve similar benefits to ensure the spectrum is being properly utilized without imposing significant costs or burdens on LPTV licensees. We seek comment on our tentative findings and conclusions.

47. Commercial full power television stations are required to operate not less than 2 hours in each day of the week and not less than a total of 28 hours per calendar week. In addition, Class A stations are required to operate a minimum of 18 hours per day in order to maintain their Class A status. Our proposed minimum operating requirement for LPTV reflects half of the hours that commercial full power television stations are required to operate and a fraction of what Class A stations are required to broadcast. Our proposal also does not subject LPTV stations to a daily operational requirement in order to allow LPTV stations with non-traditional business hours, such as schools and religious institutions, more flexibility to operate their stations and serve their viewers. As a result, we propose to permit LPTV stations to operate at any time over the course of a seven day calendar week in order to provide flexibility and tailor their broadcast schedule to their local community as long as they operate not less than 14 hours per calendar week. We seek comment on this proposal.

48. We also seek comment on whether alternative minimum operating hours or requirements would accomplish the same goals of ensuring stations serve the public interest and prevent limited spectral resources to lie fallow for all

but a few hours or days a year. For example, should we instead adopt a different weekly hourly requirement or instead a daily, monthly, or quarterly minimum operating requirement? If so, what is the appropriate amount of time we should require for any interval?

49. Finally, we propose to require that all LPTV/TV translator licensees certify in any application for minor or major modification of a licensed facility and its license renewal application whether the station has complied with its minimum operating requirement over the course of the current license term, and if not provide an explanation for its failure and why grant of the pending application is in the public interest. We believe such a requirement will help ensure, in a minimally burdensome manner, that stations are complying with their minimum operating requirements and utilizing their licensed spectrum in the public interest. We seek comment on this proposal. We also seek comment on what evidence (written or otherwise) should be deemed sufficient to support a licensee's operational certification if such certification is challenged. Should licensees be required to retain certain documents, such as written program logs to be made available at the request of the Commission or members of the public? And if so how long should licensees be required to retain such documentation?

G. Defining Minimum Programming Requirements

50. To ensure that LPTV/TV translator stations are fully utilizing their spectrum to provide free over-the-air television service for their viewers, as intended by our rules and the Act, we propose to make LPTV/TV translator stations subject to the requirement currently in our part 73 rules that visual transmissions of test patterns, slides, or still pictures accompanied by unrelated aural transmissions may not be counted for purposes of complying with any minimum operating requirement. This part 73 requirement currently applies to both full power and Class A stations. We tentatively find that extending this requirement to LPTV/TV translator stations is consistent with the primary purpose of licensing broadcast television spectrum—the provision of video programming services to viewers. Adopting a requirement in our rules will provide clear guidance that LPTV/TV translator stations must provide video programming service to the public and utilize the spectrum for that purpose. We propose to apply this requirement only to programming aired on the station's primary stream and not

apply it to a station's multicast stream. We seek comment on this proposal.

H. Class A, LPTV and TV Translator Station Designations and Call Signs

1. Changes Between LPTV and TV Translator Station Designations

51. We propose to require that stations in the LPTV Service that seek to change their designation from LPTV to TV translator and vice versa, be required to seek Commission authority by way of a license modification application to make such a change. We further propose that stations in the LPTV service be allowed to change their station designation not more than once every 12 months. By proposing these rules, we aim to provide clarity to viewers and broadcasters concerning the station's service classification and what Commission rules and service obligations apply.

52. Currently, if a station in the LPTV Service desires to change its designation between LPTV and TV translator (or vice versa), it requests this change by informally writing (by email or letter) Media Bureau staff, who in turn makes the classification change in the Commission's database. Stations in the LPTV Service can change their designation without limit and without any justification. For many years after the creation of the LPTV Service, the distinction between LPTV and TV translator stations was minimal and, therefore, no formal change process or standards were necessary. However, over the years the LPTV Service has changed and the Commission has adopted a number of regulations that have expanded the distinction between LPTV and TV translator stations. For example, beginning in 1994, the Commission created the Emergency Alert System (EAS), whereby broadcasters are required to transmit Presidential and other national alerts to the general public (and may transmit alerts originating at the state and local levels to the general public on a voluntary basis). EAS participants are required to submit EAS Test Reporting System (ETRS) filings in response to nationwide tests of the EAS (sometimes referred to as National Periodic Tests). LPTV stations are EAS participants and must submit the required ETRS filings; however, TV translator stations are not required to file them. In addition, in 2009, the Commission mandated that LPTV stations be subject to its rules requiring the filing of ownership reports. Because they do not originate programming, TV translator stations are not required to submit ownership reports.

53. To enable the Commission and public to better track station classification changes and to provide rule compliance clarity for stations in the LPTV Service, we propose to formalize the redesignation process by requiring that LPTV Service designation changes be made through an application for license modification and that applicants be required to pay the requisite application filing fee. We also propose to limit LPTV Service designation changes to not more than once every 12 months. We tentatively conclude such a limit would help ensure that stations are not attempting to switch classification from an LPTV to a TV translator in order to avoid regulatory burdens (*i.e.*, ETRS filings or ownership reports) and then quickly switching back to obtain the benefits of being classified as an LPTV station (*i.e.*, greater program origination ability). Are there any circumstances that stations should be permitted to change their designation more than once every 12 months and what type of showing should be required? We seek comment on these proposals.

54. Furthermore, we propose to amend our rules to require that all stations with the LPTV designation, regardless of how the station is operated, must comply with our EAS rules. We also propose to clarify that a station formally designated in the Commission's database as a TV translator is not required to comply with our Part 11 requirements, such as installing EAS equipment or meeting related obligations like filing in ETRS, if it entirely rebroadcasts the programming—including all EAS—of a Primary Station. The EAS rules currently provide that "LPTV stations that operate as television broadcast translator stations, as defined in § 74.701(b) of this chapter, are not required to comply with the requirements of this part." In light of our proposal to formalize the designation process and given the distinctions between LPTV and TV translator stations that have developed over the years, we believe it is appropriate to require any station that has chosen to be designated as an "LPTV" to comply with our existing EAS rules for LPTV stations. We believe that this change will also help ensure that all LPTV stations, when constructed, install the necessary EAS equipment as required and further the public interest by ensuring alerts are properly disseminated. Further, this change should not create any additional burdens given that under our proposed rule change any LPTV station that

entirely rebroadcasts the programming of a Primary Station may change its designation from LPTV to TV translator status to remain exempt from our EAS rules as they may be today. We seek comment on whether there is any practical reason to maintain the existing exception to the EAS rule for LPTV stations that operate as translator stations.

2. Call Sign Assignments

55. TV Translator Stations. We propose to clarify in our rules that all TV translator stations must have an alphanumeric call sign comprised of a prefix consisting of the initial letter “K” or “W” (based on the station’s geographic location in relation to the Mississippi River), followed by the channel number assigned to the station and two additional letters, and a suffix consisting of the letter “-D.” Further, we propose that a station that converts from LPTV to TV translator status would have its four-letter LPTV call sign automatically modified by the Commission to an alphanumeric one that is consistent with our TV translator call sign rule. We tentatively conclude that this proposal is consistent with our existing rule which requires that TV translator stations maintain a uniform call sign methodology and will help viewers distinguish between TV translator stations and other classes of the TV service. We propose to automatically modify any call signs that do not comply with the proposed rule 30 days after the effective date of any Report and Order adopted in this proceeding. The 30-day period will allow licensees to inform their viewers of the impending call sign change. Given that TV translator stations are, with limited exception, restricted to rebroadcasting other station’s programming we tentatively find TV translators do not have their own unique identity and “grandfathering” existing call signs has no cognizable public interest benefit. We seek comment on this proposal and our tentative findings and conclusion.

56. Class A and LPTV Stations. Further, we propose to require that all Class A and LPTV stations must have a four-letter call sign, with the suffix “-LD” for LPTV stations and “-CD” for Class A stations. Our current rule is permissive and states that “[l]ow power television and Class A television stations may be assigned a four-letter prefix.” It also permits LPTV stations to be assigned alphanumeric call signs just like TV translators. We tentatively conclude that in light of the regulatory and service distinctions between TV translator, LPTV, and Class A stations

that it is appropriate to require that each service conform to its own call sign prefix and suffix. As an initial matter, we propose that any station that modifies its status from a TV translator to LPTV after the effective date of our proposed rule must submit a request for a new four-letter call sign prefix with the “-LD” suffix in the Commission’s call sign reservation system and pay the applicable fee. Further, we propose that the Commission will modify a Class A station’s call sign that reverts from Class A status to LPTV to reflect its LPTV status by automatically changing its call sign suffix from “-CD” to “-LD.” The station will retain its current four-letter call sign prefix unless it conflicts with that of an existing LPTV station. In such a circumstance, the former Class A station will be required to modify its four-letter call sign prefix in the Commission’s call sign reservation system. We also propose to provide all Class A and LPTV stations a period of 90 days from the effective date of our proposed rule to designate a four-letter call sign with the correct suffix. During this 90-day period, we propose to waive the fee associated with an initial call sign request by a station to modify its call sign in order to come into compliance with the proposed rule. We seek comment on this proposal.

57. Alternatively, we seek comment on whether the Commission should “grandfather” existing LPTV and Class A call signs that are not in compliance with our proposed new rule. As stations that originate programming, some LPTV and Class A stations may have developed an identity with viewers that involves their call sign. What are the specific public interest benefits we should consider when determining if existing Class A or LPTV stations should be permitted to retain their existing “non-compliant” call signs? Should stations be permitted to keep both their existing prefix and suffix? Should grandfathered call signs be transferrable and assignable? If we grandfather existing LPTV and Class A call signs, we tentatively conclude that only call signs of licensed stations on the release date of any Report and Order adopted in this proceeding will be eligible to be grandfathered. Further, we propose that any station with a grandfathered call sign will be required to bring its call sign into compliance with our proposed rule in the event it subsequently changes its classification (*i.e.*, LPTV to TV translator or vice versa). We seek comment on these proposals and tentative conclusions.

