

**FCC FACT SHEET\***

**Amendment of Part 73 of the Commission’s Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations**  
Report and Order (*Report and Order*) – MB Docket No. 22-227

**Background:** The *Report and Order* updates the Commission’s rules for full power and Class A television stations to reflect the current operating environment. Largely consistent with the proposals set forth in the Notice of Proposed Rulemaking adopted in September 2022, the *Report and Order* adopts rules to reflect the current operating environment following the transition from analog to digital-only operations and the post-incentive auction transition to a smaller television band with fewer channels. The *Report and Order* also makes other updates to ensure the rules clearly reflect the Commission’s requirements and are understandable to all stakeholders.

**What the *Report and Order* Would Do:**

- Eliminate entire rules or portions of rules that relate to analog television operating requirements;
- Remove outdated rules that are no longer valid given changes in Commission-adopted policy, such as the elimination of the comparative hearing process to award and renew broadcast licenses;
- Update the Commission’s rules to reference the current designation for the numbering of broadcast application and report forms and the Commission’s current licensing database; and
- Restructure a portion of the Commission’s rules that largely consist of the technical licensing, operating and interference rules for full power and Class A television stations so that the rules are more streamlined and easily understandable for licensees and the public.

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\* 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. 22-227, 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 Part 73 of the Commission’s Rules ) MB Docket No. 22-227
to Update Television and Class A Television )
Broadcast Station Rules, and Rules Applicable to )
All Broadcast Stations )

REPORT AND ORDER\*

Adopted: []

Released: []

By the Commission:

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\* This document has been circulated for tentative consideration by the Commission at its September 21, 2023 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 Chairwoman 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.

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## I. INTRODUCTION

1. In this Report and Order (*Report and Order*), we comprehensively update the Commission’s rules for full power and Class A stations to reflect the current operating environment, including the transition from analog to digital-only operations and the post-incentive auction transition to a smaller television band with fewer channels. We also restructure a portion of the Commission’s rules (rules), largely consisting of the technical licensing, operating, and interference rules for full power television. These updates reflect the Commission’s continued effort to ensure our rules clearly reflect the Commission’s requirements and are understandable for our licensees and the public.

## II. BACKGROUND

2. The Notice of Proposed Rulemaking (*NPRM*) in this proceeding<sup>1</sup> described the Commission’s ongoing effort to ensure that our television rules are up to date, and reflect the Commission’s actions taken over the past several years.<sup>2</sup> Full power stations largely completed a transition from analog to digital operations by June 12, 2009,<sup>3</sup> and Class A television stations did the same by September 1, 2015.<sup>4</sup> Further, on October 25, 2021, in connection with the completion of the incentive auction and broadcast television spectrum repacking authorized by the Middle Class Tax Relief and Job Creation Act,<sup>5</sup> the Commission adopted a new Table of TV Allotments for full power stations. The action amended parts 1, 73, and 74 to remove references to channels and frequency bands that are no longer in-core television spectrum and references to analog TV operations which are no longer permitted.<sup>6</sup> As the *NPRM* stated, since these transitions were completed in phases over an extended period of time, the Commission was unable to simply replace pre-transition rules with post-transition requirements.<sup>7</sup> Therefore, the new digital rules remained interspersed with existing analog requirements.

<sup>1</sup> See *Amendment of Part 73 of the Commission’s Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations*, MB Docket No. 22-227, Notice of Proposed Rulemaking, FCC 22-73 (Sept. 29, 2022) (*NPRM*).

<sup>2</sup> *NPRM* at paras. 2-4.

<sup>3</sup> See DTV Delay Act, Pub. L. No. 111-4, 123 Stat. 112 (2009); Digital Television Transition and Public Safety Act of 2005, which is Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006) (codified at 47 U.S.C. §§ 309(j)(14) and 337(e)).

<sup>4</sup> See *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, MB Docket No. 03-185, Second Report and Order, 26 FCC Rcd 10732, 10735, para. 7 (2011).

<sup>5</sup> Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 (2012) §§ 6402 (codified at 47 U.S.C. § 309(j)(8)(G)), 6403 (codified at 47 U.S.C. § 1452) (Spectrum Act). The incentive auction, repacking process, and post-auction transition process are described in the Background section of the *October 2021 Order* at paras. 3-7. See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auction*, GN Docket No. 12-268, Order, 36 FCC Rcd 15891, 15892-4, paras. 3-7 (2021) (*October 2021 Order*).

<sup>6</sup> See *October 2021 Order*, 36 FCC Rcd at 15897, para. 14 and n.48. The Table of TV Allotments, 47 CFR § 73.622(j), is found in part 73, subpart E – Television Broadcast Television Stations. The part 74 rules amended in the *October 2021 Order* are found in part 74, subpart G – Low Power TV and TV Translator Stations.

<sup>7</sup> *NPRM* at para. 2.

3. The September 2022 *NPRM*<sup>8</sup> proposed to comprehensively delete, update, or otherwise revise Commission rules for full power and Class A television stations that no longer have any practical effect given the transition from analog to digital-only operations, and the post-incentive auction transition to a smaller television band with fewer channels.<sup>9</sup> To make the part 73 rules easier to find and thus more practical for users, the *NPRM* also proposed to reorganize, clarify, and amend some of the rules.<sup>10</sup>

4. In response to the *NPRM*, we received comments and replies from broadcast industry stakeholders, including associations, licensees, and engineering firms.<sup>11</sup> The parties were generally supportive of the Commission's efforts to update its rules.<sup>12</sup> As discussed more fully below, some parties offered additional comments, such as clarification regarding the geographic coordinates for land mobile protection, calculations related to height above average terrain (HAAT), or technical or other proposals. In addition, a few parties proposed additional rule changes.

### III. REPORT AND ORDER

5. This *Report and Order* largely adopts the rules proposed in the *NPRM*, with certain limited exceptions or modifications, in order to delete, update, or otherwise revise Commission rules for full power and Class A stations that no longer have any practical effect. First, we adopt revisions to reflect the end of television analog operations. Second, we delete outdated rules that are no longer valid given changes in Commission-adopted policy, such as the elimination of the comparative hearing process to award and renew broadcast licenses. Third, we reorganize a portion of the part 73 rules to make them easier to find and more practical for users. Fourth, we adopt other non-substantive, technical revisions, for example, to delete obsolete rules governing the post-incentive auction transition period. Fifth, we

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<sup>8</sup> See supra n.1.

<sup>9</sup> *NPRM* at para 1.

<sup>10</sup> *Id.* at paras. 23-30.

<sup>11</sup> See Letter from Robin J. Cohen, President/CEO, Enterprise Wireless Alliance, to Mark Colombo, Media Bureau, FCC, MB Docket No. 22-227 (filed Apr. 11, 2023) (EWA Letter); Comments of Linley Gumm, Greg Best and Gary Sgrignoli, MB Docket No. 22-227 (filed Nov. 19, 2022) (GBS Comments); Comments of Maranatha Broadcasting Company, Inc., MB Docket No. 22-227 (filed Apr. 10, 2023) (Maranatha Comments); Comments of the National Association of Broadcasters, MB Docket No. 22-227 (filed Apr. 10, 2023) (NAB Comments); Letter from Patrick McFadden, Deputy General Counsel, NAB, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 22-227 (filed June 22, 2023) (NAB *Ex Parte*); and Comments of One Ministries, Inc., MB Docket No. 22-227 (filed Mar. 21, 2023) (OMI Comments). In addition, Cohen, Dippell and Everist, P.C. filed three sets of comments. See Comments of Cohen, Dippell and Everist, P.C., MB Docket No. 22-227 (filed Nov. 29, 2022) (CDE Comments); Supplemental Comments of Cohen, Dippell and Everist, P.C., MB Docket No. 22-227 (filed Apr. 10, 2023) (CDE Supplemental Comments 1); Supplemental Comments 2 (Late Filed) of Cohen, Dippell and Everist, P.C., MB Docket No. 22-227 (filed May 18, 2023) (CDE Supplemental Comments 2). See also Reply Comments of Cohen, Dippell and Everist, P.C., MB Docket No. 22-227 (filed Apr. 25, 2023) (CDE Reply Comments). As a group, the CDE comments generally support the proposals in the *NPRM* with the simple word "agreed." Because the CDE individual comments often address the same subject, this *Report and Order* refers to the most comprehensive set of comments, CDE Supplemental Comments 2, where applicable, and to the other specific comments to the extent material differences exist. Given the large number of instances in which CDE simply states "agreed" or notes it has no opinion, we do not explicitly cite to CDE's support for proposals in this *Report and Order*, and instead identify only points of disagreement.

<sup>12</sup> GBS offers broad support for the Commission's proposals in the *NPRM* ("The Commission's move to update the television rules is very welcome. It will clarify many issues that have become clouded with the changes in technology."). See GBS Comments at 1. Similarly, NAB states that it "appreciates the Commission's efforts to streamline its rules by removing regulatory underbrush and by proposing to adopt rules for digital Television and Class A Television operations that were previously applicable to analog television operations. NAB generally supports the proposals set forth in the *NPRM* with few exceptions." See NAB Comments at 1. In addition, as noted above, there are a number of instances in which CDE placed the word "Agreed" next to a description of our proposals in the *NPRM*. See CDE Supplemental Comments 2.

update our rules to reference our current licensing database, Licensing and Management System (LMS), and corresponding form numbers. Sixth, we make corrections or non-substantive updates involving section headings, spelling, contact information, and rule cross-references, or to language inadvertently omitted from a rule. Seventh, we consider requests and comments on subjects not included in the *NPRM* proposals.

**A. Deletion of Obsolete Rules and Language Recognizing the Full Power and Class A Digital Transition**

6. As stated in the *NPRM*, full power television stations were required to terminate all analog operations no later than June 12, 2009 and Class A stations by September 1, 2015.<sup>13</sup> Accordingly, the *NPRM* proposed to amend our rules to reflect those transitions. With the exception of two of our proposals discussed at the end of this section, the comments we received were generally supportive of the effort to update our rules,<sup>14</sup> and therefore, for the reasons discussed in the *NPRM*, and described below, we adopt those proposals as detailed below.

7. We eliminate entire rules, and portions of rules, that provide for analog-to-analog and analog-to-digital interference protection requirements and other analog operating requirements from subpart E (Television Broadcast Stations), subpart H (Rules Applicable to All Broadcast Stations), subpart I (Procedures for Competitive Bidding and for Applications for Noncommercial Educational Broadcast Stations on Non-Reserved Channels), and subpart J (Class A Television Broadcast Stations).<sup>15</sup> The rules we amend<sup>16</sup> are related to analog operations (i.e., rules that reference “NTSC”<sup>17</sup> or “analog”<sup>18</sup>) and we eliminate references to Grade A, Grade B, city grade contours, or F(50,50) curves<sup>19</sup> or replace them with the corresponding digital contours defined in sections 73.625(a), 73.622(e), 73.6010, and/or 74.792.<sup>20</sup>

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<sup>13</sup> See *supra* para. 2; *NPRM* at para. 6.

<sup>14</sup> See *supra* para. 4, n.12.

<sup>15</sup> *NPRM* at para. 6.

<sup>16</sup> *Id.* As part of our reorganization of subpart E, we note that we relocate 47 CFR §§ 73.623(d) (Minimum geographic spacing requirements for new TV allotments), 73.625(a) (Transmitter location), and 73.622(e) (DTV Service Areas) to new 47 CFR §§ 73.622(k), 73.618, and 73.619(c), respectively.

<sup>17</sup> NTSC is an abbreviation for the National Television Standards Committee, an association of engineers and scientists interested in the development of television in the analog era, which developed the black and white and subsequently color television systems used in the United States. See generally *Amendment of the Commission's Rules Governing Color Television Transmissions*, Docket No. 10637, Report and Order, 41 F.C.C. 658 (1953).

<sup>18</sup> See 47 CFR §§ 73.622(d)(1) (Digital television table of allotments) (removing text of this rule that refers to analog stations); 73.623(d) and (h) (removing analog technical references); 73.624(b) and (c)(3) (Digital television broadcast stations) (removing text of this rule that refers to analog stations); 73.683(d) (Field strength contours and presumptive determination of field strength at individual locations) (removing text of this rule that refers to analog stations); and 73.686(d) (Field strength measurements) (removing text of this rule that refers to analog stations). In addition, regarding 47 CFR § 73.5000(a) (Services subject to competitive bidding), we delete the word “analog” where it appears in the rule because there is no need to differentiate between analog and digital television services.

<sup>19</sup> See 47 CFR §§ 73.683(a)-(b) (Field strength contours and presumptive determination of field strength at individual locations); 73.6000 (Definitions); and 73.6010(b) (Class A TV station protected contour). The one exception is 47 CFR § 73.626(f)(2)(i) (DTV distributed transmission systems), which states that the F(50,50) service contour of a DTS transmitter shall not extend beyond that of its reference facility, which will be retained. We separately add text in 47 CFR § 73.683(a) (Field strength contours and presumptive determination of field strength at individual locations) to provide guidance for those reviewing the cross-reference to this section found in 47 CFR § 90.307(b) (Protection criteria).

<sup>20</sup> See 47 CFR §§ 73.1675(a)(1)(iii) (Auxiliary antennas) (deleting analog contour and replacing with digital noise limited contour); and 73.5007(b)(2)(iii) and (b)(3)(iv) (Designated entity provisions).

8. We also amend or eliminate rules that reference peak power, visual or aural carriers, or carrier frequencies because these are technical engineering terms related to analog television operations,<sup>21</sup> as digital TV signals do not have specific visual or aural carriers.<sup>22</sup> We similarly amend or eliminate rules and figures which reference the vertical blanking interval, stereophonic sound transmission, modulation, subcarriers of any kind, components of the picture such as chrominance or color, or the sound or picture itself beyond the lines of resolution.<sup>23</sup> As noted in the *NPRM*, these references are technical engineering terms associated with analog television operations since they are related to the picture derived from an analog visual carrier or the sound derived from an analog aural carrier.<sup>24</sup>

9. To the extent such analog rules are superseded by related requirements for digital operations, the digital rules are found in the digital broadcast television standard documents incorporated by reference in section 73.682(d).<sup>25</sup> In addition, a number of rules we amend have a digital equivalent elsewhere in the rules, and for all of these cases, we either modify the analog reference to specify a digital

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<sup>21</sup> See 47 CFR §§ 73.653 (Operation of TV aural and visual transmitters); 73.664(a)-(c) (Determining operating power); 73.665 (Use of TV aural baseband subcarriers); 73.667 (TV subsidiary communications services); 73.669 (TV stereophonic aural and multiplex subcarrier operation); 73.681 (Definitions) (we delete the following definitions relating to analog operations: “Aural center frequency;” “Aural transmitter;” “Baseband;” “Frequency departure;” “Frequency deviation;” “Frequency swing;” “Main channel;” “Multiplex Transmission (Aural);” “Peak power;” “Visual transmitter power;”); 73.682(c) (TV transmission standards); 73.687(a), (b), (c) introductory text, (c)(1), and (e)(2) (Transmission system requirements); 73.688(a) (Indicating instruments); 73.691 (Visual modulation monitoring); 73.699 (TV engineering charts), Figure 12 (Figure 12 is referenced only by 73.687(b), which we delete); 73.1350(f)(3) (Transmission system operation); 73.1540(a) (Carrier frequency measurements); 73.1545(c), (e), and Note to (e) (Carrier frequency departure tolerances); 73.1560(c)(1)-(2) (Operating power and mode tolerances); 73.1570 (updating section heading) and (b)(3) (Modulation levels: AM, FM, TV and Class A TV aural); 73.1635(a)(5) (Special temporary authorizations (STA)); and 73.6024(c) (Transmission standards and system requirements).

<sup>22</sup> See *NPRM* at para. 6. See generally 47 CFR § 73.682(d) (Digital broadcast television transmission standard); see also 47 CFR § 73.8000 (Incorporation by reference) (each of the several standards listed in the rule relate to DTV).

<sup>23</sup> *NPRM* at para. 6.

<sup>24</sup> *NPRM* at para. 6. See 47 CFR §§ 73.621(g) (Noncommercial educational TV stations – referencing Telecommunications Service on the Vertical Blanking Interval and in the Visual Signal); 73.646 (Telecommunications Service on the Vertical Blanking Interval and in the Visual Signal); 73.681 (Definitions) (deleting definitions and the Note for: “Amplitude modulation (AM);” “BTSC;” “Blanking level;” “Chrominance;” “Chrominance subcarrier;” “Color transmission;” “Field;” “Frame;” “Frequency modulation (FM);” “IRE standard scale;” “Luminance;” “Monochrome transmission;” “Multichannel Television Sound (MTS);” “Negative transmission;” “Percentage modulation;” “Pilot subcarrier;” “Program related data signal;” “Reference black level;” “Reference white level of the luminance signal;” “Scanning;” “Scanning line;” “Visual carrier frequency;” and “Visual transmitter”); 73.699 (TV engineering charts) (Figures 5, 5(a), 6, 7, 8, 16, and 17); 73.1207(b)(2) (Rebroadcasts – referencing multiplex subcarrier or telecommunications service on the vertical blanking interval); and 73.1590(a)(5) (“TV stereophonic or subcarrier transmission equipment”), (c)(1), and (c)(3) (Equipment performance measurements). Section 73.699, Figure 11 (Assumed Ideal Detector Output) is no longer referenced anywhere else in the rules, and appears to have been inadvertently overlooked during a 1984 rule modification, which deleted the sole reference to it from section 73.687(a) (see 49 Fed. Reg. 48305, 48312 (Dec. 12, 1984)), and we thus delete it. While 47 CFR § 73.621(h) (Noncommercial educational TV stations), which refers to the transmission of non-program related data service on “Line 21,” does not specifically use the term “visual blanking interval,” “Line 21” refers to part of the vertical blanking interval, and thus we delete it.

<sup>25</sup> 47 CFR § 73.682(d).

equivalent,<sup>26</sup> or delete the analog-related rule entirely.<sup>27</sup>

10. We also amend rule section headings and rules in subpart E,<sup>28</sup> subpart H,<sup>29</sup> and subpart J<sup>30</sup> to remove references to digital television (DTV) and digital television service since all television services have transitioned from analog to digital operations and thus, there is no further need to differentiate between two separate kinds of service.<sup>31</sup> We also eliminate provisions of rules and amend section

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<sup>26</sup> *NPRM* at para. 6. Sections 73.682(a)(2)-(13) and (15)-(24) (TV transmission standards) are replaced by section 73.682(d). The digital equivalent of section 73.687(e)(1) (Transmission system requirements) is replaced by section 73.622(h), which we are moving to section 73.611 *infra* in Section F. Section 73.3550(b) (Requests for new or modified call sign assignments) has a reference to section 74.783(d), but section 74.791(a) is the equivalent digital rule. Accordingly, we are replacing the reference to 74.783(d) with 74.791(a). The digital equivalent of section 73.3572(a)(4) (Processing of TV broadcast, Class A TV broadcast, low power TV, TV translators, and TV booster applications) is section 74.787(a)(4).

<sup>27</sup> *NPRM* at para. 6. Section 73.613 (Protection of Class A TV stations) relates to analog because Class A protections for digital stations are in section 73.616(e), which we are moving to section 73.620(d) *infra* in Section F. Section 73.684 (Prediction of coverage) is in section 73.625 (DTV coverage of principal community and antenna system), some of which we are moving into other rule parts in the reorganization of our rules; the reference in section 73.681 is removed *infra* in Section H. The digital equivalent of Section 73.685(a)-(c) (Transmitter location and antenna system) is found in section 73.625(a)(1)-(3), which we are moving to section 73.618 *infra* in Section F. The digital equivalent of section 73.685(f) (Transmitter location and antenna system) is contained in 73.625(c)(3), which also applies to sections 73.1690(b)(3) and (c)(3) (Modification of transmission systems). The digital equivalent of section 73.698 (Tables) is replaced by section 73.623(d)(2), which we are moving to section 73.622(k) *infra* in Section F. The digital equivalent of section 73.6012 (Protection of Class A TV, low power TV and TV translator stations) is found in sections 73.6017 and 73.6019. The digital equivalent of section 73.6013 (Protection of DTV stations) is found in section 73.6018 (Digital Class A TV station protection of DTV stations). The digital equivalent of section 73.6014 (Protection of digital Class A TV stations) is found in section 73.6017.

