

FCC FACT SHEET^{*}

**Modernization of Media Regulation Initiative:
Amendment of Parts 0, 1, 5, 73, and 74 of the Commission's Rules Regarding Posting of
Station Licenses and Related Information**

Notice of Proposed Rulemaking – MB Docket Nos. 17-105 and 18-121

Background: The Commission's broadcast license posting rules generally require broadcasters to physically display or maintain their licenses and related information in specific locations. The Commission originally adopted broadcast license posting rules in 1930 and over the years it expanded these rules to apply to new services that were deployed by broadcasters. In adopting its first broadcast license posting rule, the Commission's predecessor, the Federal Radio Commission, provided no explicit rationale for the posting requirements. Subsequent Commission decisions adopting or revising license posting or record maintenance requirements similarly provided no detailed explanation for such rules. In conjunction with the Commission's *Modernization of Media Regulation Initiative*, several parties have urged us to eliminate the license posting rules because they are redundant and obsolete now that licensing information is readily accessible online through the Commission's databases.

What the Notice Would Do:

- Seek comment on whether to streamline or eliminate provisions in Parts 0, 1, 5, 73 and 74 of our rules which require the posting and maintenance of broadcast licenses and related information in specific locations.

* This document is being released as part of a "permit-but-disclose" proceeding. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in MB Docket No. 18-121, which may be accessed via the Electronic Comment Filing System (<https://www.fcc.gov/ecfs/>). Before filing, participants should familiarize themselves with the Commission's *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission's meeting. See 47 CFR § 1.1200 *et seq.*

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

In the Matter of)
)
Amendment of Parts 0, 1, 5, 73, and 74 of the) MB Docket No. 18-121
Commission's Rules Regarding Posting of Station)
Licenses and Related Information)
)
Modernization of Media Regulation Initiative) MB Docket No. 17-105

NOTICE OF PROPOSED RULEMAKING*

Adopted: []

Released: []

By the Commission:

Comment Date: (30 days after date of publication in the Federal Register)
Reply Comment Date: (45 days after date of publication in the Federal Register)

I. INTRODUCTION

1. In this Notice of Proposed Rulemaking (NPRM), we seek comment on whether to streamline or eliminate provisions in Parts 0, 1, 5, 73 and 74 of our rules which require the posting and maintenance of broadcast licenses and related information in specific locations. In conjunction with the Commission's Modernization of Media Regulation Initiative, several parties have urged us to eliminate license posting rules because they are redundant and obsolete now that licensing information is readily accessible online through the Commission's databases. Through this NPRM, we advance our efforts to modernize our media regulations and remove unnecessary requirements that can impede competition and innovation in the media marketplace.

II. BACKGROUND

2. Several Commission rules impose certain posting and record maintenance obligations on broadcast stations. For example, Section 73.1230, which applies to all broadcast stations, provides:

* This document has been circulated for tentative consideration by the Commission at its May 2018 open meeting. The issues referenced in this document and the Commission's ultimate resolutions of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. However, the Chairman has determined that, in the interest of promoting the public's ability to understand the nature and scope of issues under consideration, the public interest would be served by making this document publicly available. The Commission's ex parte rules apply and presentations are subject to "permit-but-disclose" ex parte rules. See, e.g., 47 CFR §§ 1.1206, 1.1200(a). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission's meeting. See 47 CFR §§ 1.1200(a), 1.1203.

1 Commission Launches Modernization of Media Regulation Initiative, Public Notice, 32 FCC Rcd 4406 (2017).

2 See, e.g., Comments of Alpha Media LLC, Emmis Communications Corporation, iHeartMedia, Inc., Liberman Broadcasting, Inc., New York Public Radio, and Urban One, Inc. at 4 (Joint Radio Comments); Comments of America's Public Television Stations, Corporation for Public Broadcasting, National Public Radio, Inc., and Public Broadcasting Service at 9-10 (Public Broadcasting Comments); Comments of Mark D. Humphrey at 3 (Humphrey Comments).

(a) The station license and any other instrument of station authorization shall be posted in a conspicuous place and in such a manner that all terms are visible at the place the licensee considers to be the principal control point of the transmitter.

(b) Posting of the station license and any other instruments of authorization shall be done by affixing them to the wall at the posting location, or by enclosing them in a binder or folder which is retained at the posting location so that the documents will be readily available and easily accessible.³

Likewise, Section 73.801 applies Section 73.1230 to low power FM stations.⁴ Sections 74.564 and 74.664, applicable to aural and television broadcast auxiliary stations,⁵ respectively, require stations to post licenses and any other authorizations “in the room in which the transmitter is located” and prescribes the manner of such posting.⁶ Similarly, under Sections 74.432(j) and 74.832(j), remote pickup station and low power auxiliary station licensees are required to post licenses either at the transmitter or station control point.⁷ Further, under Section 5.203(b),⁸ broadcast licensees must post experimental authorizations along with their station license, and Section 1.62(a)(2)⁹ requires all Commission licensees, including broadcast entities, to post information pertaining to license renewal applications as well as the license itself.

3. In addition, several Commission rules require the maintenance of licensing documentation and the display of specified station contact information. For example, Section 74.1265, which applies to FM translator and FM booster stations, provides:

(a) The station license and any other instrument of authorization or individual order concerning the construction of the station or the manner of operation shall be kept in the station record file maintained by the licensee so as to be available for inspection upon request to any authorized representative of the Commission.

(b) The call sign of the translator or booster together with the name, address, and telephone number of the licensee or local representative of the licensee if the licensee does not reside in the community served by the translator or booster, and the name and address of a person and place where station records are maintained, shall be displayed at the translator or booster site on the structure supporting the transmitting antenna, so as to be visible to a person standing on the ground at the transmitter site. The display shall be prepared so as to withstand normal weathering for a reasonable period of time and shall be maintained in a legible condition by the licensee.¹⁰

Similarly, Section 74.765 requires LPTV, TV translator, and TV booster stations to maintain their station license and other authorizations in their station record file and to physically display their call sign together with the name, address, and telephone number of the licensee or local representative of the licensee and

³ 47 CFR § 73.1230.