I. Channel 14 Emission Masks

58. In an effort to further reduce the potential for interference to LMR facilities in the 460–470 MHz band from Class A and LPTV/TV translator facilities operating on channel 14, we propose that new and modified channel 14 Class A and LPTV/TV translator stations (Channel 14 LPTV Stations) must use a “full service” or “stringent” emission mask—a “simple” emission mask would be prohibited. We propose that a currently licensed Channel 14 LPTV Station would not be required to make a change to its existing licensed facility, and would only be required to implement filtering with a superior emission mask when proposing modifications to its facility that would change the station’s current service contour or to address interference caused to an LMR facility.

59. Interference to LMR facilities from adjacent channel 14 television facilities (full power and low power) has long been a concern of the Commission, including most recently when Class A and LPTV/TV translator television stations converted to digital operations. The Commission’s rules currently require that all Class A and LPTV/TV translators stations seeking new or modified facilities specify in their application for construction permit that the station will be constructed to confine out-of-channel emissions using one of the following emission masks: simple, stringent, or full-service. As the Commission pointed out in its Land Mobile Interference Order, instances of interference to LMR facilities from channel 14 television facilities “have been readily resolved by the installation of appropriate filters.” So-called “mask filters” decrease out-of-band emissions to operations on adjacent channels, and in 2011, the Commission amended its rules to permit Class A and LPTV/translator stations to specify the use of masks previously implemented by full power television stations to prevent interference (“full-service masks”). Because of the potential for interference to LMR facilities, construction permits for Channel 14 LPTV Stations also contain a condition requiring permittees, to take measures during equipment tests to identify and substantially eliminate interference which may be caused to existing LMR facilities in the 460 to 470 MHz band. Further, Channel 14 LPTV Stations must provide documentation before operation that interference will not be caused to existing LMR facilities. A similar requirement applies to full power television stations and restrictions on a

channel 14 station's ability to commence program test authority.

60. Although the three standard mask filters found in our rules do not always resolve LMR interference issues, we believe they remain the most effective means to prevent out-of-band emissions and interference to LMR facilities on 460–470 MHz. Because the stringent and full-service masks are more restrictive than the simple mask and better decrease out-of-band emissions, their use for channel 14 stations would be expected to minimize potential interference to land mobile operations. Therefore, we propose to require all new or modified Channel 14 LPTV Stations to include the use of either stringent or full-service mask filtering unless the station is decreasing power or making a modification to its facilities that does not change its service contour. Based on our prior review, the cost difference between simple, stringent, and full-service mask filters is not substantial and because the filters are generally of similar physical size they should have similar installation costs. Specifically, we estimated in 2018 that the cost of any given mask filter would be similar, with any cost difference being more heavily dependent on the power of the proposed facilities than on the specific type of emission mask. Therefore, we tentatively conclude that any increased cost of requiring Channel 14 LPTV stations to include stringent or full-service mask filters would not be unduly burdensome. Further, we tentatively conclude that the burden caused by any potential slight increase in cost to Channel 14 LPTV Stations would be outweighed by the benefits of reducing complaints from LMR stations, better protecting LMR stations from interference, and preventing wasted investments by Channel 14 LPTV Stations that, for example, install one type of mask filter and then determine that stricter mask filter is needed. We seek comment on this proposal and the burdens and benefits, including our cost assumptions, of requiring stringent or full-service mask filtering by Channel 14 LPTV Stations.

J. Prohibition on Operations Above Channel 36

61. We propose to prohibit any LPTV/TV translator stations from operating above channel 36 (out-of-core channels). As part of the Incentive Auction and repacking process, the Commission reallocated TV spectrum above channel 37 (614–698 MHz, the so-called “600 MHz Band”) for use by wireless broadband providers and provided LPTV/TV translator stations that were displaced with an opportunity to file a

displacement application to move their facilities to a new in-core channel. Further, the Commission prohibited new operations on out-of-core channels (*i.e.*, above channel 36). However, in order to provide flexibility for out-of-core stations to construct in-core channel displacement facilities, the Commission allowed out-of-core LPTV/TV translator stations to continue operating on their pre-auction channels until they were notified of likely interference by a new 600 MHz Band licensee.

62. The Incentive Auction closed in 2017 and according to the Commission's records there are currently no LPTV/TV translator stations operating on out-of-core channel. Because all out-of-core stations appear to have received notice from a 600 MHz licensee, they are no longer able to operate on their licensed channels and are currently silent. Accordingly, we find that the flexibility previously afforded out-of-core stations is no longer necessary and we propose to amend our rules to prohibit television operation on all out-of-core channels. We propose that this prohibition would be effective upon publication in the **Federal Register** of a Report and Order adopting this proposed rule. Any license authorizing operation above channel 36 will be automatically canceled, without affirmative action by the Commission upon the effective date of our proposed rule. We seek comment on these proposals and tentative findings.

K. Additional Class A, LPTV, and TV Translator Rule Clarifications

63. To further clarify certain Class A and LPTV/TV translator technical rules and policies, we propose changes to our rules as further described below. We propose these changes to promote clarity and ensure that all applicants are treated equally.

1. DTS Emission Masks

64. We propose to require that all transmitters in a Class A or LPTV/TV translator station DTS facility must utilize the same emission mask and we tentatively conclude that all three emission masks found in our rules are permissible. A DTS network employs two or more transmission sites located within a station's service area, each using the same RF channel and synchronized to manage self-interference. To prevent interference to other facilities, all stations must specify an emission mask to be implemented with their DTS facilities. However, unlike full power television stations that may only use “full service” emission masks at each DTS site, the DTS rules

adopted for Class A and LPTV/TV translator stations rules do not address whether a different type of emission mask could be employed or whether the same emission mask must be used at each DTS site. We tentatively conclude that allowing Class A and LPTV/TV translator stations to specify different emission masks at each site prevents determination of the proper interference threshold. In order to ensure accurate interference calculations and reduce the potential for interference from Class A and LPTV/TV translator DTS facilities, we tentatively conclude that we should amend our rules to require that all Class A and LPTV DTS sites must utilize the same emission mask. We also tentatively conclude that we should clarify our rules to require that Class A and LPTV/TV translator DTS stations may use any of the emission masks permitted by our rules, so long as the same emission mask is used at all of their DTS transmitter sites. We seek comment on these proposals.

2. Interference Allowance

65. We next propose to amend our rules to apply the same requirements to LPTV/TV translator stations as full-power and Class A TV stations when entering into an interference agreement. We also propose to allow stations operating pursuant to interference agreements or that are unilaterally accepting interference from another station, to maintain those agreed upon interference amounts when modifying a facility so long as applications involving stations with agreements remain compliant with those agreements. Currently, Class A and LPTV/TV translator stations are permitted to enter into interference agreements that supersede compliance with our interference protection standards, or to unilaterally accept incoming interference in excess of our 2% interference threshold. However, as our part 74 rules are currently written, when a Class A or LPTV/TV translator station agrees to accept interference above the 2% threshold (accepting station) from another Class A or LPTV/TV translator station (interfering station) and the interfering station subsequently modifies its facilities, the interfering station must reduce the level of interference to the accepting station to less than 2%. We tentatively conclude that this result is not justified when stations have either mutually agreed to, or a station has unilaterally agreed to accept, a certain level of interference.

66. We tentatively conclude that LPTV/TV translator stations seeking to enter into an agreement to resolve interference concerns should be subject

to the same rules as Class A and full power stations. This includes entering into a signed written agreement that is submitted with the application and making clear that agreements may include the exchange of money or other consideration between entities. We believe codifying these parameters in our rules for LPTV/TV translators is appropriate to provide clarity to licensees and transparency to all. We seek comment on our tentative conclusion.

67. We propose that a Class A and LPTV/TV translator station that has unilaterally agreed to accept interference from another station above the 2% interference threshold in our rules, will have the higher interference percentage taken into account when an application to modify a facility is considered. We also propose that stations subject to written interference agreements may also have the higher interference percentage taken into account, so long as doing so is consistent with the agreement. We propose that a station seeking to modify its facility would be required to demonstrate that no additional interference beyond what was previously caused or accepted will occur as a result of the proposed modification. We tentatively find that this revision will help maintain the status quo and preserve existing service based on agreed upon or unilaterally accepted interference levels. We seek comment on this proposal and our tentative conclusions.

3. Maximum Grid Resolution

68. We propose to codify that a one square kilometer grid resolution should be the maximum permitted in evaluating the interference to Class A and LPTV/TV translator facilities. In the LPTV DTV First R&O, the Commission concluded that setting a one square kilometer maximum grid resolution was appropriate given that Class A and LPTV/TV translator facilities had smaller service areas and therefore required a finer grid resolution analysis. While the Commission announced this policy in the LPTV DTV First R&O, it was not codified. We note that many Class A and LPTV/TV translator applicants have been required to amend their showings after instead using a grid resolution of two square kilometers in their interference studies. For additional clarity, we propose to retain the one square kilometer maximum grid resolution adopted by the Commission in the LPTV DTV First R&O, and codify the requirement in our rules. We continue to believe that one square kilometer is the appropriate maximum

grid resolution given Class A and LPTV/TV translators facilities' smaller service areas. We seek comment on this proposal and, if commenters believe that a different maximum grid resolution should be utilized, they should explain why it will provide a better basis for evaluating interference involving LPTV/TV translator stations.