<sup>28</sup> 47 CFR §§ 73.616 (section heading), (a)-(e), and (g) (Post-transition DTV station interference protection); 73.621(j) (Noncommercial educational TV stations); 73.622(a) introductory text and (a)(2) (also deleting reference to out-of-core-channels), (c)(1), (e)(1), (f)(6), (f)(7), (f)(8) (also deleting references to out-of-core channels) (Digital television table of allotments); 73.623 (updating section heading), (a)-(f) and (h) (DTV applications and changes to DTV allotments); 73.624 (updating section heading), (a)-(c) and (g) (Digital television broadcast stations); 73.625 (updating section heading), (a)(1), (b)(1), (b)(3), (c)(4)(i)-(ii) (DTV coverage of principle community and antenna system); 73.626 (updating section heading), (a), (c)(1), (e), (f)(2), (f)(6) (DTV distributed transmission systems); 73.686(e) (Field strength measurements).

<sup>29</sup> 47 CFR § 73.1201(b)(1) (Station identification).

<sup>30</sup> 47 CFR §§ 73.6010(c) and (d) (Class A TV station protection contour); 73.6017 (Digital Class A TV station protection of Class A TV and digital Class A TV stations); 73.6018 (Digital Class A TV station protection of DTV stations); 73.6019 (Digital Class A TV station protection of low power TV, TV translator, digital low power TV and digital TV translator stations); 73.6020 (Protection of stations in the land mobile radio service); 73.6022(a) (Negotiated interference and relocations agreements); 73.6023 (Distributed transmission systems); and 73.6024(d) (Transmission standards and system requirements). We also amend section 73.6024(d) (Transmission standards and system requirements) to require stations in the Mexican border zone to specify a full-service emission mask in any modification applications requiring coordination. *See infra* para. 71. We also adopt a non-substantive, technical revision to section 73.6023(b) and (c) to remove “DTV” and “digital” to be consistent with the changes we adopt herein.

<sup>31</sup> *NPRM* at para. 7. We remove from certain part 74 rules inadvertent references to DTV and digital television service, overlooked in a prior part 74 rulemaking, since, with rare exception, all part 74 television services have transitioned from analog to digital operations and thus, there is no further need to differentiate between two separate kinds of service. *See Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television and Television Translator Stations, Update of Parts 74 of the Commission’s Rules Related to Low Power Television and Television Translator Stations*, MB Docket Nos. 22-261 and 03-185, Order and Sixth Notice of Proposed Rulemaking, FCC 22-58 (July 13, 2022) (“2022 Part 74 Order” or “Part 74 NPRM”); Erratum, FCC 22-58 (Sept. 9, 2022); Report and Order, FCC 23-25 (Apr. 17, 2023) (2023 Part 74 Report and Order). *See* 47 CFR

(continued....)

headings and language that are obsolete due to the conversion from analog to digital television technology, including references to the analog television booster service in subpart E<sup>32</sup> and subpart H,<sup>33</sup> since these services were not carried over into digital operations.<sup>34</sup> Finally, we amend section 73.6026 (Broadcast regulations applicable to Class A television stations) to remove references to analog-only rules applicable to Class A television stations, consistent with the rule changes above.<sup>35</sup>

11. We also adopt our proposal to remove references to an element of the Table of Allotments that has been previously updated.<sup>36</sup> As we explained in the *NPRM*, to accommodate the analog to digital television transition, the Commission adopted section 73.622(b) (DTV Table of Allotments) to allot a paired DTV channel to each analog television licensee and permittee.<sup>37</sup> The Commission later deleted section 73.622(b), leaving behind successor section 73.622(i) (Post-Transition

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§§ 74.792(b) (Low power TV and TV translator station protected contour); 74.793(e), (g)-(h) (Low power TV and TV translator station protection of broadcast stations); and 74.794 (section heading, paragraph (b) introductory text, (b)(1), and (b)(2) (Digital emissions)). We also delete the second sentence in 47 CFR § 74.793(b) (Low power TV and TV translator station protection of broadcast stations), given the fact that we delete the analog threshold interference levels in 47 CFR § 73.623(c)(2) (DTV applications and changes to DTV allotments) and therefore there is no need to distinguish digital operations. In the *NPRM*, we noted that a small number of translator stations in Alaska were still operating in analog. *See NPRM* at n.20. All of those stations have now either converted to digital or canceled the licenses, and, as such, that matter is moot.

<sup>32</sup> 47 CFR §§ 73.622(d)(1)-(2), Note to (e)(2), (e)(3), (f)(5), (f)(6), (f)(7), and (f)(8) (Digital television table of allotments); 73.623(a)-(b), (c)(2), (c)(3), (c)(5), (d), and (h) (DTV applications and changes to DTV allotments); 73.624(a), (b)(1)-(2), (d)-(f) (refer to pre-DTV transition procedures) (Digital television broadcast stations); and 73.626(c)(2) (DTV distributed transmission systems). Section 73.622(c)(2) states that an application may be filed for a channel or community not specified in the DTV Table of Allotments (formerly section 73.622(b)) if it is consistent with the rules and policies established in *Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules*, WT Docket No. 99-168, Third Report and Order, 16 FCC Rcd 2703, 2717-18, paras. 34-36 (2001) (stating that the Commission would allow stations on channels 59 through 69 to enter into voluntary agreements to temporarily relocate to channels 52 through 58). Because section 73.622(b) has been deleted and channels 52 through 58 reallocated for non-broadcast use, we delete this section of the rule. Similarly, we delete the last five sentences of section 73.622(c)(1), which discuss procedures for filing applications for channel changes made in the deleted subsection (b), DTV Table of Allotments, citing the *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, MM Docket No. 87-268, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, 13 FCC Rcd 7418 (1998) (*MO&O on Reconsideration of the Sixth R&O*), and analog channel swaps.

<sup>33</sup> 47 CFR §§ 73.1001(c) (Scope); 73.3521 (Mutually exclusive applications for low power television, television translators and television booster stations); 73.3525 (Note) (Agreements for removing application conflicts); 73.3533(a)(5) (Application for construction permit or modification of construction permit); 73.3572 (section heading, (a)(2), (c) and (f)-(g)) (Processing of TV broadcast, Class A TV broadcast, low power TV, TV translators, and TV booster applications); 73.3584(a), (c) (Procedure for filing petitions to deny); and 73.3598(a) introductory text (Period of construction).

<sup>34</sup> *NPRM* at para. 7. *See 2022 Part 74 Order* at para. 6 and n.24.

<sup>35</sup> *NPRM* at para. 7. 47 CFR §§ 73.6026 (deleting reference to § 73.635 (Use of common antenna site); 73.646 (Telecommunications Service on the Vertical Blanking Interval and in the Visual Signal); 73.653 (Operation of TV aural and visual transmitters); 73.665 (Use of TV aural baseband subcarriers); 73.667 (TV subsidiary communications services); 73.669 (TV stereophonic aural and multiplex subcarrier operation); and 73.691 (Visual modulation monitoring)). As discussed *infra*, we delete the rules related to the Subscription Television Service as unnecessary and no longer in use, and amend 47 CFR § 73.664 (Determining operating power).

<sup>36</sup> *NPRM* at para. 8.

<sup>37</sup> 47 CFR § 73.622(b) (2021) (DTV Table of Allotments); *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, MM Docket No. 87-268, Sixth Report and Order, 12 FCC Rcd 14588 (1997) (*Sixth Report and Order*); *MO&O on Reconsideration of the Sixth R&O*.



Table of Allotment).<sup>38</sup> The rules, however, continue to refer to “Appendix B,” which specified the technical parameters and service area that must be protected for each channel allotted in section 73.622(b) during most of the transition period. We therefore remove references to “Appendix B”<sup>39</sup> in our rules as obsolete.<sup>40</sup>

12. We amend section 73.612 to remove references to distance separations, which, outside of new allotment proceedings, are not used in digital TV.<sup>41</sup> Consistent with the tentative conclusions in the *NPRM*, we find that this rule is obsolete, as TV stations are now protected using OET Bulletin No. 69.<sup>42</sup> We delete section 73.622(g)(2), which pertains to protection of analog TV signals by an upper-adjacent digital signal.<sup>43</sup> We also eliminate section 73.1620(f) (Program tests) since it refers to a policy of allowing 1000 watt ultra-high frequency (UHF) translators<sup>44</sup> on vacant allotments, a policy which was ended prior to 1984,<sup>45</sup> and eliminate from section 73.6024(b) (Transmission standards and system requirements) a reference to section 74.736, as that section was recently eliminated in the *2022 Part 74 Order*.<sup>46</sup> We also eliminate sections 73.685(g) (Transmitter location and antenna system) and 73.6025(b) (Antenna system and station location) because those rules were adopted many decades ago for the analog era and are not relevant to or used in the digital environment.<sup>47</sup>

13. *Minor Modifications to Proposed Amendments to Section 73.614(b) and Analog Technical Rules.* We next turn to evaluating the comments we received with two changes proposed in the *NPRM*. First, the National Association of Broadcasters (NAB) notes that the *NPRM* “correctly states that ‘digital TV signals do not have specific visual or aural carriers.’”<sup>48</sup> Yet, as proposed in the *NPRM*, section 73.614(a) would have retained the term “visual effective radiated power.” NAB argues that “[s]ince DTV operations are fundamentally data streams that may carry video, audio, or other data the word ‘visual’ has no meaning and should be eliminated.”<sup>49</sup> We agree. We therefore adopt our proposal in the *NPRM* to amend this rule with a minor modification to delete the word “visual,” as reflected in section 73.614(a) in Appendix A of this *Report and Order*.

14. Second, we decline to make another modification requested by NAB. The *NPRM* proposed to eliminate section 73.615 because the Commission staff’s current practice in evaluating

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<sup>38</sup> 47 CFR § 73.622(i); see also *October 2021 Order* at Appendix (removing section 73.622(b)).

<sup>39</sup> Appendix B, and a description of its use and contents, is in the *Sixth Report and Order*, 12 FCC Rcd at 14693-754. Corrections were made to Table 2 of Appendix B in the *MO&O on Reconsideration of the Sixth R&O*. We note that section 73.622(f)(3)(i) and (ii) both refer to policies specific to Appendix B, and thus, we delete them.

<sup>40</sup> *NPRM* at para. 8.

<sup>41</sup> *Id.* at para. 9. 47 CFR § 73.612(a)-(b) and Note (Protection from interference).

<sup>42</sup> *NPRM* at para. 9. 47 CFR § 73.616(d) (Post-transition DTV station interference protection). See <https://transition.fcc.gov/oet/info/documents/bulletins/oet69/oet69.pdf> (OET Bulletin No. 69).

<sup>43</sup> *NPRM* at para. 9. See *MO&O on Reconsideration of the Sixth R&O*, 13 FCC Rcd at 7467, para. 120.

<sup>44</sup> UHF refers to a frequency band allocated for broadcast television service on TV channels 14-36. By comparison, “VHF,” or very high frequency, refers to a spectrum band allocated for broadcast television on TV channels 2-13. The VHF channels are further broken up into “low-VHF” (channels 2-6) and “high-VHF” (channels 7-13). See, e.g., Spectrum Act at 6001.

<sup>45</sup> *NPRM* at para. 9. See also *Low Power Television and Television Translator Service*, MM Docket No. 83-1350, Report and Order, 102 F.C.C.2d 295, 311 (1984) (indicating that section 73.3516(c) should have been modified when LPTV rules were adopted, which is the rule part that 73.1620(f) refers to).

<sup>46</sup> *NPRM* at para. 9. See *2022 Part 74 Order* at para. 5, n.20.

<sup>47</sup> *NPRM* at para. 9. See 28 Fed. Reg. 13572, 13678-79 (Dec. 14, 1963) (47 CFR § 73.685 (1963)).

<sup>48</sup> See NAB Comments at 8 (internal footnotes omitted), citing *NPRM* at para. 6.

<sup>49</sup> NAB Comments at 8.

technical proposals and issuing authorizations provides additional precision beyond what the text of the current rule requires, since authorizations are now based on the more precise kilowatt (kW) value as opposed to dBk and do not round HAAT values as described in this rule.<sup>50</sup> For the same reason, the *NPRM* proposed to remove the dBk reference in section 73.614(a).<sup>51</sup>

15. NAB comments that the current and proposed rules specify formulas for determining effective radiated power (ERP) as a function of HAAT with the results in logarithmic units of dBk, and claims that the proposed change fails to define the significant figures<sup>52</sup> to use and will lead to confusion.<sup>53</sup> NAB also argues that since section 73.615 currently describes how to convert power in dBk to power in kilowatts and specifies the number of significant figures and the rules for rounding the results, the proposed deletion of section 73.615 makes the determination of ERP in kilowatts ambiguous.<sup>54</sup> NAB further argues the revised rule should define the algorithm that produces that result and “computer software used by FCC staff” should be modified to match the formulas in the rules.<sup>55</sup> NAB also maintains that it “is troubled by the apparent acknowledgement in the *NPRM* that the staff’s practice has been inconsistent with the plain language of the rules for years,”<sup>56</sup> and that if the Commission now wishes to amend its rules to bring them into alignment with the staff’s preferences and practices, the Commission should grandfather existing operating parameters for current stations so that no broadcaster is penalized for that choice.<sup>57</sup>

16. We disagree with NAB’s assessment of this issue. First, while NAB claims that the Commission staff has applied a standard that is inconsistent with the rules in processing applications, the fact is that the Commission rule (47 CFR § 73.615) stating how to specify power in TV broadcast authorizations applies to analog operations only. The Commission proposed a digital full power Table of

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<sup>50</sup> *NPRM* at para. 9. 47 CFR § 73.615 (Administrative changes in authorizations). As explained in the *NPRM*, for example, a station authorized at 30 dBk (decibels above 1 kW) would operate at 1000 kW, while a station at 29.9 dBk consistent with the current rule would operate at approximately 977 kW. The Bureau, however, authorizes stations today based on kilowatts, allowing a station to be authorized at an intermediate value such as 990 kW. The Bureau’s current practice therefore provides more precision. See *NPRM* at para. 9, n.31.

<sup>51</sup> *NPRM* at para. 9. 47 CFR § 73.614(a) (Power and antenna height requirements).

<sup>52</sup> We note that significant figures, or significant digits, refers to “any of the digits of a number beginning with the digit farthest to the left that is not zero and ending with the last digit farthest to the right that is either not zero or that is a zero but is considered to be exact.” See “Significant digit,” Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/significant%20digit> (last visited Aug. 1, 2023).

<sup>53</sup> NAB Comments at 6. NAB cites to proposed sections 73.614(b)(1)(ii) and (iii), sections 73.614(b)(2)(ii) and (iii), and section 73.614(b)(3)(ii). *Id.* at n.19.

<sup>54</sup> *Id.* at 6.

<sup>55</sup> *Id.* at 6-7. NAB believes that the “staff’s current practice” will inevitably result in inconsistent results between the staff’s practice and the rules, and gives an example of a UHF station where it believes the allowable ERP (to the nearest 0.1 dBk) of 20.4 dBk converts to 110 kW when rounded to three significant figures as presently specified in the rules. NAB believes that when calculated using the staff’s “arbitrary precision,” the same station would be allowed just 108.4 kW (to four significant figures) or 108 kW (to three significant figures) absent the administrative rounding provisions of section 73.615. NAB states that this can cause confusion when applying the largest station in the market rule (currently section 73.622(f)(5) and proposed 73.614(b)(6)) and potentially require modification of longstanding authorizations to reflect a changed calculation methodology. *Id.* at 7. NAB further added that the “language of present rule Section 73.615 concerning administrative changes in authorizations is an essential complement to the formulas in Section 73.614, which specify station radiated power levels in decibels above on [sic] kilowatt (dBk).” See NAB *Ex Parte*.

<sup>56</sup> NAB Comments at 7.

<sup>57</sup> NAB Comments at 7-8.

Allotments in 1996 by specifying ERP in kilowatts,<sup>58</sup> and all tables adopted by the Commission since then use similar ERP values in kilowatts.<sup>59</sup> The use of kilowatt ERP values has continued through the present time, including use in the “*tv\_process*” software the Media Bureau used for application processing in the past, and the *TVStudy* software the Media Bureau currently uses for application processing.<sup>60</sup> Second, given the Commission’s implementation of a system using ERP in kilowatts for digital stations in the *1997 Order*, the ERP in the digital television broadcast station license and modification authorizations issued by the Media Bureau have since been issued in kilowatts.<sup>61</sup> NAB is therefore incorrect to suggest that there is any conversion or algorithm being applied. Current section 73.615 is an analog-era rule that was never applied to digital authorizations so no such conversion or algorithm is applied. Moreover, all full power and Class A television stations have a digital authorization given in kilowatts, so there is no need to modify outstanding digital authorizations, and no confusion should occur as a station’s ERP would be given as 110 kW, 108.4 kW, or 108 kW, as appropriate, on its existing authorization.<sup>62</sup> Third, evaluation of the largest station in the market under section 73.622(f)(5) has been conducted using the more precise kilowatt values found in the Commission’s LMS database rather than the dBk values to three significant figures.<sup>63</sup> For these reasons, with respect to NAB’s request that the Commission

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<sup>58</sup> See *Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service*, MM Docket No. 87-268, Sixth Further Notice of Proposed Rulemaking, 11 FCC Rcd 10968 (1996), at Appendix B, which shows power in kilowatts for each station. Many of these values do not conform neatly to dBk to three significant figures. As an example, see the proposed channel 30 allotment at Birmingham, Alabama, which is given as 127.6 kW (which is approximately 21.06 dBk), or the proposed channel 17 allotment at Roanoke, Virginia, which is given as 108.9 kW (which is approximately 20.37 dBk).

<sup>59</sup> See *Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service*, MM Docket No. 87-268, Sixth Report and Order, 12 FCC Rcd 14588 (1997) (*1997 Order*). See also *MO&O on Reconsideration of the Sixth R&O; Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service*, MM Docket No. 87-268, Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders, 14 FCC Rcd 1348 (1998); Appendix B, and a description of its use and contents, in the *Sixth Report and Order*, 12 FCC Rcd at 14693-754; *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, GN Docket No. 12-268, Public Notice, 32 FCC Rcd 2786, 2804, para. 56 (WTB/MB/IATF 2017) (*Channel Reassignment Public Notice*).

<sup>60</sup> *TVStudy* was released for notice and comment prior to being used by the Commission in the Incentive Auction. See, e.g., *TVStudy Interference Analysis Software*, <https://www.fcc.gov/oet/tvstudy>. *Office of Engineering and Technology Releases and Seeks Comment on Updated OET-69 Software*, ET Docket No. 13-26, Public Notice, 28 FCC Rcd 950 (OET 2013). The Media Bureau, in a Public Notice issued with the Office of Engineering and Technology, subsequently announced it would use *TVStudy* during the post-auction period. See *Office of Engineering and Technology Announces Release of Version 2.1 of TVStudy for Processing Construction Permit Applications Filed with the Media Bureau Implementing the Results of the Repacking Process*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, 32 FCC Rcd 998 (OET/MB 2017). The Bureau continues to use *TVStudy* today to maintain consistency with the protections afforded to stations during the Incentive Auction and repack. Additionally, *tv\_process* was designed for use with the older Consolidated Database System (CDBS) database which, as noted *infra*, has been phased out, and the computers necessary to run the older *tv\_process* software are now obsolete and have been retired.

<sup>61</sup> For example, the prior license authorization of WXLV-TV, BLCDDT-20050624ABB, authorized 990 kW even though that value does not align with either 29.9 or 30.0 dBk. As an additional example, the prior license authorization of WCBS-TV, BLCDDT-19981026KG, authorized 349 kW even though that value does not align with either 25.4 or 25.5 dBk. As a general matter, we also note that ERP values are stored in kilowatts, rather than dBk, in the FCC’s LMS database.