⁴ 47 CFR § 73.801.

⁵ 47 CFR §§ 74.564, 74.664. Broadcast auxiliary stations are radio frequency systems used by broadcast stations and broadcast or cable network entities to relay broadcast aural or television signals from the studio to the transmitter, or between two points, such as a main studio and an auxiliary studio. *See* 47 CFR §§ 74.501, 74.601.

⁶ 47 CFR § 74.565; 47 CFR § 74.664.

⁷ 47 CFR §§ 74.432(j), 74.832(j).

⁸ 47 CFR § 5.203(b).

⁹ 47 CFR § 1.62(a)(2).

¹⁰ 47 CFR § 74.1265.

the name and address of a person and place where station records are maintained at the antenna site.¹¹

4. The Commission originally adopted broadcast license posting rules in 1930 and over the years it expanded these rules to apply to new services that were deployed by broadcasters. In adopting its first broadcast license posting rule, the Commission's predecessor, the Federal Radio Commission, provided no explicit rationale for the posting requirements.¹² Subsequent Commission decisions adopting or revising license posting or record maintenance requirements similarly provided no detailed explanation for such rules.¹³ Based on the text of the current rules, these requirements appear intended to ensure that information regarding station authorizations, ownership, and contact information is readily available and easily accessible to the Commission and public.¹⁴

¹¹ 47 CFR § 74.765. We note that Section 78.59 also contains license posting requirements for cable television relay stations (CARS) licensees. *See* 47 CFR § 78.59. Given that not all CARS authorizations are housed online and no commenter in the media modernization docket has asked the Commission to eliminate these requirements, we decline to seek comment on eliminating the posting requirements in Section 78.59 in this proceeding. In addition, we note that the Commission applies similar requirements to other, non-broadcast licensees, *e.g.*, 47 CFR §§ 13.19 (commercial radio operators), 25.115(c)(2)(vi)(E) (satellite communications); 80.405(c), 80.407, 80.411(b) (maritime services); 87.103 (aviation services); 90.437 (private land mobile radio services); 97.213 (amateur radio service); 101.215 (fixed microwave services). We decline to address such rules in this proceeding, as they are beyond the scope of the Modernization of Media Regulation Initiative.

¹² *See* U.S. DEPT. OF COMMERCE, RADIO DIVISION, RADIO SERVICE BULL. NO. 158, at 23, GENERAL ORDERS OF THE FEDERAL RADIO COMMISSION (May 31, 1930) (stating only "that every station license shall be posted by the licensee in a conspicuous place in the room in which the transmitter is located and the license of every station operator shall be posted in a conspicuous place in the room occupied by said station operator while on duty").

¹³ *See, e.g.*, Federal Communication Commission, Part 4—Rules Governing Broadcast Services Other Than Standard Broadcast, 5 Fed. Reg. 1672 (May 10, 1940) (announcing the adoption of new sections regarding posting of station and operator licenses without further commentary); *Amendment of Parts 2 and 4 of the Commission's Rules and Regulations Governing STL Stations*, Notice of Proposed Rulemaking, 39 FCC Rcd 414, 414-16 (1950) (amending the Commission's licensing posting rules without providing further rationale); *Amendment of Parts 2 And 4 of the Commission Rules And Regulations to Establish a New Class of Educational Television Service*, Report and Order, 39 FCC 846, 859, para. 45 (1963) (stating only that no comment was directed at the proposal to amend the license posting rules); *Amendment of Sections 74.765, 74.1265, 74.781, and 74.1281 of the Rules Pertaining to Station Records of TV Translators and FM Translators and FM Boosters*, Order, 53 FCC 2d 569, 571, para. 4 (1975) (clarifying "that the records to be maintained [by FM translator or booster stations] must be kept at a residence, office, public building, or place of business, or other suitable place within one of the principal communities of license of the translator," so long as the identity of the person keeping the records and the address are posted at the translator or booster site and stating only that licensees "should consider carefully accessibility, convenience, privacy, safety, and stability"); *Reregulation of Radio and TV Broadcasting*, Order, 63 FCC 2d 979, 980, para. 4 (1978) (consolidating license posting rules for AM, FM, NCE-FM stations, and TV stations under Section 73.1230 of the Commission's rules); *Amendment of Parts 73 and 74 of the Commission's Rules to Permit Unattended Operation of Broadcast Stations and to Update Broadcast Station Transmitter Control and Monitoring Requirements*, Notice of Proposed Rulemaking, 10 FCC Rcd 508 (1994) (stating "[w]e believe that at times it may be useful for the Commission or other government agencies to be able to contact broadcast licensees promptly" and seeking comment on the feasibility of a station contact person database); *Amendment of Parts 73 and 74 of the Commission's Rules*, Report and Order, 10 FCC Rcd 11479, 11484-85, para. 31-34 (1995) (1995 License Posting Order) (opting not to amend transmitter site posting requirements in the absence of more definitive information regarding the value of such requirements).

¹⁴ *See, e.g.*, 47 CFR §§ 73.1230(b) ("Posting of the station license and any other instruments of authorization shall be done ... so that the documents will be readily available and easily accessible."), 74.1265(a) ("The station license and any other instrument of authorization ... shall be kept ... so as to be available for inspection upon request to any authorized representative of the Commission."), AND (b) ("The call sign of the translator or booster together with the name, address, and telephone number of the licensee or local representative of the licensee ... shall be displayed ... so as to be visible to a person standing on the ground at the transmitter site.") (emphasis added).