4. Displacement Rule Revisions

69. *Displacement Public Notice Period.* We propose updates to our displacement rule in order to minimize service disruptions. The displacement rule states that displacement applications: "will be placed on public notice for a period of not less than 30 days to permit the filing of petitions to deny." This comment period was implemented because displacements require channel changes, which create a greater concern for interference. Yet, displacements are considered applications for minor change, and minor change applications are not subject to the 30-day period for interested parties to file a petition to deny. In practice, requiring a displaced LPTV/TV translator station to wait a full 30 days to receive action on its displacement application may result in loss of service to viewers or continued loss of service to viewers by delaying Commission action and thereby a station's ability to construct and commence operating from its displacement facility. To minimize service disruptions to the public, and expedite processing and construction, we propose eliminating the 30 day public notice period for displacement applications found in § 74.787(a)(4) of our rules. While stations could seek special temporary authority in order to resume operation during the pendency of their displacement application, we aim to streamline this process in order to prevent as much disruption in service to the public as possible and provide certainty to stations to plan and make the necessary investments in their new facilities. We do not anticipate that this change will negatively impact the Commission's evaluation of objections to an application. Affected parties that want to oppose grant of a displacement application may still file an objection prior to Commission action and seek reconsideration up to 30 days after the grant. In addition, affected parties may report interference concerns raised by the displacement application at any time. We seek comment on these assumptions and the elimination of the 30-day public notice comment period for displacement applications.

70. *Displacements Caused by Full Power Channel Substitutions.* We

propose to define when an LPTV/TV translator station displaced by a full power station's channel substitution may apply for displacement. A full power television station seeking to change its operating channel must first submit a petition for rulemaking requesting that the Media Bureau change the Table of TV Allotments to reflect the new channel. If approved, the Media Bureau issues a Report and Order making the channel substitution and amending the Table of TV Allotments. It also orders the station to file an application for minor change in order to modify its facilities to the new channel. The Report and Order also includes a date upon which the channel change is effective, typically upon the date of publication of the Report and Order in the **Federal Register**.

71. An LPTV/TV translator station that is displaced by a full power station's channel substitution must file a displacement application to move its channel. At the same time, the Commission's rules prohibit "contingent applications," meaning that we will not entertain applications that rely upon action on another pending application. Therefore, despite attempts by some LPTV/TV translator stations to file a displacement application prior to approval of the request to amend the Table of TV Allotments to reflect the channel substitution, Commission staff has declined to consider displacement applications that are based on a full power television station channel substitution until after the Report and Order granting the channel substitution and amending the Table of TV Allotments is effective. To provide clarity, we propose to amend our rules to specify that such displacement applications cannot be filed until the Report and Order granting the channel substitution and amending the Table of TV Allotments is effective. This will ensure that the station is in fact qualified for displacement and prevent stations from prematurely reserving spectrum on a contingent basis. We do not anticipate that this will unduly delay construction of the displacement facility or result in service interruptions as a station granted a channel substitution needs time to construct their new facility, thus providing a displaced station ample time to construct its own facility. Under our proposal, displacement applications that are filed before the Report and Order granting the channel substitution and amending the Table of TV Allotments is effective will be dismissed without prejudice. We seek comment on this proposal.

72. *Displacement Eligibility.* We propose to enumerate in the displacement rule the precise circumstances that qualify LPTV/TV translator stations to seek a displacement channel. We also propose to permit displacement based on interference caused to a TV translator's input channel. Our current displacement rule states in part, that an LPTV/TV translator 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" We believe enumerating the circumstances where displacement applies will make it easier for licensees to determine if their station has in fact been displaced. Further, we propose revising the displacement rule to make clear that applicants must include an exhibit describing the specific cause of displacement in order to allow the Commission to more efficiently review displacement applications.

73. First, we propose to clarify what is meant by "causing or receiving interference." Under our proposal, this basis for displacement refers to actual interference received by a TV broadcast station (*i.e.*, a full power television station) from an LPTV or TV translator station. While LPTV/TV translator stations are permitted to cause up to .5% predicted interference to a full power station, as a primary service full power stations are protected from actual interference within their noise limited service contour, even if the predicted interference is within the .5% threshold. In order for an LPTV/TV translator station to qualify for displacement relief based on actual interference caused to a TV broadcast station, we propose that there must be at least (1) a single report of actual interference received by a TV broadcast station within its community of license, or (2) multiple reports of actual interference to a TV broadcast station within its protected contour. We seek comment on how many reports of actual interference should be required in each instance and what information should be provided to validate such claims. For example, the Commission has established a set of criteria that includes a requirement for a minimum number of listener complaints that must be provided to demonstrate actual interference caused by FM translators, ranging from at least 6 to a cap of 25 depending on the population served. To provide certainty and clarity should a similar standard be adopted here? If so,

what would be the appropriate threshold of viewer complaints? Should population within an impacted station's protected contour inform the number of complaints required? Is it appropriate for the threshold to be different if the interference is occurring within a TV broadcast station's community of license as opposed to elsewhere within its protected contour? What documentation should stations that claim they are displaced as a result of actual interference be required to file with their displacement application?

74. Second, we propose to revise the displacement rule to clarify the levels of "predicted" interference that would qualify a station for a displacement channel. Under our revised rule, we propose that with respect to predicted interference "caused" to a TV broadcast station, the predicted interference would have to exceed the 0.5% de minimis interference threshold specified in § 74.793(e) of our rules to qualify the station to file a displacement application. With respect to predicted interference "received" from a TV broadcast station, we propose that the predicted interference would have to exceed the 2% interference threshold specified in § 74.793(h) of our rules to qualify the station to file a displacement application. We do not anticipate that this clarification of what is meant by "predicted" interference will materially alter the scope and application of the existing displacement rule. We seek comment on this assumption. This proposal is not intended to expand or restrict displacement eligibility for predicted interference beyond the scope of the current rule. It is also not intended to modify our current interference thresholds (*i.e.*, 0.5% or 2%). Instead, this proposal is intended to clarify what is meant by the word "predicted" in the context of our current interference thresholds. We seek comment on this proposal.

75. Third, we propose to revise the displacement rule to make clear what "other protected station or service" means by adding two specific situations beyond interference to/from an authorized TV broadcast station that would qualify an LPTV/TV translator station to seek a displacement channel: (1) interference to LMR facilities; (2) interference to/from protected television facilities in Canada and Mexico. We tentatively find that it would be helpful to memorialize in our rules that such circumstances involving "protected" services would qualify an LPTV/TV translator station for displacement.

76. Finally, we propose to add interference caused to a TV translator input channel as a basis for

displacement. TV translators serve areas that would otherwise be unable to receive television service and are often found in rural and mountainous areas. Translator input channels provide TV translators a means to receive the programming that they are translating and would otherwise likely not be available over-the-air to the viewers they serve. While translator inputs are not "protected services," we tentatively conclude it is in the public interest to protect these channels from interference given their often critical role in enabling TV translators to serve their viewers.

77. Enumerating these circumstances within the displacement rule will make it clearer for licensees to know when displacement relief is warranted. We seek comment on these proposals and whether there are other situations involving interference being caused or received by LPTV/TV translator stations to "other protected services," or that otherwise would serve the public interest, that we should consider permitting as a basis for displacement.

5. Program Test Authority Rule for LPTV/TV Translators

78. We propose to make the Commission's part 73 "program test authority" (PTA) rule applicable to LPTV/TV translator stations. Currently, full power and Class A stations, with certain exceptions, may begin operating under PTA after completion of a facility provided that an application for license to cover is filed within ten days of commencing operations. A similar rule does not exist in the part 74 rules for LPTV/TV translator stations. The purpose of this change is to make clear that LPTV/TV translator stations, with limited exception, have the same flexibility to begin operating automatically pursuant to program authority, while also making clear that they are required to submit an application for license after completing construction and within ten days of commencing PTA. We seek comment on this proposed revision.

L. Part 73 and 74 Ministerial Rule Corrections

79. We propose a few minor editorial changes to our rules as a result of inadvertent oversights in the 2022 Part 74 Order and 2023 Part 73 Order. We also propose to reorganize § 74.780 to better reflect which part 73 rules are applicable to both LPTV and TV translator stations and which are applicable only to LPTV stations. We seek comment on these proposed minor revisions.

80. *Part 74 Rule Corrections.* In the Commission's 2022 Part 74 Order, the

Commission updated its part 74 rules for LPTV/TV translator stations to reflect the current operating environment, including the termination of analog operations. However, the 2022 Part 74 Order inadvertently left in place a duplicate definition of low power TV station that exists in both § 74.701(f) and (k) and a duplicate definition of television broadcast translator station that exists in both § 74.701(a) and (j). We propose to remove the respective duplicate definitions in § 74.701 and re-lettering the remaining paragraphs as (a) through (g). Additionally, the Commission concluded that because LPTV/TV translators have completed their transition from analog to digital operations, there is no need to differentiate between digital and analog in the rules. Accordingly, for the aforementioned reasons, we propose to remove the remaining instances of the word “digital” from § 74.720, a rule which was added in a rulemaking that had not yet taken effect at the time the 2022 Part 74 Order was adopted. Finally, we propose to eliminate the words “analog” and “digital” as they relate to LPTV operation from §§ 11.11(a) and (b), 11.51(e), and 11.61 in accordance with actions taken in the 2022 Part 74 Order removing such references.

81. *Reorganization of Section 74.780.* Throughout this item, we propose to add requirements applicable to LPTV stations. Section 74.780 contains a list of broadcast regulations applicable to both TV translators and LPTV stations. In order to make those requirements easier to locate, we propose to reorganize the requirements into paragraphs of the rule and group them based on the service(s) each paragraph is applicable to, separating those rules that are applicable to TV translators and LPTVs from those rules that are applicable to LPTV stations only. In addition, we propose to remove the cross-reference to § 73.1692 found in the current § 74.780 since that section was previously removed from the rules. We seek comment on these proposals.