<sup>62</sup> While a dBk figure is also given on the authorization, it is clearly a conversion from the kilowatt value, and is given to four significant figures rather than the three specified in the analog-era section 73.615.

<sup>63</sup> For example, in the 2022 KTVH-DT rulemaking, the area was calculated using the kilowatt value at 530 kW rather than the values of 525 kW (27.2 dBk) or 537 kW (27.3 dBk). See Engineering Statement Amendment at 3, LMS File No. 0000177547.

grandfather existing operating parameters, we find that since all full power and Class A television stations are operating with digital only facilities and are all operating with authorizations issued based on kilowatts, it is unnecessary to grant NAB's request. Finally, in response to NAB's contention that removal of this rule will lead to confusion, we disagree. Since section 73.615 is an analog rule, it has not applied to digital operation and we are unaware of any actual instance where a station's power level would be impacted by removal of the analog rule. Further, requiring such rounding for power limits would reduce flexibility for stations attempting to conduct a largest station in the market analysis or a loss analysis by artificially preventing them from choosing a more precise power level which may allow stations to more closely match the service they are attempting to replicate. We therefore adopt the changes to section 73.615 as proposed in the *NPRM*.

## B. Updates and Corrections to the Full Power and Class A Rules

17. The *NPRM* proposed to make several updates and corrections to the full power and Class A rules.<sup>64</sup> The comments received were generally supportive of the effort to update our rules,<sup>65</sup> and we received no specific objection to these proposals. Thus, for the reasons discussed in the *NPRM*, and described below, we adopt the proposals as detailed below.

18. We update the reference to the 2000 census population data found in section 73.616(d)(1) to reflect a reference to the most recent official decennial U.S. Census population data, which conforms paragraph (d)(1) to the language in section 73.616(e)(1).<sup>66</sup> We also amend references to the "Table of Allotments" in section 73.622(j) to the "Table of TV Allotments" in all places where it is referenced in subpart E<sup>67</sup> and in subpart H, for continuity.<sup>68</sup> We amend section 73.622(j) to reflect a channel substitution previously adopted upon a notice and comment rulemaking that was adopted shortly before the current version of the Table of TV Allotments was adopted, but was not incorporated into the new Table of TV Allotments for procedural reasons.<sup>69</sup> We amend certain rules in subpart E to add common

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<sup>64</sup> *NPRM* at para. 10.

<sup>65</sup> See *supra* para. 4, n.12.

<sup>66</sup> *NPRM* at para 10. 47 CFR § 73.616(d)(1) (Post-transition DTV station interference protection). This language was inadvertently not included in subsection (d)(1). See *Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*, GN Docket No. 16-142, Notice of Proposed Rulemaking, 32 FCC Rcd 1670, 1696-7, para. 59 (2017) (in proposing to adopt section 73.616(e)(1), the Commission stated that "[w]e propose to update the Commission's rules regarding acceptable levels of interference resulting from a broadcaster's application for new or modified facilities"); *Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*, GN Docket No. 16-142, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9930, 9986-7, para. 114 (2017) (in adopting the rule, the Commission stated that "after the repacking process is complete, any broadcast television service or interference calculations will be based on the 2010 U.S. Census statistics, until after 2020, when the next U.S. Census statistics are scheduled to become available and the Media Bureau subsequently announces the date of application of such data"). We also make a similar revision in 47 CFR § 73.686(c)(1)(i) to conform the rule to 47 CFR § 73.616.

<sup>67</sup> 47 CFR §§ 73.622 (section heading and (a)) (Digital television table of allotments); 73.623(d), (f), and (h) (DTV applications and changes to DTV allotments).

<sup>68</sup> *NPRM* at para. 10. 47 CFR § 73.1015 (Truthful written statements and responses to Commission inquiries and correspondence). We also update the reference to FM Table of Allotments to "Table of FM Allotments" in 47 CFR § 73.1015 to reflect the name of the table in 47 CFR § 73.202(b).

<sup>69</sup> *NPRM* at para. 10. On January 12, 2021, the Media Bureau issued a Notice of Proposed Rulemaking in response to a petition filed by KTUL Licensee, LLC, the licensee of KTUL, Tulsa, Oklahoma, requesting the substitution of channel 14 for channel 10 at Tulsa in section 73.622(i), the DTV Table of Allotments. *Amendment of Section 73.622(i), Post-Transition Table of DTV Allotments, Television Broadcast Stations (Tulsa, Oklahoma)*, MB Docket No. 21-9, Notice of Proposed Rulemaking, 36 FCC Rcd 157 (Vid. Div. 2021) (*Tulsa NPRM*). In the *Tulsa NPRM*, the Bureau noted that the Commission had completed the incentive auction and broadcast television spectrum repacking authorized by the Spectrum Act and that the Bureau would amend the rules to reflect all new full power

(continued....)

abbreviations used elsewhere in the Commission's rules and forms.<sup>70</sup> We amend certain rules in subpart H and subpart I to provide full power and Class A licensees and permittees with accurate information about current Commission forms and filing procedures, including the removal of obsolete forms.<sup>71</sup> We update section 73.1030 to reflect updated contact information for the National Radio Astronomy Observatory site and the Radio Frequency Management Coordinator.<sup>72</sup> We delete section 73.682(a)(1) as duplicative of section 73.624(a) and thus, unnecessary.<sup>73</sup>

19. We also make amendments to correct typographical errors in words and cross-references

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channel assignments in a revised Table of Allotments. Because the Table had not yet been amended, however, the Bureau continued to refer to section 73.622(i) for the purpose of the Tulsa proceeding. *Id.*, 36 FCC Rcd at 157, n.1. The Bureau adopted a Report and Order amending section 73.622(i) to substitute channel 14 at Tulsa, *see Amendment of Section 73.622(i), Post-Transition Table of DTV Allotments, Television Broadcast Stations (Tulsa, Oklahoma)*, MB Docket No. 21-9, Report and Order, 36 FCC Rcd 13620 (Vid. Div. 2021), and shortly thereafter the Commission adopted the Table of TV Allotments, which superseded section 73.622(i). *October 2021 Order*, 36 FCC Rcd at 15894-5, para. 8. The amendment to section 73.622(j) reflects this channel substitution, which did not become effective until after the new Table of TV Allotments was adopted.

<sup>70</sup> *NPRM* at para. 10. *See, e.g.*, 47 CFR §§ 73.614(a) (adding abbreviations for “ERP” and “HAAT”) (Power and antenna height requirements); and 73.625(a)(1) (adding abbreviations for “ERP” and “HAAT”) (DTV coverage of principal community and antenna system).

<sup>71</sup> *See NPRM* at para. 10. 47 CFR §§ 73.1250(e) (Broadcasting emergency information); 73.1350(h) (Transmission system operation); 73.1560(a)(1) and (d) (Operating power and mode tolerances); 73.1615(c) (Operation during modification of facilities); 73.1620(a)(1)-(3) (Program tests); 73.1635(a)(2)-(3) (Special temporary authorizations (STA)); 73.1675(b) (Auxiliary antennas); 73.1690(b) and (c)(3) (Modification of transmission systems); 73.1740(a)(4) (Minimum operating schedule); 73.1750 (Discontinuance of operation); 73.2080(c)(6) and (f) (deleting the references to obsolete Form 397 and updating the names of forms) (Equal employment opportunities (EEO)); 73.3500 (Application and report forms); 73.3533(a)(1) and (a)(4)-(a)(8) (Application for construction permit or modification of construction permit); 73.3536(b)-(c) (Application for license to cover construction permit); 73.3540(c)-(f) (Application for voluntary assignment or transfer of control); 73.3541(b) (Application for involuntary assignment of license or transfer of control); 73.3544(b)-(c) (Application to obtain a modified station license); 73.3549 (Requests for extension of time to operate without required monitors, indicating instruments, and EAS encoders and decoders); 73.3550(a) and (j) (also adding “-DT” suffix in (a), (f), (k), and (m) (Requests for new or modified call sign assignments). The Commission has acknowledged the use of the “-DT” suffix in prior rulemakings. In 2004, the Commission permitted stations simulcasting their analog programming on their digital channel to make station identification announcements simultaneously for both stations as long as the identification included both call signs (“e.g., “WXXX-TV and WXXX-DT”).” *See Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 03-15, Report and Order, 19 FCC Rcd 18279, 18355, para. 173 (2004) (subsequent citations omitted) (*Second Periodic Review*); *see also Digital Transition Call Sign Procedures*, Public Notice, 24 FCC Rcd 7617 (MB 2009). We also update 47 CFR §§ 73.3578(b) (Amendments to applications for renewal, assignment or transfer of control); 73.3587 (Procedure for filing informal objections); 73.3598(c) (Period of construction); 73.5005(a) (Filing of long-form applications); and 73.5006(b) (Filing of petitions to deny against long-form applications). We note that the numbering of the broadcast application and report forms has changed with the transition of the Commission's broadcast licensing database from CDBS to LMS, and certain form numbers have changed since the release of the *NPRM*, which we update in this *Report and Order*. *See Media Bureau Announces Transition of Additional Filings to Licensing and Management System*, Public Notice, DA 23-600 (MB 2023). For example, Form 301 for AM stations is now Form 2100 Schedule 301-AM.

<sup>72</sup> *NPRM* at para. 10. 47 CFR § 73.1030(a)(1) and (b)(2) (Notifications concerning interference to radio astronomy, research and receiving installations).

<sup>73</sup> *NPRM* at para. 10. 47 CFR § 73.682(a)(1) (TV transmission standards) and 47 CFR § 73.624(a) (Digital television broadcast stations) (both noting the width of a television channel is 6 MHz).

that contain incorrect rule citations.<sup>74</sup> We delete repetitive language within a rule.<sup>75</sup> We revise section 73.682(d) to break the existing paragraph into subsections, without altering its content, in order to make the paragraph more accessible to licensees and the public.<sup>76</sup> In addition, we eliminate notes to rules and shift the language into the text of the relevant rule to conform to the publishing conventions of the National Archives and Records Administration's (NARA) Office of the Federal Register.<sup>77</sup>

20. We next delete section 73.685(e) (Transmitter location and antenna system) because it is redundant with section 73.625(c)(2) (antenna system), and contains certain requirements regarding directional antennas which are no longer in use.<sup>78</sup> We delete section 73.622(f)(2) as obsolete, since all applications are now evaluated for interference using OET Bulletin No. 69.<sup>79</sup> We also delete section 73.6027 as duplicative and unnecessary as it is a cross-reference to a rule already applicable to Class A stations.<sup>80</sup> We also place a reference to section 73.1030 in section 73.6026 (Broadcast regulations applicable to Class A television stations), which lists rules that apply to Class A by reference.<sup>81</sup> We similarly delete the last sentence of 73.6020 (Protection of stations in the land mobile radio service) with respect to land mobile radio service (LMRS) operations on channel 16 in New York, as it is duplicative of the reference to section 74.709 in the first sentence of 73.6020, since section 74.709 requires protection of channel 16 in New York.<sup>82</sup> We also streamline section 73.6000 by amending the rule, after deleting the

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<sup>74</sup> *NPRM* at para. 11. 47 CFR §§ 73.622(c)(1) (Digital television table of allotments); 73.623(d)(1), (d)(4) (DTV applications and changes to DTV allotments); 73.624(g) (Digital television broadcast stations); 73.625(c)(5) (cites to 73.622(f)(4), which is irrelevant to electrical beam tilt) (DTV coverage of principal community and antenna system); 73.626(c)(2) (DTV distributed transmission systems); 73.682(d) (TV transmission standards); 73.683(c)(3) (Field strength contours and presumptive determination of field strength at individual locations); 73.1217 (Broadcast hoaxes); 73.1250 (Broadcasting emergency information); 73.1615(b)(3) (Operation during modification of facilities); 73.1690(b)(3) and (c)(3) (Modification of transmission systems); 73.3550(b) and (i) (Requests for new or modified call sign assignments); 73.5007(b)(3)(v) (Designated entity provisions); 73.3578(b) (Amendments to applications for renewal, assignment or transfer of control); 73.6018 (Digital Class A TV station protection of DTV stations); 73.4060(a) (Citizen agreements); and 74.793(g) (Low power TV and TV translator station protection of broadcast stations).

<sup>75</sup> *NPRM* at para. 11. 47 CFR § 73.623(e) (DTV applications and changes to DTV allotments).

<sup>76</sup> *NPRM* at para. 11. *See* new section 73.682(d)(1)-(3) (TV transmission standards). We also remove citations to sections of the Communications Act in new section 73.682(d)(3)(ii) relating to the organization and functions of the Commission that we believe were inadvertently included in the rule, as well as add a cross-reference to section 73.8000 to find contact information for the availability of the ATSC standards. We also update the contact information for information on the availability of the ATSC standards in 47 CFR § 73.8000 (Incorporation by reference). We also note that NARA's Office of Federal Register made editorial revisions to sections 73.682, 73.683(d), and 73.8000 in line with its publishing conventions.

<sup>77</sup> *NPRM* at para. 11. *See* 47 CFR §§ 73.682 (TV transmission standards); 73.1216 (Licensee-conducted contests); 73.1217 (Broadcast hoaxes); and 73.3525 (Agreements for removing application conflicts).

<sup>78</sup> *NPRM* at para. 12.

<sup>79</sup> *NPRM* at para. 12. 47 CFR § 73.622(f)(2) (Digital television table of allotments). *See also* 47 CFR § 73.616(d) (Post-transition DTV station interference protection), which requires applications to pass an analysis with OET Bulletin No. 69.

<sup>80</sup> *NPRM* at para. 12. 47 CFR § 73.1030 (Notifications concerning interference to radio astronomy, research and receiving installations). Class A licensees are required to comply with all part 73 regulations except for those that cannot apply for technical or other reasons. *Establishment of a Class A Television Service*, MM Docket No. 00-10, Report and Order, 15 FCC Rcd 6355, 6365, para. 23 (2000) (*Class A Report and Order*).

<sup>81</sup> *NPRM* at para. 12.

<sup>82</sup> *Id.*

analog references, to simplify and shorten the language without further altering the meaning or content.<sup>83</sup>

21. Finally, we add an explanatory note to section 73.623 to reference and explain the existence of a granted waiver with respect to the community of Los Angeles, California.<sup>84</sup> As explained in the *NPRM*, section 73.623 requires television stations to protect certain channels for use by LMRS in thirteen U.S. cities listed in the rule.<sup>85</sup> In 2008, the Commission's Public Safety and Homeland Security Bureau (PSHSB) granted a waiver pursuant to section 337(c) of the Communications Act of 1934, as amended,<sup>86</sup> allowing the County of Los Angeles to use channel 15 in Los Angeles for public safety communications.<sup>87</sup> Because this channel is adjacent to two channels contained in section 73.623, we find, consistent with the tentative conclusion in the *NPRM*, that the public interest is served by including a note explaining the existence of the 2008 waiver.<sup>88</sup>

### C. Post-Incentive Auction Licensing and Operation (Section 73.3700)

22. The *NPRM* proposed removal of outdated rules relating to the post-incentive auction transition period. The comments received were generally supportive of the effort to update our rules,<sup>89</sup> and we received no specific objection to these proposals. Therefore, for the reasons discussed in the *NPRM*, and described below, we adopt the proposals as detailed below.

23. As explained in the *NPRM*, section 73.3700(a)(2) includes licensing and procedural rules for television stations during the post-incentive auction transition.<sup>90</sup> The incentive auction closed on April 13, 2017,<sup>91</sup> and thus, we amend section 73.3700(a)(2) to add the citation to the *Channel Reassignment Public Notice* that was released by the Commission's Media and Wireless Telecommunications Bureaus and Incentive Auction Task Force announcing the completion of the auction and deadlines for stations assigned new channels through the repacking process to terminate operations on pre-auction channels.<sup>92</sup> We also delete as obsolete certain definitions that relate to the bid options that were available to full power and Class A television broadcasters eligible to participate in the incentive auction that closed on April 13, 2017.<sup>93</sup> We also delete as obsolete procedural rules that governed the post-incentive auction period for stations to transition off their pre-auction channel, which ended on July 13, 2020. This includes portions of the rule pertaining to the special post-incentive auction displacement filing window which closed on June 1, 2018 and applied to low power television (LPTV)

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<sup>83</sup> *Id.* 47 CFR § 73.6000 (Definitions – because we delete subsection (1) in *supra* n.19, we delete the number (2), but retain the text).

<sup>84</sup> *NPRM* at para. 13. 47 CFR § 73.623 (DTV applications and changes to DTV allotments). A similar explanatory note was added to section 74.709 in the Commission's *2022 Part 74 Order* at para. 8.

<sup>85</sup> *NPRM* at para. 13.

<sup>86</sup> 47 U.S.C. § 337(c).

<sup>87</sup> *NPRM* at para. 13. *See Request for Waiver of the Commission's Rules to Authorize Public Safety Communications in the 476-482 MHz Band (County of Los Angeles, California)*, Order, 23 FCC Rcd 18389 (PSHSB 2008).

<sup>88</sup> *NPRM* at para. 13.

<sup>89</sup> *See supra* para. 4, n.12.

<sup>90</sup> *NPRM* at para. 14.

<sup>91</sup> *Channel Reassignment Public Notice*.

<sup>92</sup> *NPRM* at para. 14. 47 CFR § 73.3700(a) (Definitions), and (a)(2) (Channel reassignment public notice).

<sup>93</sup> *NPRM* at para. 14. 47 CFR §§ 73.3700(a) (Definitions), (6) (High-VHF-to-Low-VHF station), (7) (License relinquishment station), and (17) (UHF-to-VHF station).

and television translator stations displaced by the auction.<sup>94</sup>

#### D. Updates to Listing of FCC Policies

24. The *NPRM* proposed to update the Commission's policy rules in section 73.4000 *et seq.*, which provide certain FCC policies and citations related to all broadcast stations for the purpose of reference and convenience.<sup>95</sup> Section 73.4000 addresses the fact that the present listing of FCC policies and citations contained in 73.4000 *et seq.* may not be an all-inclusive list.<sup>96</sup> The comments received were generally supportive of the effort to update our rules,<sup>97</sup> and we received no specific objection to this proposal. Therefore, for the reasons discussed in the *NPRM*, and described below, we adopt the proposal as detailed below.

25. We include cautionary language in the rule to note that subsequent decisions or actions may exist.<sup>98</sup> We also amend a number of rules in section 73.4000 *et seq.* that are now obsolete or otherwise require updates.<sup>99</sup> For instance, the Commission no longer uses comparative hearings to award commercial broadcast licenses so section 73.4082 related to such proceedings is obsolete.<sup>100</sup> We remove or update rules that implicate audio services that are obsolete or require updates.<sup>101</sup> And we update rules

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<sup>94</sup> See *NPRM* at para. 14. 47 CFR §§ 73.3700(b) (Post-auction licensing), (c) (Consumer education for transitioning stations), (d) (Notice to MVPDs), and (g) (Low Power TV and TV translator stations). Consistent with the proposals in the *NPRM*, we retain those portions of the rule pertaining to the small number of stations that are still engaged in constructing final facilities on their post-auction channel assignments and to the TV Broadcaster Relocation Fund. *NPRM* at para. 14. See 47 U.S.C. § 1452(j)(1)(A)-(B); see also *Incentive Auction Task Force and Media Bureau Report on the Status of the Post-Incentive Auction Transition and Reimbursement Program; Announce a Further Allocation from the Relocation Fund; and Announce Procedures for Eligible Entities to Close Out Accounts in the Fund*, MB Docket No. 16-306, GN Docket No. 12-268, Public Notice, 34 FCC Rcd 304, 312, para. 26 (IATF/MB 2019); *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567, 6825-26, paras. 632-36 (2014).

<sup>95</sup> *NPRM* at para. 15.

<sup>96</sup> *Id.* 47 CFR § 73.4000 (Listing of FCC policies).