III. DISCUSSION

5. We seek comment on whether to eliminate or modify the license posting and record maintenance rules applicable to broadcasters.¹⁵ In particular, we seek comment on whether these rules continue to serve the public interest given that most of the information required to be displayed or maintained under these rules is now available through electronic means. We note that all of the information regarding broadcast station licenses and other broadcast authorizations that is required to be physically posted pursuant to Sections 1.62(a)(2),¹⁶ 5.203(b), 73.1230, 73.801, 74.432(j), 74.564, 74.664, 74.733, 74.787, and 74.832(j) is readily available online through Commission databases¹⁷ and, for full power and Class A stations, the Online Public Inspection File.¹⁸ Several commenters contend that the availability of broadcast licensing information through other sources renders such posting requirements unnecessary.¹⁹

6. Commenters similarly note that information required to be displayed or otherwise maintained under Sections 74.1265 and 74.765 regarding LPTV, TV and FM translator stations, and TV and FM booster stations is available to the public electronically through the Commission's CDBS, LMS and/or ULS databases.²⁰ The information specified in Sections 74.1265 and 74.765 that also is available through these databases includes station licenses and authorizations, orders and dispositions regarding station construction or facilities operation, the station call sign, and the name, address, and telephone number of the station's licensee and contact representative.

7. Considering the ready availability of pertinent station information through the changes in technology noted in the record, we seek comment on whether the public interest would be served by

¹⁵ See, e.g., *supra* paras 2-3. Regardless of any changes to these rules incident to this proceeding, we expect licensees to be familiar and fully comply with the parameters and requirements of their broadcast license.

¹⁶ With respect to Section 1.62(a)(2), which applies to all Commission licensees, we limit our inquiry to whether broadcast stations should be excluded from obligations to post information pertaining to license renewal applications along with the station license. See *infra* Appendix A.

¹⁷ This information about all broadcasters is publicly available through the Commission's Consolidated Database System (CDBS), http://licensing.fcc.gov/prod/cdb/pubacc/prod/app_sear.htm. Similarly, the public may access copies of a station's license, which includes the station call sign and the name, address, and telephone number of the station licensee and point of contact, through the Commission's Licensing Management System (LMS), <https://enterprise.filing.fcc.gov/dataentry/login.html> and/or Universal Licensing System (ULS), <http://wireless.fcc.gov/uls/index.htm?job=home>. However, information regarding the custodian of station records is not available online. See *infra* para. 10.

¹⁸ Online Public Inspection File, available at <https://publicfiles.fcc.gov/>. See 47 CFR § 73.3526 (governing public file obligations of full power commercial broadcast stations); § 73.3527 (governing public file obligations of noncommercial educational broadcast stations.)

¹⁹ Joint Radio Comments at 4; NAB Reply at 6 (Aug. 4, 2017); Public Broadcasters Comments at 9-10. The Commission's broadcast licensing databases can be searched in multiple ways, including by call sign, licensee name, facility identification number, channel number/frequency, community of license, and in the case of the online public inspection file, by city or municipality.

²⁰ See Joint Radio Comments at 4; NAB Reply at 6 (Aug. 4, 2017); Humphrey Comments at 3. See also Public Broadcasters Comments at 9-10 (arguing that Section 74.1265 should be eliminated because technological advancements render its requirements redundant and unnecessary). We note that LPTV and LPFM stations, TV and FM translator stations, and TV and FM booster stations are not subject to the Online Public Inspection File rules and, with the exception of LPTV and LPFM stations, these categories of stations historically have not been required to make records available for public inspection. See 47 CFR §§ 74.1281(c), 74.781(c) (requiring certain "station records" to be maintained for purposes of making them available to "authorized representative[s] of the Commission"); see also 47 CFR § 74.780 (extending sponsorship identification list retention and political file requirements to certain types of translator, low power, and booster stations).

eliminating or modifying our broadcast license posting and record maintenance provisions. Given that the Commission first adopted broadcast license posting requirements nearly 90 years ago²¹ and that most of the information required to be displayed or maintained under these rules is available through other means, we seek comment on whether these rules remain necessary or relevant today. Is there any valid justification for continuing to require broadcasters to post or maintain a physical copy of their licenses and other authorizations? If so, do such justifications outweigh the costs to broadcast stations of complying with these requirements?

8. In addition, we seek comment on the continuing practicality of requirements to physically display licensing documents at the site of broadcast facilities. With respect to Sections 73.1230, 73.801, 74.564, and 74.664, commenters assert that the obligation to post licenses and other authorizations at the “principal control point of the transmitter” is outdated.²² These parties argue that, because most stations have transitioned to dial-up or IP systems that enable them to manage transmitters remotely from a smartphone or personal computer, the “principal control point” has been rendered obsolete.²³ Have these technological changes made such requirements impractical? Similarly, does it remain necessary, as currently required under Sections 74.1265(b) and 74.765(b) only for booster, translator, and LPTV stations, to require that certain information be displayed at the transmitter site “on the structure supporting the transmitting antenna, so as to be visible to a person standing on the ground”?²⁴ To what extent are the transmitter sites of LPTV, booster, and translator stations in locations that cannot be viewed or accessed by members of the public, and are these requirements useful even if the sites are not accessible to the public?²⁵

9. We seek comment on whether these provisions serve any public safety objectives that would be undermined by eliminating them. For example, if broadcast stations no longer were required to physically maintain licenses or related information at the transmitter or antenna site, would sufficient information be readily available to facilitate on-scene assessment during a disaster in cases where communications systems were affected and online systems could not be accessed?²⁶ In such instances, can we presume that, if necessary, Commission staff and station employees would be able to access the authorized technical parameters of operation available in Commission databases through other means? In addition, we seek comment on whether our rules requiring the posting of information “on the structure

²¹ Radio Service Bulletin No. 158 at 23.

²² See, e.g., Joint Radio Comments at 4; NAB Reply at 6; Public Broadcasters Comments at 9-10; San Bernardino Community College District Reply at 4.

²³ *Id.*

²⁴ 47 CFR § 74.1265(b). See 47 CFR § 74.765(b) (requiring certain information to be displayed “at the transmitter site” on the structure supporting the transmitting antenna).