82. *Part 73 Rule Corrections.* In the Commission’s 2023 Part 73 Report and Order, the Commission reorganized and streamlined its rules in recognition of the completion of the digital television transition and subsequent Incentive Auction and repack. However, a cross-reference to § 73.685 in § 73.7003 was inadvertently overlooked and not updated to reflect the new location of the rule, which is § 73.618. We propose to update this cross-reference to point to the new location of the cross-referenced rule. We also propose to correct two other oversights in § 73.7003. The

reference in paragraph (b)(4) to the “Grade B” contour should be replaced with a reference to the “NLSC” because Grade B refers to analog service, which no longer exists and NLSC is the correct contour. Also an internal cross-reference in paragraph (c)(5)(ii) incorrectly refers to a non-existent paragraph and should instead reference paragraph (c)(5)(i) and we propose that correction. We also propose to replace a reference to “DTV” in § 73.619(b)(1) with “TV” consistent with other similar replacements in the 2023 Part 73 Report and Order. The Commission also updated the part 73 rules to provide accurate information about current Commission forms and filing procedures, but did not update the reference to Forms 301 and 340 in § 73.625(c)(4)(i) or Form 302–CA in § 73.6002(a)(2). We propose to update these references to indicate the correct forms—Form 2100 Schedule 301–AM and Form 2100 Schedule F, respectively. Finally, after **Federal Register** publication, a few minor typographical mistakes were found in the updated part 73 rules, as adopted. In § 73.2080(f)(3), there are four instances of a struck “s” at the end of the word “Form” which was inadvertent and should be removed, and in § 73.4060(a), the citation has a struck “4” in it which should be removed. We seek comment on these proposals.

M. Cost/Benefit Analysis

83. We seek comment on the benefits and costs associated with adopting the proposals set forth in this NPRM. We seek comment on any benefits to the public and to industry through adoption 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.

N. Digital Equity and Inclusion

84. The Commission, as part of its continuing effort to advance digital equity for all, 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, invites comment on any equity-related considerations and benefits (if any) that may be associated with the proposals and issues discussed herein. 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.

III. Procedural Matters

85. *Ex Parte Rules—Permit-But-Disclose.* The proceeding this NPRM initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. 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.

86. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” Accordingly, we have prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible/

potential impact of the rule and policy changes contained in this *NPRM*. The IRFA is set forth in Appendix B. The Commission invites the general public, in particular small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the *NPRM* indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

87. *OPEN Government Data Act*. The OPEN Government Data Act, requires agencies to make “public data assets” available under an open license and as “open Government data assets,” *i.e.*, in machine-readable, open format, unencumbered by use restrictions other than intellectual property rights, and based on an open standard that is maintained by a standards organization. This requirement is to be implemented “in accordance with guidance by the Director” of the OMB.

88. We tentatively conclude that requiring certain LPTV licensees to maintain an OPIF would not create “data assets” as defined in 44 U.S.C. 3502(17). A “data asset” is “a collection of data elements or data sets that may be grouped together,” and “data” as “recorded information, regardless of form or the media on which the data is recorded.” The documents required to be maintained in an OPIF reflect unstructured information that is generally not systematically arranged in a table or database, and as such cannot readily be meaningfully grouped together. We tentatively conclude, therefore, that, in the absence of a standardized collection form, our requirement to maintain an OPIF is not subject to the requirements of the OPEN Government Data Act. We seek comment on this tentative conclusion.

IV. Initial Regulatory Flexibility Analysis

89. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) has prepared this Initial Regulatory Flexibility Analysis (IRFA) concerning the possible significant economic impact on small entities by the policies and rules proposed in the 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 in 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). In addition, the NPRM and IRFA (or

summaries thereof) will be published in the **Federal Register**.

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

90. In the NPRM, the Commission seeks comment on a number of proposals concerning changes to its rules and policies for the Low Power Television Service (LPTV Service). The LPTV Service includes low power television (LPTV), television translator (TV translator) and Class A television stations. The Commission believes now is an appropriate time to evaluate changes to its rules and policies in order to ensure that stations in the LPTV Service continue to flourish and serve the public interest of providing local television service to unserved or underserved viewers.

91. The Commission seeks comment on whether it should update its recordkeeping requirements to require LPTV stations affiliated with a top-four national television network (ABC, CBS, NBC, or Fox) to comply with the same online public inspection file (OPIF) requirements that apply to full power and Class A television stations. The Commission seeks comment on whether to include other LPTV network affiliates in the requirement to maintain an OPIF or, rather than tying any OPIF requirement for LPTV stations to network affiliation, or whether we should instead apply the OPIF requirement to the top-four LPTV stations in each market based on the Nielsen ratings. The Commission propose to update certain broadcasting rules that are applicable to all LPTV stations to identify more clearly where records can be accessed.

92. The NPRM also proposes changes to the Commission’s rules and policies to help stations in the LPTV Service to be better prepared for future operations and enhance the LPTV Service overall. Many of the proposals would also affect Class A television (Class A) stations, therefore, comment is also sought from these stations. To resolve certain rule uncertainties and ensure that Class A and LPTV/TV translator stations are operating to their fullest potential and that licensees are not warehousing spectrum, the Commission proposes and seeks comment on a number of proposals including whether to:

- Require certain LPTV stations to maintain an online public inspection file.
- Adopt procedures for certain LPTV stations to establish an online public inspection file.
- Specify in our rules that public inspection and political broadcasting

requirements are applicable to all LPTV stations.

- Make other changes to § 73.3526 of our rules to correct cross references and other inaccuracies relating to stations in the LPTV Service and commercial radio and TV stations and establish new reporting requirements for Class A and LPTV stations.
- Amend the method for calculating the maximum distance that a displaced or channel sharing station may move under the LPTV/TV translator displacement rule.
- Revise the LPTV/TV translator minor change rule to clarify the maximum distance that Class A and LPTV/TV translator stations may move.
- Require that Class A and LPTV/TV translator stations specify a community of license (COL) within their station’s contour.
- Adopt minimum operating and defined minimum video program requirements for LPTV stations.
- Require that LPTV/TV translator stations seek authority to change designation between LPTV and TV translator status and require Class A and LPTV/TV translator stations to maintain a call sign consistent with their class of service.
- Require use of a “stringent” or “full-service” emission mask for channel 14 Class A and LPTV/TV translator stations to prevent interference to Land Mobile Radio (LMR) stations.
- Prohibit LPTV/TV translator station operations above TV channel 36.
- Remove the 30 day public notice comment period for displacement applications and clarify when an LPTV/TV translator station displaced by a full power station’s channel substitution may apply for displacement.
- Clarify the existing displacement rule and interference thresholds for actual and predicted interference, and amend the definition of displacement to include displacement by LMR stations; by protected television facilities in Canada and Mexico; and due to interference to TV translator input channels.
- Codify other rule clarifications consistent with precedent, including the use of emission masks at Distributed Transmission System (DTS) transmitter sites; the maximum grid resolution permitted with interference analyses; and application of the part 73 “program test authority” rule to LPTV/TV translator stations.
- Remove duplicate definitions and re-letter the definitions remaining in the part 74 rules, and make other editorial, non-substantive corrections to the part 11, 73, and 74 rules.

B. Legal Basis

93. The proposed action is authorized pursuant to sections 1, 2, 4(i), 4(j), 303, 307, 309, 311, 312, and 315 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 303, 307, 309, 311, 312, 315.

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

94. 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 rules, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

95. Small Businesses, Small Organizations, Small Governmental Jurisdictions. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration’s (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.

96. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2022, there were approximately 530,109 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and

tax data for exempt organizations available from the IRS.

97. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” U.S. Census Bureau data from the 2022 Census of Governments indicate there were 90,837 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,845 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 11,879 special purpose governments (independent school districts) with enrollment populations of less than 50,000. Accordingly, based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 entities fall into the category of “small governmental jurisdictions.”

98. Television Broadcasting. This industry is comprised of “establishments primarily engaged in broadcasting images together with sound.” These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, 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. 2017 U.S. Census Bureau data indicate that 744 firms in this industry operated for the entire year. Of that number, 657 firms had revenue of less than \$25,000,000. Based on this data we estimate that the majority of television broadcasters are small entities under the SBA small business size standard.

99. As of March 31, 2024, there were 1,382 licensed commercial television stations. Of this total, 1,263 stations (or 91.4%) had revenues of \$41.5 million or less in 2022, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on April 4, 2024, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates as of March 31, 2024, there were 383 licensed noncommercial educational (NCE) television stations, 379 Class A TV stations, 1,829 LPTV stations and 3,118

TV translator stations. 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.

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

100. The NPRM proposes new reporting, recordkeeping, and other compliance requirements for Class A, LPTV and TV translator stations, many of which include small entities. Although, the Commission cannot, at present, determine whether small entities will have to hire professionals to implement and comply with the NPRM’s proposed requirements, nor can it quantify the cost of compliance for small entities, we expect that the approaches we propose will have minimal cost implications for impacted entities because many of these requirements are part of existing reporting processes for these entities.

101. The proposed changes to our rules and policies are designed to ensure that LPTV service continues to serve the public interest. This includes updates to our recordkeeping requirements for LPTV stations that will centralize those records in an online public inspection file (OPIF) to make that information more easily accessible to the public while, at the same time, minimizing existing burdens associated with compliance. The NPRM seeks comment on whether to require that licensees of LPTV stations affiliated with a top-four TV network comply with § 73.3526 of the Commission’s rules, which would require them to maintain certain records in the Commission’s OPIF. We also invite comment on whether we should include other LPTV network affiliates in the requirement to maintain an OPIF. In addition, rather than tying any OPIF requirement for LPTV stations to network affiliation, we invite comment on whether we should instead apply the OPIF requirement to the top-four LPTV stations in each market based on the Nielsen ratings. Transitioning these LPTV stations to the online public file would improve public access to certain station records.