<sup>97</sup> See *supra* para. 4, n.12.

<sup>98</sup> *NPRM* at para. 15.

<sup>99</sup> *Id.*

<sup>100</sup> *Id.* See 47 CFR § 73.4082 (Comparative broadcast hearings – specialized programming formats). The Commission no longer resolves mutually exclusive broadcast applications through comparative hearings but rather now uses competitive bidding procedures. See 47 CFR § 73.5000 *et seq.* (procedures for competitive bidding); *Implementation of Section 309(j) of the Communications Act; Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses*, MM Docket No. 97-234, First Report and Order, 13 FCC Rcd 15920 (1998) (subsequent citations omitted) (*Competitive Bidding First R&O*).

<sup>101</sup> *NPRM* at para. 15. Section 73.4017 is revised because these policies have been replaced by competitive bidding procedures in sections 73.5000-73.5009. See 47 CFR § 73.4017 (Application processing: Commercial FM stations); 47 CFR §§ 73.5000-73.5009; *Competitive Bidding First R&O*, 13 FCC Rcd at 15972, para. 137 (1998). Section 73.4100 and Section 73.4101 are retained and amended to add a more recent policy pronouncement from 1981 and 1987. See 47 CFR §§ 73.4100 (Financial qualifications; new AM and FM stations) and 73.4101 (Financial qualifications, TV stations); *Revision of Application for Construction Permit for Commercial Broadcast Station (FCC Form 301)*, Memorandum Opinion and Order, 50 R.R.2d 381, para. 6 (1981) and *Certification of Financial Qualification by Applicants for Broadcast Station Construction Permits*, Public Notice, 2 FCC Rcd 2122 (1987). Section 73.4107 is eliminated as the cited documents refer to a completed proceeding. All of the cited documents concern the rollout and implementation of Docket 80-90 and the 689 FM allotments adopted therein. The allotments have been established, the proceeding is terminated, and we believe there is no public interest served by listing the cited documents in the policy statement. See 47 CFR § 73.4107 (FM broadcast assignments, increasing availability of). We also eliminate section 73.4108 because this requirement was eliminated for FM stations. See 47 CFR § 73.4108 (FM transmitter site map submissions); *1998 Biennial Regulatory Review – Streamlining of Mass Media*

(continued....)



to reflect the availability of newer versions of procedures and Commission orders.<sup>102</sup> We also update certain rules to reflect the subsequent passage of legislation and the later Commission revision of the relevant policy.<sup>103</sup>

**E. Deletion of Obsolete Language Due to Passage of Time and Changes in Commission Policy**

26. The *NPRM* proposed to delete language that has become obsolete due to the passage of time or changes in Commission policy. The comments received were generally supportive of the effort to update our rules,<sup>104</sup> and we received no specific objection to these proposals. Therefore, for the reasons discussed in the *NPRM*, and described below, we adopt the proposals as detailed below.

27. We amend or delete a number of rules that apply exclusively to the Class A television service, which was authorized by the passage of the Community Broadcasters Protection Act of 1999 (CBPA).<sup>105</sup> Given that nearly twenty-five years have elapsed since passage of the CBPA and deadlines related to its implementation have elapsed, and all operating TV stations are now digital, we delete a number of rule sections that are now obsolete.<sup>106</sup> Additionally, since a number of rules relating to the post-incentive auction transition have deadlines that have passed, we delete these as obsolete.<sup>107</sup>

28. We amend section 73.1020(a) to delete dates in the past and include the applicable dates for future license renewal cycles.<sup>108</sup> We amend the dates in section 73.1020(a) from the default time of expiration for initial and renewal broadcast licenses by state to the license expiration dates for the next

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*Applications, Rules, and Processes*, MM Docket Nos. 98-43 and 94-149, Report and Order, 13 FCC Rcd 23056, 23082, para. 60 (1998) (rejecting the suggestion that the Commission continue to require the filing of site maps, finding it to be an “unnecessary expense for applicants” “in most instances”).

<sup>102</sup> *NPRM* at para. 15. See 47 CFR §§ 73.4210 (Procedure Manual: “The Public and Broadcasting”) (The rule is updated to reflect a newer version of the procedure manual, which is available at: <https://www.fcc.gov/media/radio/public-and-broadcasting>); 73.4267 (Time brokerage) (The revisions to the rule remove outdated citations and add citations to reflect current policy). See *Review of the Commission’s Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, MM Docket Nos. 94-150, 92-51, 87-154, Report and Order, 14 FCC Rcd 12559 (1999). See also 47 CFR § 73.3555, Note 2(j).

<sup>103</sup> *NPRM* at para. 15. See 47 CFR § 73.4055 (Cigarette advertising) (updated to reflect that in 1986, Congress extended the ban to include advertisements for smokeless tobacco products. See 15 U.S.C. § 4402(c)).

<sup>104</sup> See *supra* para. 4, n.12.

<sup>105</sup> Community Broadcasters Protection Act of 1999, Pub. L. No. 106-113, 113 Stat. Appendix I at pp. 1501A-594 – 1501A-598 (1999), codified at 47 U.S.C. § 336(f) (CBPA).

<sup>106</sup> *NPRM* at paras. 16 and 18 (proposing to remove 47 CFR § 73.613 (Note to 73.613(a)) (Protection of Class A TV Stations) and portions of 47 CFR § 73.6018 (Digital Class A TV protection of DTV stations). We also delete references to digital and DTV. We also delete the last sentence of 47 CFR § 73.623(c)(5) (DTV applications and changes to DTV allotments). We believe this deletion is further supported by the fact that this change was also reflected in the Federal Register publication, 86 Fed. Reg. 66193 (Nov. 22, 2021), which states “Section 73.623 is amended by revising paragraph (a) and by removing and reserving paragraphs (c) and (g).” (emphasis added). 86 Fed. Reg. 66193, 66209 (Nov. 22, 2021). While references to the section were deleted, the subsection remains in the rules. Additionally, consistent with the *NPRM*, we amend the section heading of 47 CFR § 73.6022 (Negotiated interference and relocation agreements) and delete 47 CFR § 73.6022(b) as a pre-DTV transition rule because Class A stations are no longer subject to displacement by full-power station modification applications and channel substitutions. *NPRM* at para. 18.

<sup>107</sup> See the final sentence of 47 CFR § 73.6019 (Digital Class A TV station protection of low power TV, TV translator, digital low power TV and digital TV translator stations), citing § 73.3700(b)(1). See *NPRM* at para 17.

<sup>108</sup> *NPRM* at para. 19. Given the timing of the release of this *Report and Order* and the pendency of the current television license renewal cycle, we update the dates in section 73.1020 with all future license renewal deadlines.

renewal cycle.<sup>109</sup> In addition, we remove as obsolete language from section 73.1020(b) that refers to the cutoff date for the filing of applications mutually exclusive with renewal applications that are filed on or before May 1, 1995, as no such applications are on file.<sup>110</sup>

29. Similarly, we remove as obsolete due to the passage of time section 73.3598(b)(3), which provides that the period of construction for an original construction permit will toll for certain reasons of international coordination during the DTV transition, which is now complete.<sup>111</sup> We delete language in new section 73.682(d)(1) specifying that digital standards incorporated by reference into the Commission's rules became effective October 11, 2011, as the specific start date has long since passed.<sup>112</sup> We also remove as obsolete the portion of section 73.3572(a)(3) providing a window that expired October 1, 2000 for certain minor change applications.<sup>113</sup> We also delete provisions that reference the comparative hearing process, which no longer exists.<sup>114</sup> We delete section 73.3523,<sup>115</sup> the first sentence of section 73.3516(e),<sup>116</sup> and the second sentence of section 73.3516(e)(1),<sup>117</sup> which deal with obsolete procedures regarding mutually exclusive proceedings for renewal applications filed prior to May 1, 1995. In addition, we delete the second sentence of section 73.3533(b), which discusses an obsolete procedure for filing construction permit extension applications.<sup>118</sup> Specifically, that rule refers to section 73.3534, which specified three factors that could justify an extension of a construction permit.<sup>119</sup> The referenced section, however, was deleted in 2004.<sup>120</sup>

30. We also delete obsolete language in section 73.664(c)(3)(iii) concerning the certification

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<sup>109</sup> 47 CFR § 73.1020(a) (Station license period). The default time of expiration refers to those expiration dates set forth in section 73.1020(a) for a station receiving an ordinary 8-year renewal.

<sup>110</sup> 47 CFR § 73.1020(b) (Station license period). *See also Reading Broadcasting, Inc., for Renewal of License of Station WTVE(TV), Channel 51 Reading, Pennsylvania and Adams Communications Corporation, for Construction Permit for a New Television Station to Operate on Channel 51, Reading, Pennsylvania*, MM Docket No. 99-153, 17 FCC Rcd 14001, 14002, para. 1 (2002) (In this decision, the Commission explained that it was “dispos[ing] of the last remaining ‘comparative renewal’ proceeding, in which an incumbent licensee faces a comparative challenge from a construction permit applicant for the same facilities. Congress, by Act of February 8, 1996, Pub. Law 104-104, 110 Stat. 56, codified as 47 C.F.R. § 309(k)(4), prohibited the comparative consideration of renewal applicants filed after May 1, 1995.”).

<sup>111</sup> *NPRM* at para. 20. 47 CFR § 73.3598(b)(3) (Period of construction).

<sup>112</sup> *NPRM* at para. 20. *See* new section 73.682(d)(1) (TV transmission standards). We also delete references to DTV and digital.

<sup>113</sup> *NPRM* at para. 20. 47 CFR § 73.3572(a)(3) (Processing of TV broadcast, Class A TV broadcast, low power TV, TV translators, and TV booster applications).

<sup>114</sup> *See NPRM* at para. 20. 47 CFR §§ 73.1620 (Program tests) (g)(1)-(3) (Reports required); 73.3519(a) (Repetitious applications) (the last sentence of subsection (a) that applicants whose applications have been denied in a comparative hearing may apply immediately for another available facility); and 73.4082 (Comparative broadcast hearings – specialized programming formats).

<sup>115</sup> *NPRM* at para. 20. 47 CFR § 73.3523 (Dismissal of applications in renewal proceedings). We also delete the first clause of 47 CFR § 73.3525(a) (Agreements for removing application conflicts), which cross-references section 73.3523.

<sup>116</sup> *NPRM* at para. 20. 47 CFR § 73.3516(e) (Specification of facilities).

<sup>117</sup> *NPRM* at para. 20. 47 CFR § 73.3516(e)(1) (Specification of facilities).

<sup>118</sup> *NPRM* at para. 20. 47 CFR § 73.3533(b) (Application for construction permit or modification of construction permit).

<sup>119</sup> 47 CFR § 73.3534. *See also Application of Mansfield Christian School*, 10 FCC Rcd 12589, 12590, para. 5 (1995).

<sup>120</sup> 69 Fed. Reg. 72020, 72043 (Dec. 10, 2004).

of equipment. In its comments, CDE states that it does not agree with our proposal to delete obsolete language in section 73.664, but does not provide a reason why it disagrees and thus, there is no basis for us to depart from the proposal in the *NPRM*.<sup>121</sup> Accordingly, for the reasons described in the *NPRM*, we adopt our proposal to delete the language as obsolete. As explained in the *NPRM*, the FCC no longer “type accepts” equipment, having overhauled the process to allow private parties to verify such equipment meets FCC requirements, and the results of such verifications do not need to be submitted to the FCC.<sup>122</sup> We modify text throughout section 73.664 in order to remove references to analog operations such as references to the visual transmitter and to peak power.<sup>123</sup> We remove similar references to the visual transmitter in section 73.688.<sup>124</sup>

31. We delete sections 27.60 (TV/DTV interference protection criteria) and 27.1310 (Protection of Broadcast Television Service in the 600 MHz band from wireless operations), which concern the protection of TV stations on certain channels by wireless services.<sup>125</sup> As explained in the *NPRM*, all of these protections are for channels above channel 37, and thus are no longer relevant because the completion of the digital TV transition and the incentive auction and repacking process reassigned channels in that range for wireless use.<sup>126</sup>

#### **F. Reorganization of Subpart E – Television Broadcast Stations**

32. The *NPRM* proposed to reorganize subpart E of our part 73 rules. We received no objection to many of these changes and the comments received were generally supportive of the effort to update our rules.<sup>127</sup> Therefore, for the reasons discussed in the *NPRM*, and described below, we adopt the proposals as detailed below.

33. As described in the *NPRM*, full power television began to transition to digital with the

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<sup>121</sup> See CDE Supplemental Comments 2 at 9 (regarding the Commission’s proposal to delete obsolete language in section 73.664(c)(3)(iii) concerning the certification of equipment, CDE notes that its response is “Not Agreed.”).

<sup>122</sup> *NPRM* at para. 21. 47 CFR § 73.664(c)(3)(iii) (Determining operating power). As explained in the *NPRM* at n.89, currently, there are two procedures used for RF device equipment authorization: SDoC and Certification. See 47 CFR §§ 2.906 (Supplier’s Declaration of Conformity) and 2.907 (Certification); see also *Office of Engineering & Technology (OET), Equipment Authorization*, <https://www.fcc.gov/engineering-technology/laboratory-division/general/equipment-authorization> (last visited Aug. 1, 2023). On July 14, 2017, the Commission amended its radiofrequency equipment authorization rules. *Amendment of Parts 0, 1, 2, 15, and 18 of the Commission’s Rules Regarding Authorization of Radiofrequency Equipment*, ET Docket No. 15-170, First Report and Order, 32 FCC Rcd 8746 (2017). The adopted rules phased out the Verification and Declaration of Conformity equipment authorization procedures and replaced them with a new equipment authorization procedure, the SDoC. Federal Communications Commission, *Authorization of Radiofrequency Equipment*, 82 Fed. Reg. 50820 (Nov. 2, 2017). A device authorized under previously accepted procedures remains authorized and may be marketed or used if it continues to meet the requirements attendant to that authorization. To the extent CDE is seeking reconsideration of the Commission’s 2017 decision, that request is untimely under 47 U.S.C. § 405(a). As reflected in the *NPRM*, our proposal did not seek to change the rule substantively, only to update FCC rules to accurately reflect the current operating environment. Arguments for substantive changes to the rules that were not the subject of notice and comment in the *NPRM* are beyond the scope of this proceeding.

<sup>123</sup> See *supra* n.21. We retain the remainder of section 73.664 that continues to provide important information for measuring transmitter operating power even in the post-transition context. See *NPRM* at para. 21.

<sup>124</sup> We retain other portions of section 73.688. See *supra* para. 8, n.21.

<sup>125</sup> *NPRM* at para. 22. 47 CFR §§ 27.60 (TV/DTV interference protection criteria) and 27.1310 (Protection of Broadcast Television Service in the 600 MHz band from wireless operations).

<sup>126</sup> *NPRM* at para. 22.

<sup>127</sup> See *supra* para. 4, n.12.

passage of the Telecommunications Act of 1996,<sup>128</sup> and ended on June 12, 2009, when full power television stations commenced digital-only operations.<sup>129</sup> Many of these rules adopted during the digital transition were temporary and meant to be effective only during the DTV transition. Others, however, had more long term application to digital-only operations. Because the more long term rules were adopted at the same time as temporary rules, the *NPRM* noted that the long term rules are currently not organized in a straight forward or user-friendly manner.<sup>130</sup> In addition, there are instances where the rules are duplicative.<sup>131</sup>

34. To make the organization of the rules more practical and the rules easier to find, we largely reorganize subpart E as proposed in the *NPRM*, while also adopting some minor clarifications and amendments to some of the rules.<sup>132</sup> First, we create a new section 73.611 (Emission levels and mask filters) which relocates, verbatim, the language from section 73.622(h)(1) and (2), which is currently part of the Table of TV Allotments section. This change will improve the organization of the rules because this technical rule has little direct relationship to the Table of TV Allotments.<sup>133</sup>

35. We next remove the analog power limits from section 73.614(b) (Power and antenna height requirements) and replace them with the digital power limits currently found in section 73.622(f)(5)-(8) (Digital television table of allotments), and clarify in section 73.614(b) that all applications for new full power television stations, applications for changes in authorized full power television stations, and petitions for changes to the Table of TV Allotments must comply with these requirements.<sup>134</sup> We also delete section 73.614(b)(7) (Power and antenna height requirements) as duplicative of section 73.625(c)(1) (DTV coverage of principal community and antenna system).<sup>135</sup> For stations requesting DTS operation pursuant to section 73.626 (DTV distributed transmission systems), we

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<sup>128</sup> See *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, MM Docket No. 87-268, 12 FCC Rcd 12809 (1997) (implementing television broadcast portions of the Telecommunications Act of 1996) (subsequent citations omitted); see Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified at 47 U.S.C. § 151 *et seq.*) (1996 Act)).

<sup>129</sup> *NPRM* at para. 23.

<sup>130</sup> *Id.*

<sup>131</sup> For example, 47 CFR §§ 73.616(d) and (e) (Post-transition DTV station interference protection) and 73.623(c)(2)-(5) (DTV applications and changes to DTV allotments) both require the use of OET Bulletin No. 69. Some of the specific parameters in section 73.623(c) are outdated (such as those that refer to the 2 percent and 10 percent aggregate pre-transition interference standard), but most of the remaining rule text is directly duplicative of section 73.616(d) and (e) (for example, both discuss how to determine DTV to DTV interference using OET Bulletin No. 69, that the minimum adjacent channel technical criteria does not apply to channels 4 and 5, 6 and 7, and 13 and 14, because of unique spacing between these channel, and how to determine interference to Class A television stations). Thus, as stated above, we have deleted subsection 73.623(c)(2)-(5). In addition, there are cases where an analog rule and a digital rule are both found in the rules with similar text, such as sections 73.625 (DTV coverage of principal community and antenna system) and 73.685 (Transmitter location and antenna system).

<sup>132</sup> *NPRM* at para. 24.

<sup>133</sup> *Id.* We note, however, that one commenter requested that we change the language of section 73.611 to incorporate a clarification issued by the FCC's Office of Engineering and Technology (OET). See GBS Comments at 1-2. Because we find this request to be outside the scope of the proceeding, we address it *infra* in Section III.M.

<sup>134</sup> *NPRM* at para. 25. 47 CFR § 73.614(b) (Power and antenna height requirements). This would make section 73.622(f)(4) redundant, as section 73.622(f)(8) also contains a 1000 kW limit for UHF stations, and, as proposed, we delete section 73.622(f)(4).

<sup>135</sup> *NPRM* at para. 25. 47 CFR §§ 73.614(b)(7) and 73.625(c)(1). Consistent with the proposal in the *NPRM*, we retain for digital operations a requirement that existed for analog operations that applications will not be accepted for filing if they specify less than a minimum ERP of 100 watts because the Media Bureau staff already applies this minimum level in routine processing and we do not believe it is in the public interest for full power television stations to operate with what is essentially a low power facility. *NPRM* at para. 25.

clarify that the 100 watt minimum ERP requirement applies to at least one site in the DTS.<sup>136</sup>

36. We also amend the rules to collect provisions on related matters that are currently spread over various rules and group them together. First, we create a new section 73.617 (Interference protection of other services) which collects provisions from sections 73.623(e) (Protection of land mobile operations on channels 14-20),<sup>137</sup> 73.687(e)(3)-(4),<sup>138</sup> 73.623(f),<sup>139</sup> and 73.685(d).<sup>140</sup> Most of these rules are used for both licensing and allotments and we believe they will be easier to identify and use if gathered into one section rather than scattered among various rules. We also include a new paragraph 73.617(e) to codify a long standing Commission practice to place a condition on all television broadcast station authorizations that result in a change in coverage area, including all authorizations for new stations, which requires TV broadcasters to identify and notify hospital and other health care facilities within the station's coverage area to avoid interference to medical telemetry devices.<sup>141</sup>

37. We create a new section 73.618 (Antenna location and principal community coverage), which relocates, verbatim, the language from 73.625(a) (DTV coverage of principal community and antenna system).<sup>142</sup> We also centralize multiple existing rules into one rule that includes instructions on how to determine the protected facilities of a television allotment,<sup>143</sup> the noise-limited contour level of a television station,<sup>144</sup> how the noise-limited contour is determined,<sup>145</sup> and the purposes for which field strength contours are used.<sup>146</sup> We include these existing requirements in a new section 73.619 (Contour and service areas), and update the section heading of section 73.683 to "Presumptive determination of

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<sup>136</sup> *NPRM* at para. 25. 47 CFR § 73.614(a) (Minimum requirements).