²⁵ In 1995, the Commission considered whether to extend these requirements to additional services beyond LPTV, translator, and booster stations or otherwise modify the existing requirements. The Commission suggested that transmitter site posting requirements may not be practicable at transmitter sites bounded by protective fencing, but “where transmitters are located in places somewhat separated from stations of other radio services [such requirements] may assist in the identification of a transmission facility.” *1995 License Posting Order* at 11485, para. 34. Ultimately, the Commission declined to modify the rules, citing “the absence of definitive information” on the need for such modifications.

²⁶ Under the current rules, only LPTV, booster, and translator stations must display information on the transmitter structure (47 CFR §§ 74.765(b), 74.1265(b)), whereas aural and TV auxiliary broadcast stations must post the required information “in the room in which the transmitter is located” (*Id.* §§ 74.564(a), 74.664(a)), and other licensees (i.e., full power and Class A TV, AM, FM, and LPFM licensees) must post information at the “principal control point of the transmitter” (*Id.* §§ 73.801, 73.1230(a)), which may be several miles away from the transmitter.

supporting the transmitting antenna”²⁷ serve any purpose with respect to antenna structure lighting, such as allowing first responders or others to determine quickly whom to contact about a lighting problem. In such situations, can information be readily accessed through other means?

10. In addition, we seek comment on the continued need under Sections 74.1265(b) and 74.765(b) for licensees of LPTV, translator, and booster stations to display “the name and address of a person and place where . . . station records are maintained.”²⁸ This “custodian of records” information is the only information broadcasters must display that is not currently available online through a Commission-hosted database. We note that the name, address, and telephone number of the station’s licensee and contact representative is readily available online through our databases.²⁹ Given the accessibility of a station contact representative, is there any need to separately require such stations to provide and make publicly available contact information for a custodian of records? If it continues to be necessary for Commission staff to be apprised of the location of station records and their custodian, how should this information be provided if we eliminate Sections 74.1265 and 74.765? For example, should we consider revising one of the forms that these stations currently must file with the Commission, such as the license renewal application form (Form 303-S), to solicit this information?³⁰ Alternatively, should we retain the portion of Sections 74.1265 and 74.765 requiring this information to be maintained at the antenna site? Or, are these sites now in locations that cannot be viewed or accessed by members of the public such that this requirement is no longer justified?³¹

11. Finally, for reasons similar to those noted above, we seek comment on whether to eliminate provisions in our rules that cross-reference the above referenced requirements,³² and whether to

²⁷ *Id.* §§ 74.765(b), 74.1265(b).

²⁸ See 47 CFR § 74.1265(b) (requiring FM translator and booster stations to “display[] at the translator or booster site on the structure supporting the transmitting antenna” the “name and address of a person and place where station records are maintained”). See also 47 CFR § 74.765(b). Section 74.1281 specifies the “station records” that FM booster and FM translator stations must maintain, see 47 CFR § 74.1281, and Section 74.781 specifies the station records for LPTV, TV translator stations, and TV booster stations. See 47 CFR § 74.781. These records include the “current instrument of authorization, official correspondence with the FCC, maintenance records, contracts, permission for rebroadcasts, and other pertinent documents.” See §§ 74.1281(a), 74.781(a). To extent we eliminate Sections 74.1265 and 74.765, we propose also to eliminate the sentence in Section 74.1281(c) that provides: “The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.1265(b) of the rules” as well as the analogous sentence in Section 74.781(c).

²⁹ The public may view a station’s license, which includes contact information for the station licensee and point of contact, by entering search criteria for the station of interest (*e.g.*, station call sign, facility identifier, community of license, state) into CDBS, LMS, and/or ULS. *Supra* note 17. This contact information also is provided on other broadcast applications that are filed in, and publicly available through, the Commission’s online databases.

³⁰ We note that the Commission previously declined to implement proposals to maintain a “contact person database” as a substitute for Section 74.1265 and similar rules aimed at ensuring the Commission and other government entities can contact licensees promptly in the event of a station malfunction, at that time considering it to be an unnecessary expense and an undertaking that would be difficult to keep up to date. *1995 License Posting Order* at 11484-85, paras 31-34 (stating “the Commission shares the concern expressed about licensees’ diligence in maintaining such a database and believes that effectively resolving security concerns could involve effort and procedures that are likely to be cumbersome both for it and for licensees.”). See *supra* note 13.

³¹ See *supra* note 26.

³² See, *e.g.*, 47 CFR §§ 0.408 (cross-referencing the license posting rules); 73.158(b)(requiring any updated descriptions of directional antenna monitoring points to be “posted with the existing station license”); 73.1715(a) (requiring broadcast licensees authorized to share time to file written agreements with the Commission and post with the station license); 73.1725(c) (requiring “the licensee of a secondary station which is authorized to operate limited time” to post approval of its limited time operating schedule with the station license); 73.1870(b)(3) (“the designation of the chief operator [for full power and Class A stations] must be in writing with a copy of the

(continued....)

modify Section 1.62(a)(2) to exclude broadcast stations from the license posting requirements.³³ In addition, we seek input on whether there are any additional broadcast license posting or record maintenance requirements that should be modified or deleted. Parties urging the retention of any aspect of the posting or record maintenance requirements identified in this NPRM should explain how the benefits of such requirements exceed their costs. Likewise, parties advocating elimination of any requirements should discuss the costs of compliance as compared to any associated benefits of retaining them. To the extent possible, commenters should quantify any claimed costs or benefits and provide supporting information.

IV. PROCEDURAL MATTERS

A. Initial Regulatory Flexibility Act Analysis

12. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),³⁴ the Commission has prepared an Initial Regulatory Flexibility Act Analysis (IRFA) relating to this NPRM. The IRFA is set forth in Appendix B.