102. The NPRM also proposes to update the list of political programming rules applicable to LPTV stations to align with existing and longstanding statutory requirements, and to revise § 74.781 of our rules to require that LPTV stations without an OPIF requirement maintain documents for public inspection. In addition, we propose to make other changes to § 73.3526 of our rules to correct cross references and other inaccuracies, clarify existing requirements, establish a filing frequency for Class A stations to certify they have met their ongoing eligibility requirements, and require Class A and LPTV stations to disclose time brokerage agreements (TBAs) and joint service agreements (JSAs).

103. We propose requiring that LPTV and TV translator stations file an application for modification of license in order to change their community of license. Existing FCC Forms 2100 Schedule D (LPTV/TV translator) and F (Class A) will be used for this proposed requirement and no changes to the Forms are anticipated except for the burden estimates for the existing collections for these Forms. We also propose that LPTV/TV translator stations certify in applications for minor change or license that they are in compliance with any minimum operating requirements adopted in this proceeding. Existing FCC Form 2100 Schedule C and D would be modified and used for this requirement.

104. The NPRM proposes to require that LPTV/TV translator stations that seek to change their designation from LPTV to TV translator and vice versa, be required to seek formal authority to make this change. Existing FCC Form 2100 Schedule D would be used for this proposed requirement and no changes to the Form are anticipated except for the burden estimates for the existing collection for this Form. Finally, the NPRM proposes minimum operating hours of no less than 14 hours per week for LPTV stations.

105. The NPRM also proposes minimum operating hours of no less than 14 hours per week for LPTV stations. We anticipate the information we receive in comments including where requested, cost and benefit analyses, will help the Commission identify and evaluate relevant compliance matters for small entities, including compliance costs and other burdens that may result from the proposals and inquiries we make in the NPRM.

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

106. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered 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 and reporting requirements under the rule for such 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.”

107. The Commission proposes a number of alternatives that may have a significant impact on small entities. The NPRM seeks comment on whether to require LPTV stations affiliated with a top-four TV network to comply with section 73.3526 of the Commission’s rules, which requires stations to maintain certain records for public inspection in the Commission’s OPIF database. By limiting the proposal to LPTV stations affiliated with a top-four TV network, this approach would limit this obligation to a smaller number of LPTV stations that have widely-viewed programming and are therefore likely to have greater resources. Alternatively, the NPRM asks whether we should include other LPTV network affiliates in the requirement to maintain an OPIF or, rather than tying any OPIF requirement for LPTV stations to network affiliation, whether we should instead apply the OPIF requirement to the top-four LPTV stations in each market based on the Nielsen ratings.

108. If we were to require certain LPTV stations to comply with § 73.3526, the NPRM proposes to take similar measures to reduce the burden on these LPTV stations that the Commission took when it transitioned full power and Class A TV stations and other media entities to OPIF. Specifically, we propose to require LPTV stations to upload only those items required to be in the public file but not otherwise filed with the Commission or available on the Commission’s website. Any document or information required to be kept in the public file and that is required to be filed with the Commission electronically would be imported to the online public file and updated by the Commission. In addition, if we require certain LPTV stations to maintain records in OPIF, instead of paper file,

LPTV stations may have initial costs, but the effort by small stations and their related costs over time will be minimized by exempting existing political file material from the online file requirement and by requiring only that political file documents be uploaded on a going-forward basis, similar to our approach with respect to other entities that have already transitioned to OPIF. Additionally, the NPRM recommends that LPTV stations be required to operate not less than 14 hours per calendar week instead of requiring the daily operational requirements of commercial full power stations, thereby allowing the flexibility needed for LPTV stations without traditional hours to serve their viewers.

109. The remaining alternatives proposed by the Commission in the NPRM were considered to be the least costly and/or minimally burdensome for small and other entities impacted by the rules. The Commission expects to more fully consider the economic impact and alternatives for small entities following the review of comments filed in response to the NPRM.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

110. None.

V. Ordering Clauses

111. Accordingly, *it is ordered* that, pursuant to the authority found in sections 1, 2, 4(i), 4(j), 303, 307, 309, 311, 312, and 315 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 303, 307, 309, 311, 312, 315 this Notice of Proposed Rulemaking *is adopted*.

112. *It is further ordered* that the Commission’s Office of the Secretary, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Act Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 11

Television.

47 CFR Parts 73 and 74

Reporting and recordkeeping requirements, Television.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications

Commission proposes to amend 47 CFR parts 11, 73, and 74 to read as follows:

PART 11—EMERGENCY ALERT SYSTEM (EAS)

■ 1. The authority citation for part 11 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (o), 303(r), 544(g), 606, 1201, 1206.

■ 2. Section 11.11 is amended by revising paragraph (a) introductory text, table 1 to paragraph (a), and paragraph (b) to read as follows:

§ 11.11 The Emergency Alert System (EAS).

(a) The EAS is composed of analog radio broadcast stations including AM, FM, and Low-power FM (LPFM) stations; digital audio broadcasting (DAB) stations, including digital AM, FM, and Low-power FM stations; television (TV) broadcast stations, including Class A and low-power TV (LPTV) stations; analog cable systems; digital cable systems which are defined for purposes of this part only as the portion of a cable system that delivers channels in digital format to subscribers at the input of a Unidirectional Digital Cable Product or other navigation device; wireline video systems; wireless

cable systems which may consist of Broadband Radio Service (BRS), or Educational Broadband Service (EBS) stations; DBS services, as defined in § 25.701(a) of this chapter (including certain Ku-band Fixed-Satellite Service Direct to Home providers); and SDARS, as defined in § 25.201 of this chapter. These entities are referred to collectively as EAS Participants in this part, and are subject to this part, except as otherwise provided herein. At a minimum EAS Participants must use a common EAS protocol, as defined in § 11.31, to send and receive emergency alerts, and comply with the requirements set forth in § 11.56, in accordance with the following tables:

TABLE 1—ANALOG AND DIGITAL BROADCAST STATION EQUIPMENT DEPLOYMENT REQUIREMENTS

EAS equipment requirement	AM & FM	Digital AM & FM	Analog & digital FM class D	Analog & digital LPFM	TV	Class A TV	LPTV
EAS decoder ¹	Y	Y	Y	Y	Y	Y	Y
EAS encoder	Y	Y	N	N	Y	Y	N
Audio message	Y	Y	Y	Y	Y	Y	Y
Video message	N/A	N/A	N/A	N/A	Y	Y	Y

¹ EAS Participants may comply with the obligations set forth in § 11.56 to decode and convert CAP-formatted messages into EAS Protocol-compliant messages by deploying an Intermediary Device, as specified in § 11.56(b).

* * * * *

(b) Analog class D non-commercial educational FM stations as defined in § 73.506 of this chapter, digital class D non-commercial educational FM stations, analog LPFM stations as defined in §§ 73.811 and 73.853 of this chapter, digital LPFM stations, and LPTV stations as defined in § 74.701(b) of this chapter are not required to comply with § 11.32. Television broadcast translator stations, as defined in § 74.701(a) of this chapter, which entirely rebroadcast the programming of other broadcast television stations are not required to comply with the requirements of this part. FM broadcast booster stations as defined in § 74.1201(f) of this chapter and FM translator stations as defined in § 74.1201(a) of this chapter which entirely rebroadcast the programming of other local FM broadcast stations are not required to comply with the requirements of this part. International broadcast stations as defined in § 73.701 of this chapter are not required to comply with the requirements of this part. Analog and digital broadcast stations that operate as satellites or repeaters of a hub station (or common studio or control point if there is no hub station) and rebroadcast 100 percent of the programming of the hub station (or common studio or control point) may satisfy the requirements of this part through the use of a single set of EAS

equipment at the hub station (or common studio or control point) which complies with §§ 11.32 and 11.33.

* * * * *

■ 3. Section 11.51 is amended by revising paragraph (e) to read as follows:

§ 11.51 EAS code and Attention Signal Transmission requirements.

* * * * *

(e) Analog class D non-commercial educational FM stations as defined in § 73.506 of this chapter, digital class D non-commercial educational FM stations, analog Low Power FM (LPFM) stations as defined in §§ 73.811 and 73.853 of this chapter, digital LPFM stations, and LPTV stations as defined in § 74.701(b) of this chapter are not required to have equipment capable of generating the EAS codes and Attention Signal specified in § 11.31.

* * * * *

■ 4. Section 11.61 is amended by revising paragraphs (a)(1)(i), (a)(2)(i)(A), and (a)(2)(ii) to read as follows:

§ 11.61 Tests of EAS procedures.

(a) * * *
(1) * * *

(i) Tests in odd numbered months shall occur between 8:30 a.m. and local sunset. Tests in even numbered months shall occur between local sunset and 8:30 a.m. They will originate from Local or State Primary sources. The time and script content will be developed by State Emergency Communications

Committees in cooperation with affected EAS Participants. Script content may be in the primary language of the EAS Participant. These monthly tests must be transmitted within 60 minutes of receipt by EAS Participants in an EAS Local Area or State. Analog and digital class D non-commercial educational FM, analog and digital LPFM stations, and LPTV stations are required to transmit only the test script.

* * * * *

(2) * * *
(i) * * *

(A) Analog and digital AM, FM, and TV broadcast stations must conduct tests of the EAS header and EOM codes at least once a week at random days and times. DAB and TV stations must conduct these tests on all program streams.