<sup>137</sup> 47 CFR § 73.623(e). The *NPRM* also proposed to amend the rule to add a note to reference and explain the existence of a granted waiver with respect to the community of Los Angeles, California allowing the County of Los Angeles to use channel 15 in Los Angeles for public safety communications, and proposed to update the city center coordinates at *NPRM*, n.102. Having received no objections to these proposals, we adopt these amendments in *supra* para. 21.

<sup>138</sup> 47 CFR § 73.687(e)(3)-(4) (Transmission system requirements). This section requires stations operating on channel 14 to take special precautions to avoid adjacent LMRS facilities and sets forth various steps stations should take to identify and resolve potential interference. *See also Resolution of Interference Between UHF Channels 14 and 69 and Adjacent-Channel Land Mobile Operations*, MM Docket No. 87-465, Report and Order, 6 FCC Rcd 5148 (1991).

<sup>139</sup> 47 CFR § 73.623(f) (DTV applications and changes to DTV allotments) ("Parties requesting new allotments on channel 6 be added to DTV Table must submit an engineering study demonstrating that no interference would be caused to existing FM radio stations on FM channels 200-220.").

<sup>140</sup> 47 CFR § 73.685(d) (Transmitter location and antenna system). We also adopt our proposal to substitute "blanket area" with "blanketing," which reflects the updated term now used by stakeholders.

<sup>141</sup> *See NPRM* at para. 26. This condition reflects our current practice, which had been agreed to between the Commission and the Food and Drug Administration in 1998, and we believe codifying this practice in our rules will ensure that all licensees are aware of this requirement to avoid interference to medical telemetry devices. *See Joint Statement of the Federal Communications Commission and the Food and Drug Administration Regarding Avoidance of Interference Between Digital Television and Medical Telemetry Devices* (Mar. 25, 1998), [https://transition.fcc.gov/Bureaus/Engineering\\_Technology/News\\_Releases/1998/nret8003.html](https://transition.fcc.gov/Bureaus/Engineering_Technology/News_Releases/1998/nret8003.html).

<sup>142</sup> *NPRM* at para. 27.

<sup>143</sup> *Id.* 47 CFR § 73.616(c) (Post-transition DTV station interference protection), as amended.

<sup>144</sup> *NPRM* at para. 27. 47 CFR § 73.622(e) (Digital television table of allotments), as amended *supra* para. 10 and nn.28 and 32.

<sup>145</sup> *NPRM* at para. 27. 47 CFR § 73.625(b) (DTV coverage of principal community and antenna system), as amended *infra* paras. 51-59.

<sup>146</sup> *NPRM* at para. 27. 47 CFR § 73.683(c) (Field strength contours and presumptive determination of field strength at individual locations).

field strength at individual locations,” in order to remove reference to portions of the rule that are relocated to the new section 73.619.<sup>147</sup> Similarly, we create a new section 73.620 (Interference calculation and protection of TV broadcast services) that includes the requirements currently spread throughout multiple rules in section 73.623(c)<sup>148</sup> and sections 73.616(d) and (e) (merged into a new section 73.620(a)-(d)).<sup>149</sup> Additionally, we move the rule from section 73.616(g) to a new section 73.620(f).<sup>150</sup>

38. We modify sections 73.622 (Digital television table of allotments) and 73.623 (DTV applications and changes to DTV allotments) to separate out rules specific to the Table of TV Allotments and application processing procedures.<sup>151</sup> In section 73.622(a), we modify the language to clarify the rule sections specific to petitions to modify the Table of TV Allotments.<sup>152</sup> We also remove (a)(1) and (a)(2) as redundant with the content of section 73.603 (Numerical designation of television channels).<sup>153</sup> We redesignate the language in section 73.622(d)(2) as section 73.622(d), clarify the rule text to indicate this subsection applies to all allotments, and clarify that the “reference coordinates” for each allotment are those of the authorized facility (or for new allotments, the coordinates given in the order amending the Table of TV Allotments).<sup>154</sup> We relocate the text from section 73.623(d), relating to the minimum distance separations for new TV allotments, to a new section 73.622(k).<sup>155</sup> In section 73.623(a), we modify the language to clarify the rule sections specific to application processing and remove discussion of modifications to the Table of TV Allotments.<sup>156</sup> We relocate the text from section 73.622(c), regarding the availability of channels for application, into section 73.623(b).<sup>157</sup> Finally, we update cross-references found in section 73.623(h) and update the section heading to “TV application processing priorities” in order to clarify its purpose.<sup>158</sup>

39. We reorganize section 73.624(b) (Digital television broadcast stations) for clarity by splitting some of the text in subpart (b) into a new subpart (b)(1) (requiring stations broadcasting in ATSC 1.0 to transmit an over the air signal at no direct charge to viewers).<sup>159</sup> We relocate section 73.685(h) (Transmitter location and antenna system), pertaining to AM stations, to become new section 73.625(c)(4)(iii) (DTV coverage of principal community and antenna system).<sup>160</sup> We also relocate

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<sup>147</sup> *NPRM* at para. 27.

<sup>148</sup> *Id.* 47 CFR § 73.623(c) (describes the minimum technical criteria for modification of DTV allotments included in the initial DTV Table of Allotments and for applications filed pursuant to this section), as amended *supra*.

<sup>149</sup> *NPRM* at para. 27. 47 CFR § 73.616 (Post-transition DTV station interference protection), as amended *supra* para. 18. We further amend this language *infra* at para. 75.

<sup>150</sup> *NPRM* at para. 27. *See* 47 CFR § 73.616(g) (relating to interference protection of ATSC 3.0 stations).

<sup>151</sup> *NPRM* at para. 28.

<sup>152</sup> Due to this change, section 73.616(a) (Post-transition DTV station interference protection) becomes largely duplicative of this revised section 73.622(a) and we thus delete section 73.616(a). *See NPRM* at n.115.

<sup>153</sup> 47 CFR §§ 73.622(a)(1)-(2) (Digital television table of allotments) and 73.603 (Numerical designation of television channels).

<sup>154</sup> *NPRM* at para. 28. Section 73.616(b) is duplicative of this revised section 73.622(d) and we thus delete section 73.616(b). We also make editorial changes for clarity in section 73.622(d).

<sup>155</sup> We also reformatted the table previously found in section 73.623(d)(2) into new sections 73.622(k)(2)(i) through (iv). *See NPRM* at n.9.

<sup>156</sup> *NPRM* at para. 28.

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Id.* at para. 29. We note that nothing in this rule change alters the application of this rule to ATSC 3.0.

<sup>160</sup> *Id.*

section 73.682(a)(14) (TV transmission standards), regarding the use of elliptically- and circularly-polarized antennas, to become a new section 73.625(d) (TV coverage of principal community and antenna system).<sup>161</sup>

40. While the current rule structure has become disjointed over the years, and is only exacerbated by the deletion of obsolete portions of the rules, the *NPRM* acknowledged that the structure is also familiar to many users, including licensees and counsel, and, therefore, users of our rules may have concerns about a reorganization to our rules that have been in the same location or under the same section number for many years.<sup>162</sup> While the *NPRM* proposed to mitigate that concern by including cross-references to the new location of a rule in the rule location where it was previously found,<sup>163</sup> due to publishing conventions of NARA’s Office of the Federal Register, we instead adopt “Table 1: Cross-references” as reflected below, and included herein as Appendix D, to cross-reference to the old and new location of rules. We find that providing cross-references in this manner will make it easier for users to become accustomed to the new structure.

<b>Table 1: Cross-references</b>	
<b>Instead of referencing...</b>	<b>Reference...</b>
§ 73.614(b)(7) . . .	. . . § 73.625(c)(1).
§ 73.616(a) . . .	. . . § 73.622(a).
§ 73.616(b) . . .	. . . § 73.622(d).
§ 73.616(c) . . .	. . . § 73.619(d).
§ 73.616(d) . . .	. . . § 73.620(c).
§ 73.616(d)(2) . . .	. . . § 73.620(a).
§ 73.616(e) . . .	. . . § 73.620(d).
§ 73.616(g) . . .	. . . § 73.620(f).
§ 73.622(b) . . .	. . . § 73.622(j).
§ 73.622(c) . . .	. . . § 73.623(b).
§ 73.622(e) . . .	. . . § 73.619(c).
§ 73.622(f)(5) . . .	. . . § 73.614(b)(6).
§ 73.622(f)(6) . . .	. . . § 73.614(b)(1).
§ 73.622(f)(7) . . .	. . . § 73.614(b)(2).
§ 73.622(f)(8) . . .	. . . § 73.614(b)(3).
§ 73.622(h) . . .	. . . § 73.611.
§ 73.622(i) . . .	. . . § 73.622(j).
§ 73.623(c)(1) . . .	. . . § 73.618(a).
§ 73.623(c)(2) . . .	. . . § 73.620.
§ 73.623(c)(3) . . .	. . . § 73.620(b).
§ 73.623(c)(4) . . .	. . . § 73.620(a).
§ 73.623(c)(5) . . .	. . . § 73.620(d).
§ 73.623(d) . . .	. . . § 73.622(k).
§ 73.623(e) . . .	. . . § 73.617(a).
§ 73.623(f) . . .	. . . § 73.617(c).
§ 73.623(g) . . .	. . . § 73.620(e).
§ 73.625(a) . . .	. . . § 73.618.

<sup>161</sup> See new 73.625(d) (TV antenna system). While the rest of section 73.682(a) related specifically to analog station operations, we believe this specific subpart of (a)(14) applies to all stations and, as noted in the *NPRM*, its content is consistent with the functions in LMS applicable to applications.

<sup>162</sup> *NPRM* at para. 30.

<sup>163</sup> *Id.*

§ 73.625(b) . . .	. . . § 73.619(b).
§ 73.683(c) . . .	. . . § 73.619(a).
§ 73.685(b) . . .	. . . § 73.618(b).
§ 73.685(d) . . .	. . . § 73.617(d).
§ 73.685(f) . . .	. . . § 73.625(c).
§ 73.687(e) . . .	. . . § 73.617(b).

41. Although we did not receive comment on our proposal to relocate section 73.616(d)(1) to new section 73.620(b), upon further consideration, we decline to make this change. On reflection, we do not believe that the reorganization of this section is necessary and could result in possible confusion for regulatees in the short term. Therefore, we will maintain the existing placement in our rules and we do not adopt the location change proposed in the *NPRM*.<sup>164</sup>

42. Although we did receive comment objecting to a modification proposed in the *NPRM* to section 73.622, for the reasons set forth below, we decline to modify the proposal and adopt the rule as proposed in the *NPRM*. The portions of the rule in section 73.622(f)(5)-(8) focused on power and antenna height requirements<sup>165</sup> are sometimes referred to in Table of TV Allotment proceedings, but they are also frequently considered in processing applications, and so the *NPRM* proposed to include these provisions in a separate subsection to make them easier to reference regardless of whether an allotment or an application is being considered.<sup>166</sup> The *NPRM* also proposed to clarify in the newly placed section 73.614(b)(6), that the largest station in the market provision only allows a station to exceed the maximum height for a given channel and zone, and not the maximum power for that channel and zone.<sup>167</sup> The *NPRM* suggested this addition to the rule is consistent with a clarification adopted by the Commission in 2001.<sup>168</sup>

43. Maranatha Broadcasting Company, Inc. (Maranatha), the licensee of WDPN-TV, channel 2, Wilmington, Delaware objects to our proposed codification of the Commission's 2001 clarification that a station may not exceed the ERP power level assigned in the station's zone and asserts that the Commission should retain the "largest station" rule or "make clear that any change that [the Commission] is making to its rules do[es] [sic] not preclude power increases above zone maximums by low-VHF stations necessary to overcome the shortcomings of their digital signals and impulse noise inference."<sup>169</sup> Maranatha acknowledges that the Commission's 2001 decision clarifies that low-VHF stations in Zone I,

<sup>164</sup> The NARA publishing conventions would require approval for a new Incorporation by Reference (IBR) authority for OET Bulletin No. 69. See 1 CFR § 51.1 *et seq.*

<sup>165</sup> Sections 73.622(f)(6)-(8) set forth the digital power limits and (f)(5) sets forth an exception which is commonly referred to as the "largest station in the market rule."

<sup>166</sup> *NPRM* at para. 25.

<sup>167</sup> *Id.* at para. 25, n.99, citing *Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MM Docket No. 00-39, Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 5946 (2001) (subsequent history omitted). Specifically, the Commission clarified that under section 73.622(f)(5), "the maximum ERP limits . . . may not be exceeded." *Id.*, 16 FCC Rcd at 5973, para. 74. Instead, "[t]he 'largest station' provision applies only where the rules normally require a reduction in the maximum power because a specified antenna HAAT is exceeded. That is, it does not allow power higher than the maximum ERP to compensate for an antenna HAAT that is lower than the value specified in the rule." *Id.*

<sup>168</sup> *NPRM* at para. 25.

<sup>169</sup> Maranatha Comments at 2-5 (arguing that "restricting a DTV station's ability to maximize height and power will be detrimental to the continued viability of low-VHF stations, arbitrary and capricious, and contrary to the public interest."). See also CDE Reply Comments at 2 (noting that the "FCC should consider special exception to permit 'largest in the market' filings. However they should be permitted within a time constraint.").



like WDPN-TV, are limited to an ERP of 10 kW under the rules.<sup>170</sup> The Commission has recognized, however, that significant over-the-air reception problems may exist within the service area of VHF stations, due to the propagation characteristics of digital VHF signals and the deleterious effects of manmade noise on the reception of these signals.<sup>171</sup> Thus, since the end of the DTV transition in June 2009, Commission staff has waived the power limits in sections 73.622(f)(5) or (6) of the rules a number of times to increase the power levels of stations operating on low VHF channels above the 10 kW limit set forth in the rules.<sup>172</sup> Indeed, WDPN-TV, on RF channel 2 in Zone I, currently operates with an ERP of 34 kW, pursuant to a waiver of section 73.622(f)(6).<sup>173</sup> We do not believe that codifying the 2001 clarification limits our ability to grant such waivers upon an appropriate showing,<sup>174</sup> as we have for WDPN-TV, and thus we believe it is unnecessary to depart from the *NPRM's* proposal to revise section 73.622 as Maranatha requests, and we adopt the *NPRM's* proposal.

44. The *NPRM* proposed to move section 73.625(b)(2) to new section 73.619(b)(2), which describes the equation for determining the “depression angle between the transmitting antenna center of radiation and the radio horizon” as  $A = 0.0277 \sqrt{H}$ .<sup>175</sup> In that description, there is no mathematical operator (a multiplication sign) between the coefficient (0.0277) and the variable ( $\sqrt{H}$ ). NAB responded in its comments that it believes that the equation, if written out, should correctly be  $A = 0.0277$  times the square root of H, or preferably expressed in standard mathematical form as:<sup>176</sup>

$$A = 0.0277 \times \sqrt{H}$$

We agree with this clarification because it will make the formula clearer, and amend the adopted section 73.619(b)(2) accordingly.<sup>177</sup>

#### **G. Protection of Land Mobile Radio Service**

45. We adopt the proposals set forth in the *NPRM* relating to full power television protection of LMRS with some clarifications.<sup>178</sup> Section 73.623(e) of the rules<sup>179</sup> requires full power television

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<sup>170</sup> Maranatha Comments at 3-4.

<sup>171</sup> See *Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF*, ET Docket No. 10-235, Notice of Proposed Rulemaking, 25 FCC Rcd 16498, 16511, para. 42 (2010).

<sup>172</sup> For example, see Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau to ABC, Inc., et al., LMS File Nos. BPCDT-20090617ADQ and BPCDT-20090622ABV (filed Mar. 16, 2011).

<sup>173</sup> See LMS File No. 0000035792, Revision 2 to Engineering Amendment, in which the station requests a waiver of section 73.622(f)(6). The application was granted, thus granting the waiver request.

<sup>174</sup> To the extent Maranatha is seeking reconsideration of the Commission's 2001 decision clarifying that a station may not exceed the ERP power level assigned in the station's zone, such a request is untimely under section 405(a) of the Communications Act. As reflected in the *NPRM*, our proposal did not seek to change the rule substantively, only to update FCC rules to accurately reflect the current operating environment. Arguments for substantive changes to the rules that were not the subject of notice and comment in the *NPRM* are beyond the scope of this proceeding.

<sup>175</sup> See *NPRM* at Appendix A. This calculation is used for contour projection.

<sup>176</sup> NAB Comments at 8-9.

<sup>177</sup> We find good cause to make this revision without notice and comment. See 5 U.S.C. § 553(b)(3)(B) (providing that notice and comment are not required “when the agency for good cause finds . . . that notice and public procedure thereon are . . . unnecessary . . .”). This revision is a non-substantive change and merely more accurately sets forth the equation in section 73.619(b)(2) of the rules to make the formula clearer.

<sup>178</sup> The *NPRM* inadvertently stated that section 73.623(e) applied to Class A stations, but this was incorrect. Class A stations are required to protect LMRS operations using the criteria found in section 73.6020.

<sup>179</sup> 47 CFR § 73.623(e) (Protection of land mobile operations on channels 14-20). In the reorganization, this is moved to new section 73.617(a). See *supra* para. 36.

stations to protect certain channels for use by LMRS in thirteen U.S. cities. The set of coordinates for the city centers were calculated based on the 1927 North American Datum (NAD 27). As a result of improvements in technology and measuring capabilities, NAD 27 has been superseded by the 1983 North American Datum (NAD 83).<sup>180</sup> The Commission's Office of Engineering and Technology and Office of the Managing Director have previously explained that "[g]eodetic datum is a set of constants specifying the coordinate system used for calculating the coordinates of points on the Earth. NAD 83 was developed based on satellite and remote-sensing measurement techniques, and provides greater accuracy than the older NAD 27."<sup>181</sup> Because it provides greater accuracy and the older NAD 27 is outdated, the Commission previously amended Commission rules to use NAD 83 for purposes of specifying these coordinates.<sup>182</sup>

46. The *NPRM* tentatively concluded that updating the coordinates in section 73.623(e) to NAD 83 would serve the public interest by conforming the values with the coordinate system used in the Commission's LMS database and with those found in section 90.303(b) of the rules, which define the service that section 73.623(e) protects.<sup>183</sup> As such, the *NPRM* tentatively concluded that conforming the values in these rules helps to ensure that land mobile operations are more appropriately considered and protected from full power operations.<sup>184</sup> The Enterprise Wireless Alliance (EWA) agrees that sections 73.623(e) and 90.303(b) should be synced to avoid future issues as to whether protections afforded land mobile operations are in compliance with FCC requirements.<sup>185</sup>

47. NAB prefers a different result than matching sections 73.623(e) and 90.303(b). NAB states that the National Geodetic Survey had developed an algorithm known as the North American Datum Conversion program (NADCON) to convert from NAD 27 to NAD 83 coordinates, which has been superseded by the NGS Coordinate Conversion and Transformation Tool (NCAT) and is now the "authoritative source for coordinate conversions."<sup>186</sup> NAB argues that we have ignored the use of NCAT in favor of simply matching a part 90 rule, which NAB alleges "can result in errors that may conflict with FAA tower locations, distances from international borders, county boundaries, and other critical determinations."<sup>187</sup> NAB also requests that any updates to the coordinates not result in stations having to relocate.<sup>188</sup>

48. NAB's approach is not consistent with existing Commission rules or the Commission's prior actions. In the *2023 Part 74 Report and Order*,<sup>189</sup> the Commission amended section 74.709, which defines the same land mobile station protection requirement for LPTV/translator stations, to conform with

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<sup>180</sup> *NPRM* at para. 31.