B. Initial Paperwork Reduction Act Analysis

13. This document contains proposed new or modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. §§ 3501-3520). It seeks comment on how the Commission could update its current forms to solicit the name and address of LPTV, translator and booster station records and their custodian in the absence of posting requirements. The Commission, as part of its continuing efforts to reduce paperwork burdens, invites the public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, we seek specific comment on how we might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

C. *Ex Parte* Rules

14. Permit-But-Disclose. This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.³⁵ 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

(Continued from previous page) _____
designation *posted with the station license.*”(emphasis added); 74.733(i) (UHF translator signal boosters) (“The provisions of § 74.765 concerning posting of station license shall apply to a UHF translator signal booster . . .”); 74.787(a)(5)(viii) (applying § 74.765 to digital low power television and television translator stations); 74.789 (same).

³³ *Id.* § 1.62(a)(2) (requiring all Commission licensees, including broadcast entities, to post information pertaining to license renewal applications as well as the license itself).

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

³⁵ 47 CFR §§ 1.1200 *et seq.*

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.

D. Filing Requirements

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

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. 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 overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.

16. Availability of Documents. Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, S.W., CY-A257, Washington, D.C. 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

17. People with Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

E. Additional Information

18. For additional information on this proceeding, contact Jonathan Mark of the Policy Division, Media Bureau, at jonathan.mark@fcc.gov or (202) 418-3634.

V. ORDERING CLAUSES

19. Accordingly, **IT IS ORDERED** that, pursuant to the authority found in sections 1, 4(i), 4(j), 303, 309, 310, and 336 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 303, 309, 310, and 336, this Notice of Proposed Rulemaking **IS ADOPTED**.

20. **IT IS FURTHER ORDERED** that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, 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.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Proposed Rule Changes

Note: For ease of review, the rule changes are noted below with additions in bold underlined text and deletions with a single line through the text.

The Federal Communications Commission proposes to amend Parts 73 and 74 of Title 47 of the Code of Federal Regulations (CFR) as set forth below:

PART 0 – COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Amend § 0.408 to read as follows:

* * * * *

(b) Display. * * *

3060-0633	Secs. 73.1230 , 74.165, 74.432, 74.564 , 74.664 , 74.765 , 74.832 and 74.1265	04/30/18
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* * * * *

PART 1 – PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i), 155, 157, 160, 201, 225, 227, 303, 309, 332, 1403, 1404, 1451, 1452, and 1455, unless otherwise noted.

2. Amend § 1.62 to read as follows:

* * * * *

(a)(2) A **non-broadcast** licensee operating by virtue of this paragraph shall, after the date of expiration specified in the license, post, in addition to the original license, any acknowledgment received from the Commission that the renewal application has been accepted for filing or a signed copy of the application for renewal of license which has been submitted by the licensee, or in services other than ~~broadcast and~~ common carrier, a statement certifying that the licensee has mailed or filed a renewal application, specifying the date of mailing or filing.

* * * * *

PART 5 – EXPERIMENTAL RADIO SERVICE

1. The authority citation for Part 5 continues to read as follows:

Authority: Secs. 4, 302, 303, 307, 336 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 302, 303, 307, 336. Interpret or apply sec. 301, 48 Stat. 1081, as amended; 47 U.S.C. 301.

2. Amend § 5.203 to read as follows:

(b) Experimental authorizations for licensed broadcast stations may be requested by filing an informal application with the FCC in Washington, DC, describing the nature and purpose of the experimentation to be conducted, the nature of the experimental signal to be transmitted, and the proposed schedule of hours and duration of the experimentation. ~~Experimental authorizations shall be posted with the station license.~~

PART 73 – RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 309, 310, 334, 336, and 339.

2. Amend § 73.158 to read as follows:

§ 73.158 Directional antenna monitoring points.

* * * * *

(b) When the description of the monitoring point as shown on the station license is no longer correct due to road or building construction or other changes, the licensee must prepare and file with the FCC, in Washington, DC, a request for a corrected station license showing the new monitoring point description. The request shall include the information specified in paragraphs (a)(3) and (a)(4) of this section, and a copy of the station's current license. ~~A copy of the description is to be posted with the existing station license.~~

3. Amend § 73.801 to read as follows:

* * * * *

§ 73.801 Broadcast regulation applicable to LPFM stations.

The following rules are applicable to LPFM stations:

Section 73.201 Numerical definition of FM broadcast channels.

Section 73.220 Restrictions on use of channels.

Section 73.267 Determining operating power.

Section 73.277 Permissible transmissions.

Section 73.297 FM stereophonic sound broadcasting.

Section 73.310 FM technical definitions.

Section 73.312 Topographic data.

Section 73.318 FM blanketing interference.

Section 73.322 FM stereophonic sound transmission standards.

Section 73.333 Engineering charts.

Section 73.503 Licensing requirements and service.

Section 73.508 Standards of good engineering practice.

Section 73.593 Subsidiary communications services.

Section 73.1015 Truthful written statements and responses to Commission inquiries and correspondence.

Section 73.1030 Notifications concerning interference to radio astronomy, research and receiving installations.