* * * * *

(ii) DBS providers, SDARS providers, analog and digital class D non-commercial educational FM stations, analog and digital LPFM stations, and LPTV stations are not required to transmit this test but must log receipt, as specified in § 11.35(a) and 11.54(a)(3).

* * * * *

PART 73—RADIO BROADCAST SERVICES

■ 5. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 6. Section 73.619 is amended by revising paragraph (b)(1) to read as follows:

§ 73.619 Contours and service areas.

* * * * *

(b) * * *

(1) In predicting the distance to the field strength contours, the F (50,50) field strength charts (Figures 9, 10 and 10b of § 73.699) and the F (50,10) field strength charts (Figures 9a, 10a and 10c of § 73.699) shall be used. To use the charts to predict the distance to a given F (50,90) contour, the following procedure is used: Convert the effective radiated power in kilowatts for the appropriate azimuth into decibel value referenced to 1 kW (dBk). Subtract the power value in dBk from the contour value in dBu. Note that for power less than 1 kW, the difference value will be greater than the contour value because the power in dBk is negative. Locate the difference value obtained on the vertical scale at the left edge of the appropriate F (50,50) chart for the TV station's channel. Follow the horizontal line for that value into the chart to the point of intersection with the vertical line above the height of the antenna above average terrain for the appropriate azimuth located on the scale at the bottom of the chart. If the point of intersection does not fall exactly on a distance curve, interpolate between the distance curves below and above the intersection point. The distance values for the curves are located along the right edge of the chart. Using the appropriate F (50,10) chart for the TV station's channel, locate the point where the distance coincides with the vertical line above the height of the antenna above average terrain for the appropriate azimuth located on the scale at the bottom of the chart. Follow a horizontal line from that point to the left edge of the chart to determine the F (50,10) difference value. Add the power value in dBk to this difference value to determine the F (50,10) contour value in dBu. Subtract the F (50,50) contour value in dBu from this F (50,10) contour value in dBu. Subtract this difference from the F (50,50) contour value in dBu to determine the F (50,90) contour value in dBu at the pertinent distance along the pertinent radial.

* * * * *

■ 7. Section 73.625 is amended by revising paragraph (c)(4)(i) to read as follows:

§ 73.625 TV antenna system.

* * * * *

(c) * * *

(4) * * *

(i) In cases where it is proposed to use a tower of an AM broadcast station as a supporting structure for a TV broadcast antenna, an appropriate application for changes in the radiating system of the AM broadcast station must be filed by the licensee thereof. A formal application (FCC Form 2100 Schedule 301-AM) will be required if the proposal involves substantial change in the physical height or radiation characteristics of the AM broadcast antennas; otherwise an informal application will be acceptable. (In case of doubt, an informal application (letter) together with complete engineering data should be submitted.) An application may be required for other classes of stations when the tower is to be used in connection with a TV station.

* * * * *

■ 8. Section 73.2080 is amended by revising paragraph (f)(3) to read as follows:

§ 73.2080 Equal employment opportunities (EEO).

* * * * *

(f) * * *

(3) If a station is subject to a time brokerage agreement, the licensee shall file Form 2100 Schedule 396 and EEO public file reports concerning only its own recruitment activity. If a licensee is a broker of another station or stations, the licensee-broker shall include its recruitment activity for the brokered station(s) in determining the bases of Form 2100 Schedule 396 and the EEO public file reports for its own station. If a licensee-broker owns more than one station, it shall include its recruitment activity for the brokered station in the Form 2100 Schedule 396 and EEO public file reports filed for its own station that is most closely affiliated with, and in the same market as, the brokered station. If a licensee-broker does not own a station in the same market as the brokered station, then it shall include its recruitment activity for the brokered station in the Form 2100 Schedule 396 and EEO public file reports filed for its own station that is geographically closest to the brokered station.

* * * * *

■ 9. Section 73.3526 is amended by revising paragraphs (a)(2), (e)(11)(iii), and (e)(14) through (17) to read as follows:

§ 73.3526 Online public inspection file of commercial stations.

(a) * * *

(2) Every permittee or licensee of an AM, FM, TV, or Class A TV station in the commercial broadcast services, and every permittee or licensee of an LPTV

station affiliated with a top-four TV network (ABC, CBS, NBC, or Fox), shall maintain a public inspection file containing the material, relating to that station, described in paragraphs (e)(1) through (e)(10) and paragraphs (e)(13) and (e)(19) of this section. In addition, every permittee or licensee of a commercial TV station shall maintain for public inspection a file containing material, relating to that station, described in paragraphs (e)(11) and (e)(14), (e)(15), (e)(16), and (e)(18) of this section, every permittee or licensee of a Class A TV station shall maintain for public inspection a file containing material, relating to that station, described in paragraphs (e)(11), (e)(14), (e)(15), (e)(16) and (e)(17) of this section, every permittee or licensee of an LPTV station affiliated with a top-four TV network shall maintain for public inspection a file containing material, relating to that station, described in paragraphs (e)(14), (e)(15), and (e)(16) of this section, and every permittee or licensee of a commercial AM or FM station shall maintain for public inspection a file containing the material, relating to that station, described in paragraphs (e)(12), (e)(14), and (e)(16) of this section. A separate file shall be maintained for each station for which an authorization is outstanding, and the file shall be maintained so long as an authorization to operate the station is outstanding.

* * * * *

(e) * * *

(11) * * *

(iii) *Children's television programming reports.* For commercial TV and Class A broadcast stations on an annual basis, a completed Children's Television Programming Report ("Report"), on FCC Form 2100 Schedule H, reflecting efforts made by the licensee during the preceding year to serve the educational and informational needs of children. The Report is to be electronically filed with the Commission by the thirtieth (30) day of the succeeding calendar year. A copy of the Report will also be linked to the station's online public inspection file by the FCC. The Report shall identify the licensee's educational and informational programming efforts, including programs aired by the station that are specifically designed to serve the educational and informational needs of children. The Report shall include the name of the individual at the station responsible for collecting comments on the station's compliance with the Children's Television Act, and it shall be separated from other materials in the public inspection file. These Reports

shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.

* * * * *

(14) *Radio and television time brokerage agreements.* For commercial radio and television stations, and LPTV stations affiliated with a top-four TV network, a copy of every agreement or contract involving time brokerage of the licensee's station or of another station by the licensee, whether the agreement involves stations in the same markets or in differing markets, with confidential or proprietary information redacted where appropriate. These agreements shall be placed in the public file within 30 days of execution and retained in the file as long as the contract or agreement is in force.

(15) *Must-carry or retransmission consent election.* Statements of a commercial television or Class A television station's election, or the election of an LPTV station affiliated with a top-four TV network, with respect to either must-carry or retransmission consent, as defined in §§ 76.64 and 76.1608 of this chapter. These records shall be retained for the duration of the three year election period to which the statement applies. Commercial television stations shall, no later than July 31, 2020, provide an up-to-date email address and phone number for carriage-related questions and respond as soon as is reasonably possible to messages or calls from multichannel video programming distributors (MVPDs). Each commercial television station is responsible for the continuing accuracy and completeness of the information furnished.

(16) *Radio and television joint sales agreements.* For commercial radio and commercial television stations, and for LPTV stations affiliated with a top-four TV network, a copy of agreement for the joint sale of advertising time involving the station, whether the agreement involves stations in the same markets or in differing markets, with confidential or proprietary information redacted where appropriate. These agreements shall be placed in the public file within 30 days of execution and retained in the file as long as the contract or agreement is in force.

(17) *Class A TV continuing eligibility.* Documentation sufficient to demonstrate that the Class A television station is continuing to meet the eligibility requirements set forth at § 73.6001. Such documentation must be filed every calendar quarter by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October–

December, April 10 for the quarter January–March, etc.). The documentation shall include a certification that the Class A television station is continuing to meet the eligibility requirements set forth at § 73.6001 and shall include, but shall not be limited to, the time, date, duration, and title of each locally produced program that was aired during that calendar quarter. The documentation described in this paragraph shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.

* * * * *

■ 10. Section 73.3572 is amended by revising paragraph (a)(2) to read as follows:

§ 73.3572 Processing of TV broadcast, Class A TV broadcast, low power TV, and TV translator applications.

(a) * * *

(2) In the case of Class A TV stations authorized under subpart J of this part and low power TV and TV translator stations authorized under part 74 of this chapter, major or minor changes are defined in § 74.787(b).

* * * * *

■ 11. Section 73.3580 is amended by revising paragraph (a)(3) to read as follows:

§ 73.3580 Local public notice of filing of broadcast applications.

(a) * * *

(3) *Locally originating programming.* Programming from a low power television (LPTV) or television translator station as defined in § 74.701(g) of this chapter.

* * * * *

■ 12. Section 73.4060 is amended by revising paragraph (a) to read as follows:

§ 73.4060 Citizens agreements.

(a) See Report and Order, Docket 20495, FCC 75–1359, adopted December 10, 1975. 57 F.C.C. 2d 42; 40 FR 59730, December 30, 1975.

* * * * *

■ 13. Section 73.6001 is amended by revising paragraph (d) to read as follows:

§ 73.6001 Eligibility and service requirements.

* * * * *

(d) Licensees unable to continue to meet the minimum operating requirements for Class A television stations, or which elect to revert to low power television status, shall promptly notify the Commission, in writing, and request a change in status. The station's call sign will be modified to one

consistent with the requirements of § 74.791(c) following reversion to low power television status.

* * * * *

■ 14. Amend § 73.6002 by revising paragraph (a)(2) and adding paragraph (b) to read as follows:

§ 73.6002 Licensing requirements.

(a) * * *

(2) Files an acceptable application for a Class A Television license (FCC Form 2100 Schedule F).

(b) *Community coverage requirements.*

(1) A Class A station's protected contour (see § 73.6010 of this subpart) is required to overlap with at least a portion of its community of license.