<sup>181</sup> *Amendment of Parts 1, 2, 25, 73, 74, 90, and 97 of the Commission's Rules to Make Non-Substantive Editorial Revisions to the Table of Frequency Allocations and to Various Service Rules*, Memorandum Opinion and Order, 23 FCC Rcd 3775, 3796, para. 61, n.101 (OET/OMD 2008).

<sup>182</sup> *See id.*

<sup>183</sup> *NPRM* at para. 31. *See also* section 90.303(b) (Availability of frequencies), which defines the specific center points used to permit land mobile operations. These center points represent the specific locations that section 73.623(e) is designed to protect. *See* 47 CFR § 90.303(a) (stating that "coordinates are referenced to the North American Datum 1983 (NAD83)") and (b).

<sup>184</sup> The Commission adopted a similar proposal in the *2023 Part 74 Report and Order* at para. 11.

<sup>185</sup> EWA Letter at 1. The EWA Letter separately recommended correcting the coordinates for the Miami, Florida market to match those of section 90.303(b). *See* EWA Letter at 1-2. Those coordinates were stated correctly in the *NPRM* (*see NPRM* at para. 31 and Appendix A) so no further action is necessary here.

<sup>186</sup> NAB Comments at 2-3.

<sup>187</sup> *Id.* at 3.

<sup>188</sup> NAB Comments at 3-4.

<sup>189</sup> *2023 Part 74 Report and Order* at para. 11.

the longitude in section 90.303(b).<sup>190</sup> In that proceeding, NAB and another commenter agreed that a few of the proposed coordinates were different from those derived if the existing coordinates were converted to NAD 83 via the update to NADCON. The *NPRM* noted, and NAB acknowledges in its comments in this proceeding,<sup>191</sup> that the coordinates we proposed found in part 90 of the Commission's rules differed by 25 meters at most (approximately 82 feet). Given that the values in the table are designed to protect the part 90 service, the most consistent approach was to make the values in section 74.709 match those in section 90.303.<sup>192</sup> NAB provides no explanation and we are aware of no reason to believe that this issue is different for full power and Class A stations than it is for LPTV/translator stations. We do not believe that conforming the rules to part 90 will result in errors as NAB suggests. Therefore, we believe the same approach adopted in the *2023 Part 74 Report and Order* and proposed in the *NPRM* is appropriate with respect to full power and Class A television stations and we adopt the proposal in the *NPRM*.<sup>193</sup> Given the small differences involved, we believe it is unlikely that these minor corrections would result in any stations suddenly finding themselves no longer compliant with land mobile protection requirements. But in response to NAB's concern, we clarify that we will not require existing full power television stations to make changes due to these coordinate updates.

49. NAB also urges the Commission to delete from proposed section 73.617(a) the requirement that full power and Class A television stations protect the channels assigned to Cleveland, Ohio and Detroit, Michigan, as well as to delete references to those cities from section 90.303(b), where a footnote already states that those channels "are not available [] until further order from the Commission."<sup>194</sup> In the *2023 Part 74 Report and Order*, the Commission noted that a pending petition for rulemaking submitted by the Land Mobile Communications Council (LMCC) also proposes removing the Cleveland and Detroit rows from the relevant rule section in part 90.<sup>195</sup> Due to the pendency of that petition, the Commission declined to add a note to section 74.709(a), and stated its belief that the decision would not create confusion as the note in part 90 already indicated that the Cleveland and Detroit channels are not available and thus, those areas do not require protection.<sup>196</sup> Consistent with that finding, we decline to add a note to section 73.617(a) or to make additional deletions in this section of the full power television rules for the same reasons.<sup>197</sup>

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<sup>190</sup> *Id.* at para. 12.

<sup>191</sup> NAB Comments at 3.

<sup>192</sup> *2023 Part 74 Report and Order* at para. 12.

<sup>193</sup> NAB points out that the Federal Geodetic Control Committee first recommended the use of NADCON (now NAD 83) in 1990, and the FCC recommends its use in some cases, citing to "North American Datum of 1983 Coordinates,"

<https://www.fcc.gov/wireless/systems-utilities/north-american-datum-1983-coordinates>. NAB Comments at 3 and n.7.

<sup>194</sup> NAB Comments at 4-5.

<sup>195</sup> See *Consumer & Governmental Affairs Bureau Reference Information Center, Petition for Rulemakings Filed, Land Mobile Communications Council (LMCC), Petition for Rulemaking in the Matter of Subpart L of Part 90 of FCC Rules: Updated Method to Determine Potential Interference Between Land Mobile Stations and Digital Television Stations Operating in the 470-512 MHz Band ("T-Band")*, Public Notice, Report No. 3186 (CGB Jan. 12, 2022); *Petition for Rulemaking of Land Mobile Communications Council, RM-11915* (filed June 24, 2021).

<sup>196</sup> *2023 Part 74 Report and Order* at para. 13.

<sup>197</sup> NAB also asks that we "reiterate the policy expressed in Docket 87-465. Namely, '[t]he TV station will not be responsible for bringing a poor quality land mobile station up to the industry's normal performance level or for protecting a facility attempting service well beyond a normal distance'" and that "... [i]t is not the policy of the Commission to always provide interference protection to the worst ... performing receivers." (internal footnotes omitted). NAB Comments at 5-6, citing *Resolution of Interference between UHF Channels 14 and 69 and Adjacent-channel Land Mobile Operations*, MM Docket 87-465, Report and Order, 6 FCC Rcd 5148, 5153-4 at

(continued....)

50. Having received no specific objections, and because the comments received were generally supportive of the effort to update our rules,<sup>198</sup> consistent with our proposal in the *NPRM*, we also amend section 73.1620(a)(1) (Program tests) to remind full power and Class A television stations on channel 14 of the requirement found in section 73.687(e)(4)(iii) that they request Program Test Authority (PTA) prior to commencing operation of new or modified facilities.<sup>199</sup> We also include a new sentence codifying the practice of requiring LPTV and TV translator stations on channel 14 to request PTA prior to beginning operation with new or modified facilities. We believe that adding rule text reflecting this practice consistently across all television services will better reflect the purpose of the requirement to protect existing land mobile operations.

#### H. Coverage Area – Determining Coverage

51. The *NPRM* proposed amendments relating to the calculation of HAAT and determination of coverage. The *NPRM* noted that section 73.625(b) of the Commission's rules<sup>200</sup> describes how coverage and HAAT are to be calculated or determined.<sup>201</sup> The Commission proposed to make changes to certain procedures contained in section 73.625(b), which we believe are obsolete, unnecessary, and are otherwise superseded by the software based tools that the FCC and industry use to prepare and process applications.<sup>202</sup> We received some specific comments suggesting modifications of the proposals in the *NPRM*. As discussed below, we are not persuaded by those comments, and, because the other comments received were generally supportive of the effort to update our rules,<sup>203</sup> we thus adopt the proposals as stated in the *NPRM*, with a clarification offered in light of NAB's comments.

52. We remove the second sentence of paragraph (b)(2), which indicates that when the relative field strength at a depression angle is 90% or greater, the 100% value should be used.<sup>204</sup> This wording would create a discontinuity in the contour, and is inconsistent with how application processing software functions.<sup>205</sup> Having received no objections to this proposal, we adopt it.

53. As noted in the *NPRM*, section 73.625(b)(5) specifies a number of paper maps which should be used to prepare the profile graphs described in paragraph (b)(4), and to determine the location and height above sea level of the antenna height.<sup>206</sup> Multiple references to various sources of paper maps contained in the rule are outdated methods to make these types of calculations.<sup>207</sup> We therefore remove

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para. 29 (1991). NAB also cites to Land Mobile Communications Council, "Request for Relief from Interference from Digital Television Stations," (Aug. 28, 2020), *available at*: <https://wirelesscouncil.org/wp-content/uploads/2020/08/LMCC-Ltr-Re-DTV-Interference-082820.pdf>. NAB Comments at 5. We see no reason to do so. The Commission's policy is still accepted and in use. *See, e.g., Amendment of Section 73.622(i), Post-Transition Table of DTV Allotments, Television Broadcast Stations (Tulsa, Oklahoma)*, MB Docket No. 21-9, Report and Order, 36 FCC Rcd 13620 (Vid. Div. 2021). In response to NAB's request that we reiterate the policy expressed in Docket 87-465, we find that this is outside the scope of our proceeding, but we note that the minor adjustments to the coordinates we are making here do not change any existing Commission policy.

<sup>198</sup> *See supra* para. 4, n.12.

<sup>199</sup> *NPRM* at para. 32. We further move 47 CFR §§ 73.687(e)(3)-(4) to 73.617(b). *See supra* para. 36.

<sup>200</sup> 47 CFR § 73.625(b) (DTV coverage of principal community and antenna system – Determining coverage). In the reorganization, this is moved to section 73.619(b) (Contours and service areas – Determining coverage).

<sup>201</sup> *NPRM* at para. 33.

<sup>202</sup> *Id.*

<sup>203</sup> *See supra* para. 4, n.12.

<sup>204</sup> *NPRM* at para. 34.

<sup>205</sup> *Id.*

<sup>206</sup> *Id.* at para. 38. 47 CFR § 73.625(b)(5). This rule is largely derived from 47 CFR § 73.684(g) (1963).

<sup>207</sup> *NPRM* at para. 38.

those references to outmoded paper maps and replace them with a reference to the National Elevation Dataset and other similar bald earth terrain datasets which are used by modern automated software currently used by the Commission and industry.<sup>208</sup> In paragraph (b)(6), we clarify that we generally expect these calculations to be done via computer, versus the preference for paper calculations that was specified previously, and then indicate that to the extent a submission to the Commission uses sources different from those officially reflected in our rules, those sources should be clearly identified in the submission.<sup>209</sup>

54. As discussed below, commenters expressed concern about certain proposals in the *NPRM* to eliminate the requirement to produce and submit profile graphs and to streamline the section in order to bring it into line with modern software-based tools used to determine contours and HAAT today.<sup>210</sup> Upon consideration of those comments, we adopt the proposals in the *NPRM*, including our proposal to eliminate the requirement to produce and submit profile graphs,<sup>211</sup> with certain clarifications as described below.

55. As explained in the *NPRM*, the fifth and sixth sentences in paragraph (b)(4) of section 73.625 discuss the creation and submission of a radial in the direction of the community of license.<sup>212</sup> The rule does not require the use of a radial in the direction of the community of license in any other calculations, so with the elimination of the requirement to produce and submit profile graphs of radials, a rule that requires the calculation of this radial becomes unnecessary. Moreover, the software-based tools the Commission and industry use to process and prepare applications do not produce this radial. As such, the *NPRM* proposed to delete the language. Paragraph (b)(4) also contains similar detail in the seventh and eighth sentences explaining how and when to produce and submit a profile graph for radials over water or foreign territory.<sup>213</sup> Again, with the elimination of the requirement to produce and submit profile graphs of radials, the *NPRM* stated that the Commission believes this calculation for radials over water or foreign territory is unnecessary. The rule itself does not require the radials to be used in any other calculations and automated software used by the Commission and industry does not do this. As such, the *NPRM* proposed to delete this language.<sup>214</sup> Paragraph (b)(4) also describes how to plot the radials on a graph and provides a range of options for the number of points of elevation to use in each radial. The *NPRM* proposed to conform the requirement to reference the *TVStudy* software currently used for preparing and processing applications, and specify the use of 10 points per kilometer in all circumstances consistent with present practice found in the *TVStudy* software used by the Commission and licensees to process and prepare applications.<sup>215</sup>

56. CDE indicates in its comments that it disagrees with this proposal to the extent it would

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<sup>208</sup> *Id.*

<sup>209</sup> *Id.* For example, community coverage is demonstrated by providing a map, which applicants sometimes produce using software like V-Soft Probe. Applicants should clearly identify the software being used to produce their engineering showings.

<sup>210</sup> *Id.* at para. 35.

<sup>211</sup> See *NPRM* at para. 35.

<sup>212</sup> *Id.* See 47 CFR § 73.684(d) (1963) (Section 73.625(b)(4) was largely adapted from section 73.684(d), and section 73.684(d) itself had been condensed since the 1963 version of the rule. The 1963 version more clearly details the purpose and execution of the rule than the current text.).

<sup>213</sup> *NPRM* at para. 35.

<sup>214</sup> *Id.* We also adopt our proposal to delete the companion language in section 73.681 in the definition of “antenna height above average terrain.” See *id.* at n.131.

<sup>215</sup> *Id.* at para. 36. See Federal Communications Commission, Office of Engineering and Technology, *TVStudy Interference Analysis Software*, <https://www.fcc.gov/oet/tvstudy> (last visited Aug. 1, 2023) (the “FCC Contours” screen in the “Parameters” tab of TVStudy provides a default value of 10 points per kilometer using the default Interference Check template).

eliminate those parts of section 73.625 that discuss the creation and submission of a radial in the direction of the community of license and explains how and when to produce and submit a profile graph for radials over water or foreign territory. But CDE does not provide an explanation for its position except to say that “Not Agreed Reason - certain terrain situations require greater detail and study.”<sup>216</sup> As a result, CDE did not provide any explanation of how the change would undermine detail available in the prior version of the rule. Therefore, CDE’s comment provides no basis upon which we would amend the proposal included in the *NPRM*, and we therefore adopt it. Furthermore, to the extent that there are terrain differences in the direction of a station’s community license, water, or foreign territory, the software based tools that the Commission and industry use to prepare and process applications account for and visualize those differences and so we give no weight to CDE’s objection.<sup>217</sup>

57. NAB expresses concern that deleting parts of section 73.625(b)(4) describing the HAAT calculation, as well as the related words “less than 8 directions may be used” in section 73.681, could require some stations to make changes in their current licensed facilities.<sup>218</sup> NAB suggests the proposed change could alter HAAT and power calculations for many existing stations. As examples, NAB cites three instances where application of the proposed rule could potentially require stations to reduce power for transmitting sites involving fewer than eight radials or using radials other than the “eight cardinal radials,” and suggests there could be other instances in which this situation arises.<sup>219</sup> NAB does not request that the referenced words be kept in the rule, but instead seeks assurance that stations presently operating or proposed to operate from sites having an average terrain value determined by means other than the proposed uniform eight-radial method can continue to use the present average terrain elevation and, by extension, determine their HAAT and ERP values using the historic values.<sup>220</sup>

58. We note that all full power and Class A television stations have been operating with digital authorizations issued using the then-most recent version of the Commission’s application processing software, and that the software-based tools the Commission and industry use to process and prepare applications do not produce these modified radials. Therefore, we do not foresee, nor do we intend, that the rule change would require a station to reduce power. In response to NAB’s concern, however, we clarify we do not expect full power television stations will need to make changes solely due to this amendment to section 73.625(b)(4), and we will allow stations to continue to use a historic HAAT calculation for a given location if one was previously used to comply with the rules regarding power limits. We adopt the rule change as proposed in the *NPRM*.

59. The *NPRM* also proposed to delete unnecessary references in the rule. There are several sentences in paragraph (b)(4) which describe how profile graphs should be formatted for submission to the FCC.<sup>221</sup> Because we eliminate the requirement to submit profile graphs, we also proposed to delete the formatting requirements. The rule also provides multiple options on how to obtain elevation points.

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<sup>216</sup> CDE Supplemental Comments 2 at 15.

<sup>217</sup> We note that to the extent additional detail may be needed, per CDE Supplemental Comments 2, nothing prevents a station from providing that additional detail when submitting applications to the Media Bureau, but it is not needed in many cases and we do not believe it is practical for the rules to continue to require all stations to provide documentation that the vast majority do not need to provide.

<sup>218</sup> NAB Comments at 9.

<sup>219</sup> NAB Comments at 10. The examples NAB refers to are stations located at the antenna farms located at Mt. Sutro, San Francisco, California; the Willis Tower, Chicago, Illinois; and One World Trade Center, New York, New York. *Id.* at 10.

<sup>220</sup> See NAB Comments at 10-11; NAB *Ex Parte* at 1 (stating that while NAB “had no objection to changing the definition for antenna height above average terrain (HAAT), the Commission should clarify that proposed rule changes do not adversely affect the operation of existing stations or prevent new stations from using historical average terrain or HAAT values.”).

<sup>221</sup> *NPRM* at para. 37. For example, the rule specifies that the graphs may be plotted on “rectangular coordinate paper” or on “special paper which shows the curvature of the earth.” See also 47 CFR § 73.684(d) (1963).

The software currently used by the Commission and industry, however, simply averages the points as provided in the first option. The *NPRM* proposed to delete the text on options to obtain elevation points and clarify the use of the average of points elsewhere in the paragraph.<sup>222</sup> Finally, the *NPRM* proposed to add a sentence clarifying that actual calculated values are used to determine the HAAT, and to eliminate the final two sentences of paragraph (b)(4) which are no longer used with the conversion from analog to digital.<sup>223</sup> Although CDE stated it disagreed, noting that “certain terrain situations and obstacles require greater detail and study,” it did not provide any explanation of that position of how the change would undermine detail available in the prior version of the rule.<sup>224</sup> Without such rationale, we find no basis to reject the proposed changes and thus we adopt the proposals.

### I. Antenna Patterns

60. With some clarifying changes, we adopt all but one of the proposals set forth in the *NPRM* relating to antenna patterns. The *NPRM* proposed to clarify, in section 73.625(c)(3)(ii) of the rules,<sup>225</sup> that the horizontal power is to be higher than or equal to the vertical power in all directions, and require documentation that the antenna meets this requirement.<sup>226</sup> The Commission stated in the *NPRM* that this clarification is consistent with the requirements contained in section 73.682(a)(14).<sup>227</sup> No commenter objects to this proposal, but NAB does offer an observation. Specifically, NAB notes that over the years, the meaning of the phrase “horizontal plane pattern” in proposed section 73.625(c)(3)(ii) and (v) no longer means the same as the “azimuth plane pattern,” which is the pattern supplied by antenna manufacturers. Therefore, NAB suggests that it would be more accurate to refer simply to the “azimuth plane pattern” of the antenna in an application.<sup>228</sup> NAB also notes that the horizontal plane pattern of the antenna may be required for certain calculations, such as those relating to bilateral agreements between the United States and Mexico, and when required, has no objection to providing both the azimuth plane and horizontal plane patterns.<sup>229</sup> We agree with NAB and adopt the proposed changes to the rule with the adjustments NAB suggests, including the addition of text to the adopted rule clarifying that Media Bureau staff can ask a station for additional documentation for the purpose of coordination with Mexico or Canada should it be requested.<sup>230</sup>

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<sup>222</sup> *NPRM* at para. 37.

<sup>223</sup> *Id.* Specifically, this language is no longer necessary due to the change from the requirements of providing a city grade strength signal of 74-80 dBu, depending on channel, to a principal community strength signal of 35-48 dBu depending on channel. With the conversion from analog to digital, the use of the city grade contour to determine community coverage was replaced with the use of the minimum service level contour, which tends to be significantly larger, making the issue of an inability to reach the community of license that this rule was designed to capture significantly less likely. *See NPRM* at n.134.

<sup>224</sup> CDE Supplemental Comments 2 at 16.

<sup>225</sup> 47 CFR § 73.625(c)(3)(ii) (Antenna system).

<sup>226</sup> *NPRM* at para. 39. This requirement is consistent with stations being primarily horizontal, with a possible vertical component less than or equal to the horizontal component. Most stations already submit this documentation in their applications.

<sup>227</sup> *Id.* *See* 47 CFR § 73.682(a)(14) (TV transmission standards) (“It shall be standard to employ horizontal polarization.”). *See also* 47 CFR § 73.316(a) (FM antenna systems).

<sup>228</sup> NAB Comments at 11.