Section 73.1201 Station identification.
Section 73.1206 Broadcast of telephone conversations.
Section 73.1207 Rebroadcasts.
Section 73.1208 Broadcast of taped, filmed, or recorded material.
Section 73.1210 TV/FM dual-language broadcasting in Puerto Rico.
Section 73.1211 Broadcast of lottery information.
Section 73.1212 Sponsorship identification; list retention; related requirements.
Section 73.1213 Antenna structure, marking and lighting.
Section 73.1216 Licensee-conducted contests.
Section 73.1217 Broadcast hoaxes.
~~Section 73.1230 Posting of station license.~~
Section 73.1250 Broadcasting emergency information.
Section 73.1300 Unattended station operation.
Section 73.1400 Transmission system monitoring and control.
Section 73.1520 Operation for tests and maintenance.
Section 73.1540 Carrier frequency measurements.
Section 73.1545 Carrier frequency departure tolerances.
Section 73.1570 Modulation levels: AM, FM, and TV aural.
Section 73.1580 Transmission system inspections.
Section 73.1610 Equipment tests.
Section 73.1620 Program tests.
Section 73.1650 International agreements.
Section 73.1660 Acceptability of broadcast transmitters.
Section 73.1665 Main transmitters.
Section 73.1692 Broadcast station construction near or installation on an AM broadcast tower.
Section 73.1745 Unauthorized operation.
Section 73.1750 Discontinuance of operation.
Section 73.1920 Personal attacks.
Section 73.1940 Legally qualified candidates for public office.
Section 73.1941 Equal opportunities.
Section 73.1943 Political file.
Section 73.1944 Reasonable access.
Section 73.3511 Applications required.
Section 73.3512 Where to file; number of copies.
Section 73.3513 Signing of applications.
Section 73.3514 Content of applications.
Section 73.3516 Specification of facilities.
Section 73.3517 Contingent applications.
Section 73.3518 Inconsistent or conflicting applications.
Section 73.3519 Repetitious applications.
Section 73.3520 Multiple applications.
Section 73.3525 Agreements for removing application conflicts.
Section 73.3539 Application for renewal of license.
Section 73.3542 Application for emergency authorization.
Section 73.3545 Application for permit to deliver programs to foreign stations.
Section 73.3550 Requests for new or modified call sign assignments.
Section 73.3561 Staff consideration of applications requiring Commission consideration.
Section 73.3562 Staff consideration of applications not requiring action by the Commission.
Section 73.3566 Defective applications.
Section 73.3568 Dismissal of applications.
Section 73.3584 Procedure for filing petitions to deny.

Section 73.3587 Procedure for filing informal objections.

Section 73.3588 Dismissal of petitions to deny or withdrawal of informal objections.

Section 73.3589 Threats to file petitions to deny or informal objections.

Section 73.3591 Grants without hearing.

Section 73.3593 Designation for hearing.

Section 73.3598 Period of construction.

Section 73.3599 Forfeiture of construction permit.

Section 73.3999 Enforcement of 18 U.S.C. 1464—restrictions on the transmission of obscene and indecent material.

4. Remove § 73.1230.

§ 73.1230 **[Removed]**

5. Amend § 73.1715 to read as follows:

§ 73.1715 Share Time.

Operation is permitted by two or more broadcast stations using the same channel in accordance with a division of hours mutually agreed upon and considered part of their licenses.

(a) If the licenses of stations authorized to share time do not specify hours of operation, the licensees shall endeavor to reach an agreement for a definite schedule of periods of time to be used by each. Such agreement shall be in writing and each licensee shall file it in duplicate original with each application to the FCC in Washington, DC for renewal of license. If and when such written agreements are properly filed in conformity with this Section, the file mark of the FCC will be affixed thereto, one copy will be retained by the FCC, and one copy returned to the licensee ~~to be posted with the station license and considered as a part thereof.~~ If the license specifies a proportionate time division, the agreement shall maintain this proportion. If no proportionate time division is specified in the license, the licensees shall agree upon a division of time. Such division of time shall not include simultaneous operation of the stations unless specifically authorized by the terms of the license

* * * * *

6. Amend § 73.1725 to read as follows:

§ 73.1725 Limited time.

* * * * *

(c) The licensee of a secondary station which is authorized to operate limited time and which may resume operation at the time the Class A station (or stations) on the same channel ceases operation shall, with each application for renewal of license, file in triplicate a copy of its regular operating schedule. It shall bear a signed notation by the licensee of the Class A station of its objection or lack of objection thereto. Upon approval of such operating schedule, the FCC will affix its file mark and return one copy to the licensee authorized to operate limited time. ~~This shall be posted with the station license and considered as a part thereof.~~ Departure from said operating schedule will be permitted only pursuant to § 73.1715 (Share time).

7. Amend § 73.1870 to read as follows:

§ 73.1870 Chief operators.

* * * * *

(b)***

(3) The designation of the chief operator must be in writing ~~with a copy of the designation posted with the station license.~~ Agreements with chief operators serving on a contract basis must be in writing with a copy kept in the station files.

* * * * *

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

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

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

2. Amend § 74.432 to read as follows:

§ 74.432 Licensing requirements and procedures.

* * * * *

(j) The license shall be retained in the licensee's files at the address shown on the authorization, ~~posted at the transmitter, or posted at the control point of the station.~~

* * * * *

3. Remove § 74.564.

§ 74.564 [Removed]

4. Remove § 74.664.

§ 74.664 [Removed]

5. Remove § 74.765.

§ 74.765 [Removed]

6. Amend § 74.733 to remove section (i):

§ 74.733 UHF translator signal boosters.

* * * * *

(i) [Removed]

* * * * *

7. Amend § 74.781 to read as follows:

§ 74.781 Station Records.

* * * * *

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. ~~The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.765(e) of the rules.~~ The station records shall be made available upon request to any authorized representative of the Commission.

* * * * *

8. Amend § 74.787 to read as follows:

§ 74.787 Digital licensing.

* * * * *

(a) ***

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

Applicable Rule Sections

§ 73.1030 Notifications concerning interference to radio astronomy, research and receiving installations.

§ 74.703 Interference.

§ 74.709 Land mobile station protection.

§ 74.734 Attended and unattended operation.

§ 74.735 Power Limitations.

§ 74.751 Modification of transmission systems.

§ 74.763 Time of Operation.

~~§ 74.765 Posting of station and operator licenses.~~

§ 74.769 Familiarity with FCC rules.

§ 74.780 Broadcast regulations applicable to translators, low power, and booster stations (except § 73.653—Operation of TV aural and visual transmitters and § 73.1201—Station identification).

§ 74.781 Station records.

§ 74.784 Rebroadcasts.

* * * * *

9. Amend § 74.832 to read as follows:

§ 74.832 Licensing requirements and procedures.

* * * * *

(j) The license shall be retained in the licensee's files at the address shown on the authorization, ~~posted at the transmitter, or posted at the control point of the station.~~

10. Remove § 74.1265.

§ 74.1265 **[Removed]**

11. Amend § 74.1281 to read as follows:

§ 74.1281 Station Records.