(2) To change a Class A station's community of license, a modification of license must be filed specifying the new community and including an exhibit indicating that the protected contour of the facility specified in the license to cover overlaps with at least a portion of the proposed community of license. A station may change its community of license no more than once every 12 months.

(3) For purposes of determining whether a community of license's boundary overlaps with a station's protected service contour, an applicant shall use the legal boundary of the community as may be designated by any Federal, state, local, or tribal governmental entity.

■ 15. Section 73.6017 is revised to read as follows:

§ 73.6017 Class A TV station protection of Class A TV stations.

An application to change the facilities of a Class A TV station will not be accepted if it fails to protect authorized Class A stations in accordance with the requirements of § 74.793 (b) through (d), (g), and (j) of this chapter. This protection must be afforded to applications for changes in other authorized Class A stations filed prior to the date the Class A application is filed.

■ 16. Section 73.6019 is revised to read as follows:

§ 73.6019 Class A TV station protection of low power TV and TV translator stations.

An application to change the facilities of a Class A TV station will not be accepted if it fails to protect authorized low power TV and TV translator stations in accordance with the requirements of § 74.793(b) through (d), (h), and (j) of this chapter. This protection must be afforded to applications for changes filed prior to the date the Class A station is filed.

■ 17. Section 73.6023 is amended by adding paragraph (f)(6) to read as follows:

§ 73.6023 Distributed transmission systems.

* * * * *

(f) * * *

(6) All DTS transmitters must use the same emission mask. See § 73.6024(d) of this subpart regarding permissible emission masks.

* * * * *

■ 18. Section 73.7003 is amended by revising paragraphs (b)(2), (b)(4), and (c)(5)(ii) to read as follows:

§ 73.7003 Point system selection procedures.

* * * * *

(b) * * *

(2) Local diversity of ownership. Two points for applicants with no attributable interests, as defined in § 73.7000, in any other broadcast station or authorized construction permit (comparing radio to radio and television to television) whose principal community (city grade) contour overlaps that of the proposed station. The principal community (city grade) contour is the 5 mV/m for AM stations, the 3.16 mV/m for FM stations calculated in accordance with § 73.313(c), and the contour identified in § 73.618(a) for TV. Radio applicants will count commercial and noncommercial AM, FM, and FM translator stations other than fill-in stations. Television applicants will count UHF, VHF, and Class A stations.

* * * * *

(4) Technical parameters. One point to the applicant covering the largest geographic area and population with its relevant contour (60 dBu for FM and NLS for TV), provided that the applicant covers both a ten percent greater area and a ten percent greater population than the applicant with the next best technical proposal. The top applicant will receive two points instead of one point if its technical proposal covers both a 25 percent greater area and 25 percent greater population than the next best technical proposal.)

(c) * * *

(5) * * *

(ii) Groups of more than three tied, grantable applications will not be eligible for licensing under this section. Where such groups exist, the Commission will dismiss all but the applications of the three applicants that have been local, as defined in § 73.7000, for the longest uninterrupted periods of time. The Commission will then process

the remaining applications as set forth in paragraph (c)(5)(i) of this section.

* * * * *

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

■ 19. 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.

■ 20. Section 74.701 is amended by revising paragraphs (a), (b), and (e) through (g), and removing paragraphs (h) through (m) to read as follows:

§ 74.701 Definitions.

(a) Television broadcast translator station (TV translator). 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.

(b) Low power TV station (LPTV). 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.)

* * * * *

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

(f) 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.

(g) Local origination. For purposes of this part, local origination shall be any transmissions other than the simultaneous retransmission of the programs and signals of a TV broadcast station or transmissions related to service offerings of an ancillary or supplementary nature. Origination shall include locally generated television program signals and program signals obtained via video recordings (tapes and discs), microwave, common carrier circuits, or other sources.

■ 21. Section 74.720 is amended by revising the section heading and paragraphs (a) and (b), adding paragraph (e)(6), and revising paragraph (f) to read as follows:

§ 74.720 Low power TV distributed transmission systems.

(a) A low power TV or TV translator (LPTV) station may be authorized to operate multiple synchronized transmitters on its assigned channel to provide service consistent with the requirements of this section. Such operation is called a distributed transmission system (DTS). Except as expressly provided in this section, LPTV stations operating a DTS facility must comply with all rules in this part applicable to LPTV single-transmitter stations.

(b) For purposes of compliance with this section, a LPTV station's "authorized facility" is the facility authorized for the station in a license or construction permit for non-DTS, single-transmitter-location operation. An LPTV station's "authorized service area" is defined as the area within its protected contour (described by § 74.792) as determined using the authorized facility.

* * * * *

(e) * * *

(6) All DTS transmitters must use the same emission mask. See § 74.794 of this subpart regarding permissible emission masks.

(f) All transmitters operating under a single LPTV DTS license must follow the same broadcast television transmission standard.

■ 22. Section 74.732 is amended by revising paragraphs (d) and (e) to read as follows:

§ 74.732 Eligibility and licensing requirements.

* * * * *

(d) The FCC will not act on applications for new low power TV or TV translator stations, or for changes in facilities of existing stations, when such changes will result in a major change, until the applicable time for filing a petition to deny has passed pursuant to section 73.3584(c) of this subpart.

(e) A proposal to change the primary TV station(s) being retransmitted will be subject only to a notification requirement.

* * * * *

■ 23. Section 74.763 is amended by revising paragraph (a) to read as follows:

§ 74.763 Time of operation.

(a) Stations authorized subject to this subpart are required to operate with the following schedules:

(1) The licensee of a low power TV station is required to air a minimum of 14 hours per calendar week of programming. Such operation must be consistent with § 73.1740(a)(2)(iii).

(2) The licensee of a TV translator, DRT, or DTDRT station is required to provide service to the extent that such is within its control and to avoid unwarranted interruptions in the service provided.

(3) All LPTV or TV translator station applicants for construction permits for minor or major modification of a licensed facility or applicants for renewal of a license must certify that the station has complied with the minimum operating requirement for its class of service set forth in this section. If an applicant cannot make such a certification, it must explain why and demonstrate that grant of such application is in the public interest.

* * * * *

■ 24. Section 74.780 is revised to read as follows:

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

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

(1) 47 CFR part 5—Experimental authorizations.

(2) 47 CFR 73.658—Affiliation agreements and network program practices; territorial exclusivity in non-network program arrangements.

(3) 47 CFR 73.1030—Notifications concerning interference to radio astronomy, research, and receiving installations.

(4) 47 CFR 73.1206—Broadcast of telephone conversations.

(5) 47 CFR 73.1207—Rebroadcasts.

(6) 47 CFR 73.1208—Broadcast of taped, filmed, or recorded material.

(7) 47 CFR 73.1211—Broadcast of lottery information.

(8) 47 CFR 73.1212—Sponsorship identifications; list retention; related requirements.

(9) 47 CFR 73.1216—Licensee-conducted contests.

(10) 47 CFR 73.1515—Special field test authorizations.

(11) 47 CFR 73.1615—Operation during modification of facilities.

(12) 47 CFR 73.1620—Program tests.

(13) 47 CFR 73.1635—Special temporary authorizations (STA).

(14) 47 CFR 73.1650—International agreements.

(15) 47 CFR 73.1680—Emergency antennas.

(16) 47 CFR 73.1740(a)(2)(iii)—Minimum operating schedule.

(17) 47 CFR 73.1940—Legally qualified candidates for public office.

(18) 47 CFR 73.3500—Application and report forms.

(19) 47 CFR 73.3511—Applications required.

(20) 47 CFR 73.3512—Where to file; number of copies.

(21) 47 CFR 73.3513—Signing of applications.

(22) 47 CFR 73.3514—Content of applications.

(23) 47 CFR 73.3516—Specification of facilities.

(24) 47 CFR 73.3517—Contingent applications.

(25) 47 CFR 73.3518—Inconsistent or conflicting applications.

(26) 47 CFR 73.3519—Repetitious applications.

(27) 47 CFR 73.3521—Mutually exclusive applications for low power TV and TV translator stations.

(28) 47 CFR 73.3522—Amendment of applications.

(29) 47 CFR 73.3525—Agreements for removing application conflicts.

(30) 47 CFR 73.3533—Application for construction permit or modification of construction permit.

(31) 47 CFR 73.3536—Application for license to cover construction permit.

(32) 47 CFR 73.3538(a)(1), (3), and (4) and (b)—Application to make changes in an existing station.

(33) 47 CFR 73.3539—Application for renewal of license.

(34) 47 CFR 73.3540—Application for voluntary assignment or transfer of control.

(35) 47 CFR 73.3541—Application for involuntary assignment of license or transfer of control.

(36) 47 CFR 73.3542—Application for emergency authorization.

(37) 47 CFR 73.3544—Application to obtain a modified station license.

(38) 47 CFR 73.3545—Application for permit to deliver programs to foreign stations.

(39) 47 CFR 73.3550—Requests for new or modified call sign assignments.

(40) 47 CFR 73.3561—Staff consideration of applications requiring Commission action.

(41) 47 CFR 73.3562—Staff consideration of applications not requiring action by the Commission.

(42) 47 CFR 73.3564—Acceptance of applications.

(43) 47 CFR 73.3566—Defective applications.

(44) 47 CFR 73.3568—Dismissal of applications.

(45) 47 CFR 73.3572—Processing of TV broadcast, low power TV, and TV translator station applications.

(46) 47 CFR 73.3580—Local public notice of filing of broadcast applications.

(47) 47 CFR 73.3584—Petitions to deny.

(48) 47 CFR 73.3587—Informal objections.

(49) 47 CFR 73.3591—Grants without hearing.

(50) 47 CFR 73.3593—Designation for hearing.