<sup>229</sup> *Id.*

<sup>230</sup> We note that one goal here is to ensure that undistorted and complete antenna patterns are available for review. For example, when a station with mechanical beam tilt files a distorted horizontal plane pattern in LMS to reflect what the antenna looks like in terms of interference to other stations, it can be difficult or impossible to determine the undistorted azimuth pattern absent additional documentation. A station with mechanical beam tilt should instead submit in LMS an undistorted azimuth and elevation pattern and provide the amount and azimuth of the mechanical tilt, or may submit a matrix pattern, but such stations are not required to do so.

61. The *NPRM* also proposed to update section 73.625(c)(3)(ii) to reflect that the LMS filing system permits two methods of specifying mechanically beam tilted facilities.<sup>231</sup> While we received no opposition to this proposal, on further reflection, we note that this type of specific reference to our filing system procedure is not typically contained in our rules, but rather is contained in the instructions of the application form, and thus we decline to adopt it.

62. In the *NPRM*,<sup>232</sup> the Commission noted that section 73.625(c)(3)(v) is outdated, as it requires that horizontal plane patterns be plotted “to the largest scale possible on unglazed letter-size polar coordinate paper.”<sup>233</sup> The *NPRM* proposed instead to require licensees to submit patterns in the form of a .pdf attachment to an application filed in LMS, and clarified that similar plots are required for elevation or matrix patterns submitted in the LMS form.<sup>234</sup> The *NPRM* stated that this approach provides flexibility to applicants and conforms to modern practices.

63. CDE indicates in its comments that it disagrees with this proposal, but merely states “Not Agreed For ATSC 3.0 SFN.”<sup>235</sup> Because CDE did not provide any further explanation of the basis or perceived negative impact of the proposal, CDE provides no basis upon which we would amend the proposal included in the *NPRM*. Moreover, we believe the software driven approach provides more detailed information than the plane patterns manually plotted on paper and CDE’s comment offered nothing to refute our conclusion based on several years of experience processing applications filed in LMS.

64. NAB states that with respect to the matrix antenna patterns described in proposed section 73.625(c)(3)(viii), for which a single azimuth and elevation pattern is not sufficient to specify the overall radiation characteristics of the antenna, it believes that a spreadsheet tabulation of relative field values is far more useful than .pdf attachments.<sup>236</sup> NAB further states that because of the varying nature of a matrix antenna pattern, hundreds of .pdf representations may be needed to accurately convey the complete pattern. NAB therefore suggests that the Commission require only one or two representative azimuth and elevation patterns be supplied in a .pdf attachment and if additional visualizations are needed, the tabular spreadsheet data can be used in spreadsheet software to produce them.<sup>237</sup> We agree with NAB’s approach and revise the rule accordingly.<sup>238</sup>

## **J. Subscription TV (STV) Rules**

65. The *NPRM* proposed to eliminate certain obsolete STV rules. The comments received

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<sup>231</sup> *NPRM* at para. 39. Antenna mechanical beam tilt is the intentional installation of a transmitting antenna so that its axis is not vertical. See 47 CFR § 73.681.

<sup>232</sup> *Id.* at para. 40.

<sup>233</sup> 47 CFR § 73.625(c)(3)(v).

<sup>234</sup> *NPRM* at para. 40. See revised section 73.625(c)(3)(vi) and new section 73.625(c)(3)(vii).

<sup>235</sup> CDE Supplemental Comments 2 at 18; cf. CDE Supplemental Comments 1 at 18 (indicating “Not Agreed”). ATSC 3.0 is the new TV transmission standard developed by the Advanced Television Systems Committee as the first Internet Protocol (IP)-based broadcast transmission platform, which merges the capabilities of over-the-air (OTA) broadcasting with the broadband viewing and information delivery methods of the Internet, using the same 6 MHz channels presently allocated for DTV service. See *Authorizing Permissive Use of the ‘Next Generation’ Broadcast Television Standard*, GN Docket No. 16-142, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9930 (2017). For a discussion of Single Frequency Networks, or SFNs, see *id.* at 9987-89, paras. 115-20.

<sup>236</sup> NAB Comments at 11-12.

<sup>237</sup> *Id.* at 12.

<sup>238</sup> We note that the Commission adopted the same approach in the *2023 Part 74 Report and Order* at para. 37.



were generally supportive of the effort to update our rules,<sup>239</sup> and we received no specific objection to these proposals. Therefore, for the reasons discussed in the *NPRM*, and described below, we adopt the proposals. As stated in the *NPRM*, sections 73.641 through 73.644, 73.4247, 73.6026, and 74.732(e)<sup>240</sup> contain the rules that allowed analog full power, Class A, and LPTV stations to offer a subscription television service “for a fee or charge.”<sup>241</sup> With the elimination of analog service, there are no full power television stations operating pursuant to the STV rules<sup>242</sup> and LMS does not permit the filing of applications or requests to operate in an STV mode. Accordingly, these STV rules and references to them in parts 73 and 74 are obsolete and we eliminate them.<sup>243</sup>

#### **K. Special Criteria for Converting Vacant Commercial Channels to Reserved Status**

66. The *NPRM* proposed to amend section 73.622(a) to remove a reference to a needs-based test. The comments received were generally supportive of the effort to update our rules,<sup>244</sup> and we received no specific objection to this proposal. Therefore, for the reasons discussed in the *NPRM*, and described below, we adopt the proposal. As stated in the *NPRM*, in 2000, the Commission adopted a needs-based test in section 73.622(a) for future rulemakings allowing noncommercial educational (NCE) entities to request that “non-reserved channels not already in the Table of Allotments be added and reserved for NCE use.”<sup>245</sup> Since the Commission adopted this needs based test in 2000, the Media Bureau has never been asked to apply it to television stations. Further, the television band has been reallocated and repacked from channels 2 – 69 to channels 2 – 36, significantly decreasing the number of available channels. Therefore, section 73.622(a) is amended to remove this language as we believe that it does not serve a practical purpose in the current environment.<sup>246</sup>

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<sup>239</sup> See *supra* para. 4, n.12.

<sup>240</sup> *NPRM* at para. 41. 47 CFR §§ 73.641 (Subscription TV definitions); 73.642 (Subscription TV service); 73.643 (Subscription TV operating requirements); 73.644 (Subscription TV transmission systems); 73.4247 (STV: Competing applications); 73.6026 (Broadcast regulations applicable to Class A television stations); and 74.732(e) (Eligibility and licensing requirements).

<sup>241</sup> *NPRM* at para. 41. 47 CFR § 73.641(b). See generally *Amendment of Part 73 of the Commission’s Rules and Regulations in Regard to Section 73.642(a)(3) and other Aspects of the Subscription Television Service*, Docket No. 21502, Fourth Report and Order, 95 FCC 2d 457 (1983) and other Commission Orders and Notices in Docket No. 21502 at nn.1-3.

<sup>242</sup> *NPRM* at para. 42. Sections 73.642(b) (Subscription TV service) and 74.732(e) (Eligibility and licensing requirements) require that stations notify the Commission when they commence STV operations, and that full power and Class A stations notify the Commission when they discontinue STV operations or change their encoding equipment. The Bureau has not received any such filings in at least the past 25 years.

<sup>243</sup> *NPRM* at paras. 42-3. See 47 CFR §§ 73.641 (Subscription TV definitions); 73.642 (Subscription TV service); 73.643 (Subscription TV operating requirements); 73.644 (Subscription TV transmission systems); 73.4247 (STV: Competing applications); 73.1201(d) (Station identification for subscription television stations); 74.701(f) (Low power TV station); 73.682(b) (Subscription TV technical systems); 73.6026 (deleting cross-references to 73.642-73.644) (Broadcast regulations applicable to Class A television stations); and 74.732(e) (Eligibility and licensing requirements).

<sup>244</sup> See *supra* para. 4, n.12.

<sup>245</sup> *NPRM* at para. 44. See *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, MM Docket No. 95-31, Report and Order, 15 FCC Rcd 7386, 7434, para. 114 (2000); *Reexamination of the Comparative Standard for Noncommercial Educational Applicants*, MM Docket No. 95-31, Second Report and Order, 18 FCC Rcd 6691 (2003) (subsequent history omitted).

<sup>246</sup> We do not intend, however, to eliminate the ability of an NCE entity to reserve one of the few vacant television channels currently in the Table of TV Allotments. We note that an NCE entity may still file a rulemaking petition to request that the Commission reserve the channel for noncommercial educational use, without being required to rely on the special process enumerated in section 73.622(a).

## L. Other Technical and Miscellaneous Updates

67. *Special Service Authorization.* The *NPRM* proposed to remove section 73.3543 as obsolete. The comments received were generally supportive of the effort to update our rules,<sup>247</sup> and we received no specific objection to this proposal. Therefore, for the reasons discussed in the *NPRM*, and described below, we delete the rule. Section 73.3543 (Application for renewal or modification of special service authorization) provides that no new special service authorizations may be issued after 1958, however, renewals or modifications will be considered in certain circumstances.<sup>248</sup> We are unaware of any such authorizations today, and thus we conclude the rule is obsolete and delete it.<sup>249</sup>

68. *Broadcast Data Bases.* The *NPRM* proposed to revise the Commission's rules to update references to historical and current databases and other reference material. The comments received were generally supportive of the effort to update our rules,<sup>250</sup> and we received no specific objection to this proposal. Therefore, for the reasons discussed in the *NPRM*, and described below, we adopt the proposals. Section 0.434 (Data bases and lists of authorized broadcast stations and pending broadcast applications) refers to Broadcast Application Processing System (BAPS), which is a legacy database system that has not been in use at the Commission for many years.<sup>251</sup> The Media Bureau currently uses LMS for application processing, which replaced the prior CDBS system, which itself replaced BAPS around the year 2000. Thus, the reference to BAPS is obsolete and we delete it.<sup>252</sup> We additionally remove the word "periodically" since an updated LMS download is provided daily, remove the link to "ftp.fcc.gov" since LMS data is not provided there, and update the reference to "mass media services" to instead specify "Media Bureau."<sup>253</sup> We also delete the sentences stating that copies of lists of stations and applications are available for inspection at the Commission's Reference Information Center because this information is now made available electronically via LMS.<sup>254</sup>

69. *Distributed Transmission System Rule Clarification.* The *NPRM* proposed to clarify the language in our distributed transmission system (DTS) rule. The comments received were generally supportive of the effort to update our rules,<sup>255</sup> and we received no specific objection to these proposals. Therefore, for the reasons stated in the *NPRM*, we adopt the proposals. Since adoption of the revised section 73.626 in January 2021,<sup>256</sup> questions have arisen about how the rules are to be applied. For example, the rule text makes several references to the term "reference facility" without defining that term, and inaccurately conflates the reference point with the coordinates of the facility which produces the

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<sup>247</sup> See *supra* para. 4, n.12.

<sup>248</sup> *NPRM* at para. 45. 47 CFR § 73.3543 (Application for renewal or modification of special service authorization).

<sup>249</sup> *NPRM* at para. 45.

<sup>250</sup> See *supra* para. 4, n.12.

<sup>251</sup> *NPRM* at para. 46. 47 CFR § 0.434 (Data bases and lists of authorized broadcast stations and pending broadcast applications).

<sup>252</sup> *NPRM* at para. 46.

<sup>253</sup> *Id*

<sup>254</sup> *Id.* We note that the *NPRM* proposed removing references to paper copies, viewing paper copies on microfiche, and that the paper copies of lists can be purchased from the FCC's duplicating contractor in the *NPRM* at para. 46. However, we note, since release of the *NPRM*, the Commission revised 47 CFR § 0.434 to remove these references. See *Establishment of the Space Bureau and the Office of International Affairs and Reorganization of the Consumer and Governmental Affairs Bureau and the Office of the Managing Director*, MD Docket No. 23-12, FCC 23-1 (Jan. 9, 2023). Therefore, we do not adopt these changes in this *Report and Order*.

<sup>255</sup> See *supra* para. 4, n.12.

<sup>256</sup> *Rules Governing the Use of Distributed Transmission System Technologies Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*, MB Docket No. 20-74 and GN Docket No. 16-142, Report and Order, 36 FCC Rcd 1227 (2021) (*2021 DTS Order*).

authorized service area. To make the intent and application of the rule less ambiguous, we modify language in 73.626(b) and (f)(2), as proposed in the *NPRM*.<sup>257</sup> We define the term “authorized facility”<sup>258</sup> and then replace all uses of the term “reference facility” with the term “authorized facility” in the appropriate locations.<sup>259</sup> We further replace the term “reference point” with “site of its authorized facility” in places where the term “reference point” is improperly used.<sup>260</sup> Finally, we clarify when specifically the Table of Distances values should be applied.<sup>261</sup> We believe this clarifying language will better reflect the method described in the *2021 DTS Order* and used in processing such applications.<sup>262</sup>

70. *Transport Stream ID*. The *NPRM* proposed to require that all full-power and Class A TV stations broadcast with their assigned transport stream ID (TSID) or bit stream ID (BSID) in the ATSC 3.0 context. The comments received were generally supportive of the effort to update our rules,<sup>263</sup> and we received no specific objection to these proposals. Therefore, for the reasons stated in the *NPRM*, we adopt them. As noted in the *NPRM*, all full-power and Class A TV stations are assigned a unique TSID, which is required to be transmitted in order to provide the Program and System Information Protocol (PSIP) data required by section 73.682(d) (Broadcast television transmission standard).<sup>264</sup> Consistent with that rule, we clarify that all such stations must broadcast with their assigned TSID during their hours of operation.<sup>265</sup> In its *Second Periodic Review*, the Commission stated that “broadcasters are required to transmit the TSIDs assigned for their stations in their digital transmission.”<sup>266</sup> We believe that it is in the public interest to move this requirement into a separate rule for ease of reference.<sup>267</sup> Similarly, we adopt the same requirement with respect to a station’s BSID, which is the ATSC 3.0 equivalent to TSID, in order to promote consistency.

71. *Class A US-Mexico Border Zone*. The *NPRM* proposed to amend Section 73.6024(d) to require Class A stations within 275 kilometers of the US-Mexico border to specify a full-service emission mask in any modification application. The comments received were generally supportive of the effort to update our rules,<sup>268</sup> and we received no specific objection to this proposal. Therefore, for the reasons stated in the *NPRM*, we adopt it. As explained in the *NPRM*, full power television stations are required to use full service masks to attenuate the power level of emissions outside their authorized channel of

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<sup>257</sup> *NPRM* at para. 47.

<sup>258</sup> *Id.* The revised section 73.626(b) states that “For purposes of compliance with this section, a station’s ‘authorized service area’ is defined as the area within its predicted noise-limited service contour determined using the facilities authorized for the station in a license or construction permit for non-DTS, single-transmitter-location operation (its ‘authorized facility’).”

<sup>259</sup> *NPRM* at para. 47. See revised section 73.626(f)(2)(i)-(iii).

<sup>260</sup> *NPRM* at para. 47. See revised section 73.626(f)(2)(ii)-(iii).

<sup>261</sup> *NPRM* at para. 47. See revised section 73.626(f)(2)(i)-(ii).

<sup>262</sup> *NPRM* at para. 47. We remove language from section 73.626(f)(2) which is improperly specific to the station’s authorized service area, and which incorrectly implied that the Table of Distances circle is not applicable here. *Id.* at n.161.

<sup>263</sup> See *supra* para. 4, n.12.

<sup>264</sup> *NPRM* at para. 48.

<sup>265</sup> *Id.* See revised section 73.1201 (Station identification); see also adopted section 74.783(c) in the *2023 Part 74 Report and Order* at para. 25.

<sup>266</sup> *NPRM* at 48. *Second Periodic Review*, 19 FCC Rcd at 18346-7, para. 153.

<sup>267</sup> *NPRM* at 48.

<sup>268</sup> See *supra* para. 4, n.12.

operation in specified amounts expressed in decibels (dB).<sup>269</sup> Section 74.794, which allows LPTV and TV translators to specify use of a simple, stringent, or full service mask, also applies to Class A television stations.<sup>270</sup> The Commission's rules require coordination of applications in border regions with the neighboring countries' appropriate regulatory officials. Under the *Exchange of Coordination Letters with IFT Regarding DTV Transition and Reconfiguration of 600 MHz Spectrum*, signed between the FCC and Mexico's Instituto Federal de Telecomunicaciones (IFT) in July 2015, the use of Tables 1 and 6 were approved for television station realignment.<sup>271</sup> Class A stations approved by Mexico in Table 6 are grouped with full-service stations. There is no allowance for use of a simple or stringent emission mask for any operation within these Tables; however, section 73.6024(d)<sup>272</sup> applies to coordination of stations in proximity of the US border with Mexico. It is the Media Bureau staff's experience that IFT routinely requests that applications submitted for coordination of Class A stations specify a full-service emission mask, and if such applications do not initially specify the full-service emission mask, IFT asks for it to be included in an amendment. This two-step process increases the processing burdens on the FCC, IFT, and stations, and results in delays in granting applications. Therefore, the *NPRM* proposed to amend Section 73.6024(d) to require Class A stations within 275 kilometers of the US-Mexico border to specify a full-service emission mask in any modification application, and we adopt that proposal here.

72. *Class A Antenna System.* The *NPRM* proposed to replace the separate Class A antenna pattern documentation requirements with a reference to the analogous full-power version of the rule for consistency. The comments received were generally supportive of the effort to update our rules,<sup>273</sup> and we received no specific objection to this proposal. Therefore, for the reasons stated in the *NPRM*, we adopt it. We delete language in section 73.6025(a) nearly identical to that in section 73.625(c)(3).<sup>274</sup> These rule sections provide similar requirements regarding how applicants should describe and document antenna patterns submitted in their applications. Some sections are identical,<sup>275</sup> but in others, there are a few minor differences.<sup>276</sup> We conclude that the very minor distinctions between the language in the two sections are insignificant and that no purpose is served by having two essentially duplicative rules in part 73.<sup>277</sup> We will cross-reference section 73.625(c)(3) in section 73.6025(a), eliminating the duplication but making clear that the requirements in section 73.625(c)(3) continue to apply to Class A television

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<sup>269</sup> *NPRM* at para. 49. See 47 CFR § 73.622(h) (describing required attenuated power limits of emissions of frequencies outside the authorized channel of operation for full power television stations).

<sup>270</sup> *NPRM* at para. 49. See 47 CFR §§ 73.6024(d) and 74.794(a)(2). Section 74.794(a)(2)(i)-(iii) defines the required attenuated power limits of emissions outside the authorized channel of operation for each type of mask.

<sup>271</sup> *NPRM* at para. 49. See Letter to Ricardo Castañeda Álvarez, Director General de Ingeniería y Estudios Técnicos, IFT, from Mindel De La Torre, Chief, International Bureau, FCC (July 15, 2015) and Letter to Mindel De La Torre, Chief, International Bureau, FCC, from Alejandro Navarrete Torres, IFT (July 15, 2015) (collectively, "Exchange of Coordination Letters with IFT Regarding DTV Transition and Reconfiguration of 600 MHz Spectrum"). See *International Agreements*, <https://www.fcc.gov/general/international-agreements> (last visited Aug. 1, 2023).

<sup>272</sup> *NPRM* at para. 49. 47 CFR § 73.6024(d).

<sup>273</sup> See *supra* para. 4, n.12.

<sup>274</sup> *NPRM* at para. 50. 47 CFR §§ 73.6025(a) (Antenna system and station location) (setting forth required showing when proposing to use a directional antenna system) and 73.625(c)(3) (DTV coverage of principal community and antenna system).

<sup>275</sup> *NPRM* at para. 50. Specifically, section 73.625(c)(3)(iii) is identical to section 73.6025(a)(3), section 73.625(c)(3)(iv) is identical to section 73.6025(a)(4), and section 73.625(c)(3)(vi) is identical to section 73.6025(a)(5).

<sup>276</sup> For full discussion of the differences between the rule sections, see *NPRM* at para. 50.