* * * * *

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. ~~The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.1265(b) of the rules.~~ The station records shall be made available upon request to any authorized representative of the Commission.

* * * * *

APPENDIX B

Initial Regulatory Flexibility Act Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA)¹ the Commission has prepared this Initial Regulatory Flexibility Act Analysis (IRFA) concerning the possible significant economic impact on small entities by the rules proposed in this 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 provided on the first page of the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).² In addition, the NPRM and IRFA (or summaries thereof) will be published in the Federal Register.³

A. Need for, and Objectives of, the Proposed Rule Changes

2. The proposed rule changes stem from a Public Notice issued by the Commission in May 2017 launching an initiative to modernize the Commission's media regulations.⁴ Numerous parties in that proceeding argued for the elimination of these rules on the basis that they are redundant and obsolete. The NPRM proposes to eliminate two provisions in Parts 73 and 74 of the Commission's rules that require broadcast stations, translators, and booster stations to post and otherwise make available station licenses and related information.

3. Specifically, the NPRM proposes to eliminate: Section 73.1230, which requires broadcast stations to post their station license and other authorizations at "the principal control point of the transmitter" and prescribes the manner of such posting;⁵ Section 73.801, which applies Section 73.1230 to low power stations;⁶ Section 74.1265, which requires FM booster and translator stations to maintain their station license and other documents in their station record file and to physically display their call sign and other information at the antenna site;⁷ Sections 74.564 and 74.664, applicable to aural and television broadcast auxiliary stations,⁸ respectively, which require stations to post licenses and any other authorizations "in the room in which the transmitter is located" and prescribes the manner of such posting;⁹ Sections 74.432(j) and 74.832(j), which require remote pickup station and low power auxiliary station licensees to post licenses either at the transmitter or station control point;¹⁰ Section 5.203(b),¹¹ which requires broadcast licensees to post experimental authorizations along with their station license;

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

² 5 U.S.C. § 603(a).

³ *Id.*

⁴ *Commission Launches Modernization of Media Regulation Initiative*, MB Docket No. 17-105, Public Notice, FCC 17-58 (MB May 18, 2017) (initiating a review of rules applicable to media entities to eliminate or modify regulations that are outdated, unnecessary or unduly burdensome).

⁵ 47 CFR § 73.1230.

⁶ 47 CFR § 73.801.

⁷ 47 CFR § 74.1265.

⁸ 47 CFR §§ 74.564, 74.664.

⁹ 47 CFR § 74.565; 47 CFR § 74.664.

¹⁰ 47 CFR §§ 74.432(j), 74.832(j).

¹¹ 47 CFR § 5.203(b).

Section 1.62(a)(2),¹² which requires all Commission licensees, including broadcast entities, to post information pertaining to license renewal applications as well as the license itself; and Section 74.765, which requires LPTV, TV translator, and TV booster stations to maintain their station license and other authorizations in their station record file and to physically display their call sign together with the name, address, and telephone number of the licensee or local representative of the licensee and the name and address of a person and place where station records are maintained at the antenna site. These proposals are intended to reduce outdated regulations and unnecessary regulatory burdens that can impede competition and innovation in media markets.

B. Legal Basis

4. The proposed action is authorized pursuant to Sections 1, 4(i), 4(j), 303, 309, 310, and 336 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 303, 309, 310, and 336.

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

5. 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.¹³ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”¹⁴ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.¹⁵ 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.¹⁶ The rules proposed herein will directly affect certain small television and radio broadcast stations, and cable entities. Below is a description of these small entities, as well as an estimate of the number of such small entities, where feasible.

6. *Television Broadcasting.* This Economic Census category “comprises establishments primarily engaged in broadcasting images together with sound.”¹⁷ These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public.¹⁸ 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 has created the following small business size standard for such businesses: those having \$38.5

¹² 47 CFR § 1.62(a)(2).

¹³ 5 U.S.C. § 603(b)(3).

¹⁴ 5 U.S.C. § 601(6).

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

¹⁶ 15 U.S.C. § 632. Application of the statutory criteria of dominance in its field of operation and independence are sometimes difficult to apply in the context of broadcast television. Accordingly, the Commission’s statistical account of television stations may be over-inclusive.

¹⁷ U.S. Census Bureau, 2012 North American Industry Classification System (NAICS) Definitions, “515120 Television Broadcasting,” <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

¹⁸ *Id.*

million or less in annual receipts.¹⁹ The 2012 Economic Census reports that 751 firms in this category operated in that year. Of that number, 656 had annual receipts of \$25,000,000 or less.²⁰ Based on this data, we estimate that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

7. In addition, the Commission has estimated the number of licensed commercial television stations to be 1,384.²¹ Of this total, 1,264 stations had revenues of \$38.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on February 24, 2017. Such entities, therefore, qualify as small entities under the SBA definition. The Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 394.²² The Commission, however, does not compile and does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

8. We note, however, that in assessing whether a business concern qualifies as “small” under the above definition, business (control) affiliations²³ must be included. Our estimate, therefore likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of “small business” requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the proposed rules would apply does not exclude any television station from the definition of a small business on this basis and therefore could be over-inclusive.

9. There are also 1,968 LPTV stations, 417 Class A stations, and 3,776 TV translator stations.²⁴ Given the nature of these services, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

10. *Radio Stations.* This economic Census category “comprises establishments primarily engaged in broadcasting aural programs by radio to the public.”²⁵ The SBA has created the following small business size standard for this category: those having \$38.5 million or less in annual receipts.²⁶ Census data for 2012 shows that 2,849 firms in this category operated in that year.²⁷ Of this number,

¹⁹ 13 CFR § 121.201; 2012 NAICS Code 515120.

²⁰ U.S. Census Bureau, Table No. EC1251SSSZ4, *Information: Subject Series - Establishment and Firm Size: Receipts Size of Firms for the United States: 2012* (515120 Television Broadcasting), https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.

²¹ FCC News Release, *Broadcast Station Totals as of December 31, 2016* (rel. Jan. 5, 2017), <https://www.fcc.gov/document/broadcast-station-totals-december-31-2016>.