(51) 47 CFR 73.3594—Local public notice of designation for hearing.

(52) 47 CFR 73.3597—Procedures on transfer and assignment applications.

(53) 47 CFR 73.3598—Period of construction.

(54) 47 CFR 73.3601—Simultaneous modification and renewal of license.

(55) 47 CFR 73.3603—Special waiver procedure relative to applications.

(b) The following rules are applicable to low power TV stations only:

(1) 47 CFR part 11—Emergency Alert System.

(2) 47 CFR 73.1941—Equal opportunities.

(3) 47 CFR 73.1942—Candidate rates.

(4) 47 CFR 73.1943—Political file.

(5) 47 CFR 73.1944—Reasonable access.

(6) 47 CFR 73.2080—Equal employment opportunities.

(7) 47 CFR 73.3526—Online public inspection file of commercial stations.

(8) 47 CFR 73.3612—Annual employment report.

(9) 47 CFR 73.3613—Availability to FCC of station contracts (network affiliation contracts only).

■ 25. Section 74.781 is amended by revising paragraph (c) to read as follows:

§ 74.781 Station records.

* * * * *

(c) LPTV stations affiliated with a top-four TV network (ABC, CBS, NBC, or Fox) must maintain an OPIF consistent with § 73.3526 of this Chapter. For LPTV records in this section not required to be included in OPIF and for translator stations, the station records shall be maintained for public inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the LPTV or 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. The station records shall also be made available upon request to any authorized representative of the Commission.

* * * * *

■ 26. Section 74.783 is amended by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 74.783 Station identification.

(a) Each low power TV station as defined by § 74.701(b) must transmit its

station identification using one of the following methods:

(1) When originating programming, as defined by § 74.701(g), a low power TV station may use the station identification procedures given in § 73.1201 of this chapter on its primary stream. Other streams may use the method in paragraph (a)(2) of this section. The identification procedures given in the remainder of this paragraph are to be used at any time the station is not originating programming; or

■ 27. Section 74.784 is amended by revising paragraph (e) to read as follows:

§ 74.784 **Rebroadcasts.**

(e) The provisions of § 73.1207 of part 73 of this chapter apply to low power TV stations in transmitting any material during periods of local origination obtained from the transmissions of any other type of station.

■ 28. Section 74.787 is amended by adding paragraphs (a)(1) and (2), revising paragraphs (a)(4) and (b)(1)(iii) to read as follows:

§ 74.787 **Licensing.**

(a) * * * (1) *Community coverage requirements.* (i) A low power TV or TV translator station's protected contour (see § 74.792) is required to overlap with at least a portion of its community of license.

(ii) To change a low power TV or TV translator station's community of license, a modification of license must be filed specifying the new community and including an exhibit indicating that the protected contour of the facility specified in the license to cover overlaps with at least a portion of the proposed community of license. A station may change its community of license no more than once every 12 months.

(iii) For purposes of determining whether a community of license's boundary overlaps with a station's protected service contour, an applicant shall use the legal boundary of the community as may be designated by any Federal, state, local, or tribal governmental entity.

(2) *Conversion between low power TV and TV translator.*

(i) A TV translator station may convert to a low power TV station by filing a modification of license requesting the conversion. The station's call sign must be modified to one consistent with § 74.791(c) after converting to a low power TV station.

(ii) A low power TV station may convert to a TV translator station by filing a modification of license requesting the conversion. It shall specify the facility ID and call sign of the station(s) to be translated in its filing. The station's call sign will be modified to one consistent with § 74.791(b) after converting to a TV translator station.

(4) *Displacement applications.* (i) Stations eligible to file displacement applications must meet at least one of the following requirements:

(A) Cause actual interference at multiple locations within a TV broadcast station's noise-limited service contour (See § 73.619(c)). If the interference is within the community of license of the TV broadcast station, then a single report of interference is sufficient for displacement.

(B) Cause predicted interference beyond the amount specified in § 74.792(e) with respect to a TV broadcast station, allotment, or other protected station or service, except if such interference has been previously accepted.

(C) Receive predicted interference beyond the amount specified in § 74.792(h) with respect to a TV broadcast station, allotment, or other protected station or service, except if such interference has been previously accepted.

(D) Cause interference to the input channel of a TV translator, DRT, or DTDRT station either located at the same or a nearby location as the existing low power TV, TV translator, DRT, or DTDRT operation.

(E) Cause interference to land mobile operations such that it must otherwise cease operations consistent with § 74.703(e).

(F) Is predicted to cause or receive interference to or from an authorized TV broadcast station or allotment with respect to protected foreign stations.

(ii) In the event a channel substitution in the Table of TV Allotments is the cause of a station's displacement, the displacement permit may not be granted prior to the grant of the construction permit of the station which requested the channel substitution. Further, a displaced station may only file an application for displacement relief after the channel substitution is final.

(iii) Eligible stations may file a displacement relief application on FCC Form 2100, Schedule C for change in channel at any time, together with technical modifications that are necessary to avoid interference or continue serving the station's protected

service area. The application should indicate the specific cause of displacement from paragraph (i) of this section. Such applications are treated as minor modifications and must be consistent with paragraph (b) of this section.

(iv) Displacement relief applications will not be subject to the filing of competing applications.

(v) 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, except as otherwise specified with respect to DRTs and DTDRTs in paragraph (a)(5)(iii).

(vi) Mutually exclusive displacement relief applications for low power television and television translator stations shall be resolved via the Commission's part 1 and broadcast competitive bidding rules, §§ 1.2100 through 1.2199, 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.

(b) * * *

(1) * * *

(iii) Any change in transmitting antenna location of greater than 48.3 kilometers from the coordinates of the existing antenna location.

■ 29. Section 74.790 is amended by revising paragraph (g)(2) and adding paragraph (p) to read as follows:

§ 74.790 **Permissible service of TV translator and LPTV stations.**

(g) * * *

(2) For the origination of programming and commercial matter as defined in § 74.701(g).

(p) No broadcast television stations are permitted to operate on channels above 36.

■ 30. Section 74.791 is amended by revising paragraphs (a) through (c) to read as follows:

§ 74.791 **Call signs.**

(a) *New low power and television translator stations.* Call signs for new

low power television and 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 letters –D, consistent with paragraph (d) of this section. Prior to filing a license to cover, a new low power television station must modify its call sign to be consistent with the requirements of paragraph (c) of this section.

(b) *Television translator stations.* Call signs for 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, consistent with paragraph (d) of this section.

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

* * * * *

■ 31. Section 74.793 is amended by revising paragraph (b) and adding paragraphs (i) and (j) to read as follows:

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

* * * * *

(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 § 73.620 of this chapter. The 2 km cell size specified in § 73.620(b) is not permitted for Class A, LPTV, TV translator, DRT, and DTDRT stations, and if not specified in the application, the 1 km cell size will be assumed.

* * * * *

(i) LPTV, TV translator, DRT, and DTDRT stations may negotiate interference consent agreements consistent with §§ 73.620(e) and 73.6022.

(j) If an existing authorization exceeds the interference thresholds consistent with paragraphs (g) or (h) of this section, when filing a non-displacement minor modification it may create interference up to but not exceeding the level previously authorized. In determining this level, the proposal shall use the same cell size and path profile increment in showing both the existing and proposed interference. If the proposal is subject to a formal

interference agreement, that agreement must be included as an exhibit to the application.

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

§ 74.794 Emissions.

(a)(1) An applicant for an 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. Stations proposing new or modified operation on channel 14 shall specify either the stringent or full service emission mask.

* * * * *

[FR Doc. 2024–13812 Filed 6–26–24; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 202, 215, 234, 242, 244, 245, and 252

[Docket DARS–2024–0020]

RIN 0750–AL25

Defense Federal Acquisition Regulation Supplement: Definition of Material Weakness (DFARS Case 2021–D006)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2021 that defines the term “material weakness” for Government evaluation of contractor business systems. The term “material weakness” replaces the term “significant deficiency.”

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before August 26, 2024, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2021–D006, using either of the following methods:

○ *Federal eRulemaking Portal:* <https://www.regulations.gov>. Search for DFARS Case 2021–D006. Select “Comment” and follow the instructions to submit a comment. Please include

“DFARS Case 2021–D006” on any attached documents.

○ *Email:* osd.dfars@mail.mil. Include DFARS Case 2021–D006 in the subject line of the message.

Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check <https://www.regulations.gov>, approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Snyder, telephone 703–945–5341.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to amend the DFARS to implement section 806 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021 (Pub. L. 116–283), which amends section 893 of the NDAA for FY 2011 (Pub. L. 111–383). Section 893 of the NDAA for FY 2011 requires a program for the improvement of contractor business systems and provides for DoD approval or disapproval of contractor business systems. Section 806 of the NDAA for FY 2021 defines the term “material weakness”, which replaces the term “significant deficiency.”

II. Discussion and Analysis

This proposed rule replaces the term “significant deficiency” with “material weakness” in each of the following DFARS contract clauses: 252.215–7002, Cost Estimating System Requirements; 252.234–7002, Earned Value Management System; 252.242–7004, Material Management and Accounting System; 252.242–7005, Contractor Business Systems; 252.242–7006, Accounting System Administration; 252.244–7001, Contractor Purchasing System Administration-Basic and Alternate I; and 252.245–7003, Contractor Property Management System Administration. The term “material weakness” means a deficiency or combination of deficiencies in the internal control over information in contractor business systems, such that there is a reasonable possibility that a material misstatement of such information will not be prevented, or detected and corrected, on a timely basis. A reasonable possibility exists when the likelihood of an event occurring is probable or more than remote but less than likely.

This definition of “material weakness” aligns with generally accepted auditing standards. This proposed rule will therefore assist DoD