²² *Id.*

²³ “[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both.” 13 CFR § 21.103(a)(1).

²⁴ See FCC News Release, *Broadcast Station Totals as of June 30, 2017* (rel. July 11, 2017).

²⁵ U.S. Census Bureau, 2012 NAICS Definitions, “515112 Radio Stations,” at <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>. This category description continues, “Programming may originate in their own studio, from an affiliated network, or from external sources.”

²⁶ 13 CFR § 121.201; NAICS code 515112.

2,806 firms had annual receipts of less than \$25,000,000, and 43 firms had annual receipts of \$25,000,000.²⁸ Because the Census has no additional classifications that could serve as a basis for determining the number of stations whose receipts exceeded \$38.5 million in that year, we conclude that the majority of television broadcast stations were small under the applicable SBA size standard.

11. Apart from the U.S. Census, the Commission has estimated the number of licensed commercial AM radio stations to be 4,486 stations²⁹ and the number of commercial FM radio stations to be 6,755, for a total number of 11,241.³⁰ Of this total, 9,898 stations had revenues of \$38.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) in October 2014. In addition, the Commission has estimated the number of noncommercial educational FM radio stations to be 4,111.³¹ NCE stations are non-profit, and therefore considered to be small entities.³² Therefore, we estimate that the majority of radio broadcast stations are small entities.

12. *Low Power FM Stations.* The same SBA definition that applies to radio stations would apply to low power FM stations. As noted above, the SBA has created the following small business size standard for this category: those having \$38.5 million or less in annual receipts.³³ The Commission has estimated the number of licensed low power FM stations to be 1,966.³⁴ In addition, as of June 30, 2017, there were a total of 7,453 FM translator and FM booster stations.³⁵ Given the nature of these services, we will presume that these licensees qualify as small entities under the SBA definition.

13. We note again, however, that in assessing whether a business concern qualifies as “small” under the above definition, business (control) affiliations³⁶ must be included. Because we do not include or aggregate revenues from affiliated companies in determining whether an entity meets the applicable revenue threshold, our estimate of the number of small radio broadcast stations affected is likely overstated. In addition, as noted above, one element of the definition of “small business” is that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific radio broadcast station is dominant in its field of operation.

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²⁷ U.S. Census Bureau, Table No. EC0751SSSZ4, *Information: Subject Series – Establishment and Firm Size: Receipts Size of Firms for the United States: 2012* (515112), http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ4&prodType=table.

²⁸ *Id.*

²⁹ This number is derived from subtracting the total number of noncommercial educational stations (204) from the total number of licensed AM stations (4690). See <https://transition.fcc.gov/fcc-bin/amq?freq=530&fre2=1700&type=2&edu=1&list=1&ThisTab=Results+to+This+Page%2FTab&size=9>; <https://transition.fcc.gov/fcc-bin/amq?freq=530&fre2=1700&type=2&edu=0&list=1&country=US&ThisTab=Results+to+This+Page%2FTab&size=9> (visited on Aug. 30, 2017).

³⁰ *Broadcast Station Totals as of June 30, 2017*, Press Release (MB rel. July 11, 2017) (*Broadcast Station Totals*) at https://apps.fcc.gov/edocs_public/attachmatch/DOC-328096A1.pdf.

³¹ *Broadcast Station Totals, supra.*

³² 5 U.S.C. §§ 601(4), (6).

³³ 13 CFR § 121.201, NAICS Code 515112.

³⁴ *News Release*, “Broadcast Station Totals as of June 30, 2017” (rel. July 11, 2017) (http://fjallfoss.fcc.gov/edocs_public/attachmatch/DOC-304594A1315231A1.pdf).

³⁵ *News Release*, “Broadcast Station Totals as of June 30, 2017” (rel. July. 11, 2017).

³⁶ “[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both.” 13 CFR § 21.103(a)(1).

Accordingly, our estimate of small radio stations potentially affected by the proposed rules includes those that could be dominant in their field of operation. For this reason, such estimate likely is over-inclusive.

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

14. In this section, we identify the reporting, recordkeeping, and other compliance requirements proposed in the NPRM and consider whether small entities are affected disproportionately by any such requirements.

15. *Reporting Requirements.* The NPRM proposes to modify existing reporting requirements. Specifically, the NPRM seeks comment on how the Commission could update its current forms, such as revising the license renewal application form (Form 303-S), to solicit the name and address of LPTV, translator, and booster station records and their custodian in the absence of posting requirements. This modification would benefit small entities by removing burdensome posting obligation and allowing licensees to add required custodian on records information to an existing form which licensees routinely file with the Commission.

16. *Recordkeeping Requirements.* The NPRM does not propose to adopt recordkeeping requirements.

17. *Other Compliance Requirements.* The NPRM does not propose to adopt other compliance requirements.

18. Because no commenter provided information specifically quantifying the costs and administrative burdens of complying with the existing recordkeeping requirements, we cannot precisely estimate the impact on small entities of eliminating them. The proposed rule revisions, if adopted, will remove record keeping for all affected broadcast licensees, including small entities. Numerous parties in the Modernization of Media Regulation Initiative have requested the proposals set forth in the NPRM and no parties in that proceeding have opposed such proposals.

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

19. 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.³⁷

20. The NPRM proposes to eliminate recordkeeping obligations requiring the posting of stations' license and other authorizations. Eliminating these requirements is intended to modernize the Commission's regulations, remove duplicative and obsolete recordkeeping requirements and reduce costs and recordkeeping burdens for affected entities, including small entities. Under the current rules, affected entities must expend time and resources posting and maintaining licenses and related information already available to the Commission, and most of which is publicly accessible by electronic means. The proposed elimination would relieve such entities from these obsolete recordkeeping requirements. Thus, we anticipate that affected small entities only stand to benefit from such revisions, if adopted.

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

21. None

³⁷ 5 U.S.C. § 603(c)(1)-(c)(4).