<sup>277</sup> *NPRM* at para. 50. Class A licensees are required to comply with all part 73 regulations except for those that cannot apply for technical or other reasons. *Class A Report and Order*, 15 FCC Rcd at 6365, para. 23. Section 73.625(c)(3), which requires applicants to submit documentation regarding the antenna they are proposing to install, is clearly a rule with which they can comply.

stations.<sup>278</sup>

73. *Minimum Video Program Requirements.* The *NPRM* proposed to update a Class A television rule in order to conform the rule with an update made elsewhere in the *NPRM*. The comments received were generally supportive of the effort to update our rules,<sup>279</sup> and we received no specific objection to this proposal. Therefore, for the reasons stated in the *NPRM*, we adopt it. As noted above, we delete much of section 73.624(b).<sup>280</sup> Section 73.6026 (Broadcast regulations applicable to Class A television stations) lists section 73.624 as a rule applicable to Class A stations and includes a note stating that “Section 73.624(b) will apply only to the extent that such stations must also transmit at least one over-the-air video program signal at no direct charge to viewers of the digital Class A station.”<sup>281</sup> We remove that text in section 73.6026 because it duplicates language also included in 73.624(b).<sup>282</sup> We also clarify that this change mandates the use of a minimum 480i video resolution by Class A stations. This requirement is consistent with full-power and LPTV/translator stations (as adopted in the *2023 Part 74 Report and Order*),<sup>283</sup> and we believe it is reasonable to also apply it consistently to Class A stations for regulatory parity between the television services.

74. *Transmitting Antenna Site.* The *NPRM* proposed to replace the term “transmitter site” in our rules with “transmitting antenna site.” The comments received were generally supportive of the effort to update our rules,<sup>284</sup> and we received no specific objection to this proposal. Therefore for the reasons stated in the *NPRM*, we adopt it. Section 73.619(a)(1)<sup>285</sup> refers to the estimation of a station’s coverage area based on a “particular transmitter site.” We note that our application forms do not request information about the location of a station transmitter but about the location of its antenna instead. We modify the language in the rule to refer to a “particular transmitting antenna site.”<sup>286</sup> This is consistent with language that has been used in other parts of the rules,<sup>287</sup> and with a proposal the Commission adopted in the *2023 Part 74 Report and Order*.<sup>288</sup>

75. *Corrections to Inadvertent Oversights from Prior Rulemakings.* The *NPRM* proposed to make various corrections to the rules as a result of inadvertent oversights from prior rulemakings.<sup>289</sup> The comments received were generally supportive of the effort to update our rules,<sup>290</sup> and we received no specific objection to this proposal. Therefore, for the reasons stated in the *NPRM*, we adopt it. Because

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<sup>278</sup> We also modified sections 73.625(c)(3)(ii) and 73.625(c)(3)(v). *See supra* paras. 60-64. We also added new sections 73.625(c)(3)(vii) and (viii) to account for stations submitting elevation or matrix patterns. *See supra* paras. 60-64.

<sup>279</sup> *See supra* para. 4, n.12.

<sup>280</sup> *See supra* paras. 7 and 10, nn. 18, 28, and 32.

<sup>281</sup> 47 CFR § 73.6026 (Broadcast regulations applicable to Class A television stations).

<sup>282</sup> *NPRM* at para. 51.

<sup>283</sup> *Id.* *See also* *2023 Part 74 Report and Order* at para. 43.

<sup>284</sup> *See supra* para. 4, n.12.

<sup>285</sup> We moved this rule from section 73.683(c)(1). *See supra* para. 37.

<sup>286</sup> *NPRM* at para. 52.

<sup>287</sup> *Id.* *See e.g.*, 47 CFR § 73.622(d).

<sup>288</sup> *NPRM* at para. 52. *See 2023 Part 74 Report and Order* at para. 42 (“As we stated in the *NPRM*, because the antenna location, rather than the transmitter location, is the relevant consideration in determining interference, service, and loss, we proposed to delete Section 74.751(b)(6) entirely regarding the transmitter’s location, as it is not relevant in this analysis.”).

<sup>289</sup> *NPRM* at para. 53.

<sup>290</sup> *See supra* para. 4, n.12.

the requirements of the previous section 73.616(e)<sup>291</sup> pertaining to interference protection with respect to Class A stations were difficult to decipher,<sup>292</sup> we remove paragraphs (1), (2), and (3) entirely and streamline the remaining paragraph from section 73.616(e) in the new section 73.620(d). In doing so, we replace the description of the OET Bulletin No. 69 in paragraph (1) with a cross-reference to paragraphs (a) and (b) of the new section 73.620, which specifies the same method.

76. As described in the *NPRM*, the Commission previously deleted section 73.623(g) as obsolete because it addressed the digital transition.<sup>293</sup> Deletion of the section, however, inadvertently eliminated from the rules the allowance for negotiated agreements on interference among applicants and licensees. The *NPRM* proposed to restore the allowance that was previously contained in section 73.623(g), modify the language to delete language referring to stations operating on channels allotted in section 73.622(b), the initial DTV Table, and place it in a new section 73.620(e).<sup>294</sup> This would clarify in our rules that stations may continue to negotiate agreements on interference consistent with past and present practice. The comments received were generally supportive of the effort to update our rules,<sup>295</sup> and we received no specific objection to this proposal. Therefore, for the reasons stated in the *NPRM*, we adopt it.

77. In the *2022 Part 74 Order*, the Commission revised or removed certain paragraphs of section 74.787 to reflect the LPTV and translator transition from analog to digital operations, removed duplicate sections that were contained in both the analog and digital portions of part 74, and provided accurate information about current Commission forms.<sup>296</sup> The *NPRM* proposed to further amend the text of the rule by clarifying in the now first sentence of paragraph (a)(5)(v) that the pre-auction digital service area is the noise-limited contour of the full power station that was protected in the incentive auction repacking process and remove reference to a 2015 public notice.<sup>297</sup> Because we no longer allow applications for new applications for digital-to-digital replacement television translators (DTDRTs), the *NPRM* noted that the Commission believed the reference to the public notice data is no longer necessary and the inclusion of the additional explanation of the pre-auction digital service area for stations that already hold DTDRTs provides a clearer definition.<sup>298</sup> The comments received were generally supportive of the effort to update our rules,<sup>299</sup> and we received no specific objection to this proposal. Therefore, for the reasons stated in the *NPRM*, we adopt it.

#### **M. Additional Proposals Raised by Commenters**

78. We decline to adopt several proposals raised by commenters that are outside the scope of this proceeding. We received several proposals that seek to make material changes to our rules, or

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<sup>291</sup> 47 CFR § 73.616(e) (Post-transition DTV station interference protection). We relocated this rule to section 73.620(d). *See supra* para. 37.

<sup>292</sup> *NPRM* at para. 53. For a full discussion of the ways in which the rule text appears to be incomplete and contradictory, *see NPRM* at para. 53.

<sup>293</sup> *See October 2021 Order*, 36 FCC Rcd at 15896-7, para. 13, n.44.

<sup>294</sup> *NPRM* at para. 54.

<sup>295</sup> *See supra* para. 4, n.12.

<sup>296</sup> *See 2022 Part 74 Order* at paras. 6-7, nn. 22 and 25-28.

<sup>297</sup> *NPRM* at para. 55. *See* 47 CFR § 74.787(a)(5)(v) (Licensing); *see also Incentive Auction Task Force Releases Revised Baseline Data and Prices for Reverse Auction; Announces Revised Filing Window Dates*, AU Docket No. 14-252, GN Docket No. 12-268, WT Docket No. 12-269, Public Notice, 30 FCC Rcd 12559 (IATF 2015).

<sup>298</sup> *NPRM* at para. 55.

<sup>299</sup> *See supra* para. 4, n.12.

changes outside the scope of this proceeding.<sup>300</sup> In declining to take action, we note that the *NPRM*'s scope was limited to amendments to the Commission's rules primarily related to full power and Class A television service to reflect the current operating environment, including the end of the transition from analog to digital operations.<sup>301</sup>

#### N. Cost Benefit Analysis

79. After evaluating the record received in response to the *NPRM*'s request for comment on the benefits and costs associated with adopting the proposals set forth in the *NPRM*, we conclude that to the extent that the revised rules impose any costs on Commission licensees and regulatees, such costs will be minimal and are outweighed by the benefits to the public of the revised rules.<sup>302</sup> We received no comments on the costs imposed on Commission licensees and regulatees as a result of our proposals.

#### O. Diversity, Equity and Inclusion Analysis

80. The *NPRM* also sought comment on how the proposals set forth in the *NPRM* can advance equity in the provision of broadcast services for all people of the United States, without discrimination on the basis of race, color, religion, national origin, sex, or disability. The *NPRM* also sought comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility.<sup>303</sup> We received no comments on these topics and no objection to adoption of the proposed rules based on these concerns. We acknowledge the importance of these aims, and we believe that the revised rules reflect an effort to simplify, streamline, and modernize existing rules and procedures that will enable full power and Class A television stations to more easily comply with licensing requirements through familiar and low cost measures and we do not believe they will have negative implications related to diversity, equity, inclusion, or accessibility.

### IV. PROCEDURAL MATTERS

81. *Paperwork Reduction Analysis.* The *Report and Order* contains either new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA).<sup>304</sup> It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. The Commission will publish a

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<sup>300</sup> OMI Comments (asserting that the Commission should "consider the most likely azimuth that viewers will have their TV antennas aimed at when considering interference caused to a station," and that the Commission accordingly should update its *TVStudy* software program, which is used by licensees to prepare applications and Commission staff to process applications); GBS Comments at 1-2 (asking the Commission to codify OET's clarification in *OET Clarifies Emission Mask Measurements for DTV Transmitters*, Public Notice, 20 FCC Rcd 8874 (OET 2005), which clarifies the emission mask measurement rules and provides guidance regarding compliance with the DTV full service and low power masks to be demonstrated by either of two methods, in proposed section 73.611 in this proceeding or a more recent version of an industry-accepted measurement standard); NAB Comments at 9 (requesting that the Commission revise proposed section 73.625(d) to update a reference to the IEEE Standard Definition for circular polarization to the current IEEE Standard 145, "IEEE Standard Definitions of Terms for Antennas" (1993)); CDE Supplemental Comments 2 at 35-36 and Appendices A-C (apparently objecting to the use of the Commission's *TVStudy* software and suggesting that the Commission solicit input to develop a new offering).

<sup>301</sup> Specifically, the *NPRM* proposed and sought comment on comprehensively deleting, updating, or otherwise revising Commission rules for full power and Class A stations that no longer have any practical effect given the transition from analog to digital-only operations and the post-incentive auction transition to a smaller television band with fewer channels. The *NPRM* also proposed and sought comment on a restructuring of subpart E of the Commission's rules, which largely consists of the technical licensing, operating, and interference rules for full power television. See *NPRM* at para. 1.

<sup>302</sup> *NPRM* at para. 56 (seeking comment on the benefits and costs associated with adopting the proposed changes).

<sup>303</sup> *Id.* at para. 57.

<sup>304</sup> Pub. L. No. 104-13.

separate document in the Federal Register at a later date seeking these comments. In addition, we note that, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4), the Commission previously sought specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. We have described impacts that might affect small businesses in the FRFA in Appendix B.

82. *Congressional Review Act.* [The Commission will submit this draft *Report and Order* to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget for concurrence as to whether these rules are non-major under the Congressional Review Act, 5 U.S.C. § 804(2).] The Commission will send a copy of this *Report and Order* to Congress and the Government Accountability office, pursuant to 5 U.S.C. § 801(a)(1)(A).

83. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),<sup>305</sup> 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.”<sup>306</sup> Accordingly, we have prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of rule and/or policy changes contained in this *Report and Order* on small entities. The FRFA is set forth in Appendix B.

84. *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](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

85. *Additional Information.* For additional information on this proceeding, please contact Joyce Bernstein, Video Division, Media Bureau at [Joyce.Bernstein@fcc.gov](mailto:Joyce.Bernstein@fcc.gov), Emily Harrison, Video Division, Media Bureau at [Emily.Harrison@fcc.gov](mailto:Emily.Harrison@fcc.gov), or Mark Colombo, Video Division, Media Bureau at [Mark.Colombo@fcc.gov](mailto:Mark.Colombo@fcc.gov).

## V. ORDERING CLAUSES

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

87. **IT IS FURTHER ORDERED**, that the Commission’s rules **ARE HEREBY AMENDED** as set forth in Appendix A and such amendments shall be effective 30 days after publication in the *Federal Register*, except for sections 73.619; 73.625; 73.1250; 73.1350; 73.1560; 73.1615; 73.1620; 73.1635; 73.1675; 73.1690; 73.1740; 73.1750; 73.2080; 73.3500; 73.3533; 73.3536; 73.3540; 73.3541; 73.3544; 73.3549; 73.3550; 73.3578; 73.3587; 73.3598; 73.5005; 73.5006; 73.6024; and 73.6025, which contain new or modified information collection requirements and will be submitted for approval by the Office of Management and Budget under the Paperwork Reduction Act and shall become effective after the Commission publishes a notice in the *Federal Register* announcing such approval and the relevant effective date.

88. **IT IS FURTHER ORDERED**, that the Office of the Secretary, Reference Information Center, **SHALL SEND** a copy of the Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

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

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<sup>305</sup> See 5 U.S.C. § 603.

<sup>306</sup> See *id.* § 605(b).



FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

**APPENDIX A****Final Regulations**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 0, 27, 73, and 74 to read as follows:

**PART 0 — COMMISSION ORGANIZATION**

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409, unless otherwise noted.

2. Revise § 0.434 to read as follows:

**§ 0.434 Data bases and lists of authorized broadcast stations and pending broadcast applications.**

The FCC makes available its data bases, Consolidated Database System (CDBS) and Licensing and Management System (LMS), containing information about authorized broadcast stations, pending applications for such stations, and rulemaking proceedings involving amendments to the TV and FM Table of Allotments. CDBS and LMS contain frequencies, station locations, and other particulars. CDBS and LMS may be viewed at the Commission's web site at *www.fcc.gov* under Media Bureau.

**PART 27 – MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICE**

3. The authority citation for part 27 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 301, 302a, 303, 307, 309, 332, 336, 337, 1403, 1404, 1451, and 1452, unless otherwise noted.

**§ 27.60 [Removed]**

4. Remove § 27.60.

**§ 27.1310 [Removed]**

5. Remove § 27.1310.

**PART 73 – RADIO BROADCAST SERVICES**

6. 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.

7. Section 73.611 is added to read as follows:

**§ 73.611 Emission levels and mask filter.**

(a) The power level of emissions on frequencies outside the authorized channel of operation must be attenuated no less than the following amounts below the average transmitted power within the authorized channel. In the first 500 kHz from the channel edge the emissions must be attenuated no less than 47 dB. More than 6 MHz from the channel edge, emissions must be attenuated no less than 110 dB. At any frequency between 0.5 and 6 MHz from the channel edge, emissions must be attenuated no less than the value determined by the following formula:

Formula 1 to paragraph (a)

Attenuation in dB =  $-11.5(\Delta f + 3.6)$ ;

Where:  $\Delta f$  = frequency difference in MHz from the edge of the channel.

(b) This attenuation is based on a measurement bandwidth of 500 kHz. Other measurement bandwidths may be used as long as appropriate correction factors are applied. Measurements need not be made any closer to the band edge than one half of the resolution bandwidth of the measuring instrument. Emissions include sidebands, spurious emissions and radio frequency harmonics.

Attenuation is to be measured at the output terminals of the transmitter (including any filters that may be employed). In the event of interference caused to any service, greater attenuation may be required.

8. Section 73.612 is revised to read as follows:

**§ 73.612 Protection from interference.**

(a) Permittees and licensees of TV broadcast stations are not protected from any interference which may be caused by the grant of a new station or of authority to modify the facilities of an existing station in accordance with the provisions of subpart E of this part. The nature and extent of the protection from interference accorded to TV broadcast stations is limited solely to the protection which results from the

interference protection requirements set forth in subpart E of this part.

(b) [Reserved]

**§ 73.613 [Removed and Reserved]**

9. Remove and reserve § 73.613.

10. Amend § 73.614 by:

- a. Revising paragraphs (a), (b) introductory text, (b)(1) through (3);
- b. Removing and reserving paragraph (b)(4) and (5);
- c. Revising paragraph (b)(6); and
- d. Removing paragraph (b)(7).

The revisions read as follows:

**§ 73.614 Power and antenna height requirements.**

(a) *Minimum requirements.* Applications will not be accepted for filing if they specify less than 100 watts horizontally polarized effective radiated power (ERP) in any horizontal direction. No minimum antenna height above average terrain (HAAT) is specified. For stations requesting DTS operation pursuant to § 73.626, this requirement applies to at least one site in the DTS.

(b) *Maximum power.* Applications for new full power television stations, for changes in authorized full power television stations, and petitions for changes to the Table of TV Allotments, will not be accepted for filing if they specify a power which exceeds the maximum permitted boundaries specified in the following formulas:

(1) A TV station that operates on a channel 2-6 allotment will be allowed a maximum ERP of 10 kW if its antenna HAAT is at or below 305 meters and it is located in Zone I or a maximum ERP of 45 kW if its antenna HAAT is at or below 305 meters and it is located in Zone II or Zone III.

(i) At higher HAAT levels, such TV stations will be allowed to operate with lower maximum ERP levels in accordance with the following table and formulas (the allowable maximum ERP for intermediate values of HAAT is determined using linear interpolation based on the units employed in the table):

Table 1 to paragraph (b)(1)(i)- Maximum Allowable ERP and Antenna Height for TV Stations In Zones II or III on Channels 2-6

Antenna HAAT (meters)	ERP (kW)
610	10
580	11
550	12
520	14
490	16
460	19
425	22
395	26
365	31
335	37
305	45

(ii) For TV stations located in Zone I that operate on channels 2-6 with an HAAT that exceeds 305 meters, the allowable maximum ERP expressed in decibels above 1 kW (dBk) is determined using the following formula, with HAAT expressed in meters:

$$ERP_{\max} = 92.57 - 33.24 * \log_{10}(\text{HAAT})$$

(iii) For TV stations located in Zone II or III that operate on channels 2-6 with an HAAT that exceeds 610 meters, the allowable maximum ERP expressed in decibels above 1 kW (dBk) is determined using the following formula, with HAAT expressed in meters:

$$ERP_{\max} = 57.57 - 17.08 * \log_{10}(\text{HAAT})$$

(2) A TV station that operates on a channel 7-13 allotment will be allowed a maximum ERP of 30 kW if its antenna HAAT is at or below 305 meters and it is located in Zone I or a maximum ERP of 160 kW if its antenna HAAT is at or below 305 meters and it is located in Zone II or Zone III.

(i) At higher HAAT levels, such TV stations will be allowed to operate with lower maximum ERP levels in accordance with the following table and formulas (the allowable maximum ERP for

intermediate values of HAAT is determined using linear interpolation based on the units employed in the table):

Table 2 to paragraph (b)(2)(i)- Maximum Allowable ERP and Antenna Height for TV Stations In Zones II or III on Channels 7-13

Antenna HAAT (meters)	ERP (kW)
610	30
580	34
550	40
520	47
490	54
460	64
425	76
395	92
365	110
335	132
305	160

(ii) For TV stations located in Zone I that operate on channels 7-13 with an HAAT that exceeds 305 meters, the allowable maximum ERP expressed in decibels above 1 kW (dBk) is determined using the following formula, with HAAT expressed in meters:

$$ERP_{\max} = 97.35 - 33.24 * \log_{10}(\text{HAAT})$$

(iii) For TV stations located in Zone II or III that operate on channels 7-13 with an HAAT that exceeds 610 meters, the allowable maximum ERP expressed in decibels above 1 kW (dBk) is determined using the following formula, with HAAT expressed in meters:

$$ERP_{\max} = 62.34 - 17.08 * \log_{10}(\text{HAAT})$$

(3) A TV station that operates on a channel 14-36 allotment will be allowed a maximum ERP of 1000

kW if its antenna HAAT is at or below 365 meters.

(i) At higher HAAT levels, such TV stations will be allowed to operate with lower maximum ERP levels in accordance with the following table and formulas (the allowable maximum ERP for intermediate values of HAAT is determined using linear interpolation based on the units employed in the table):

Table 3 to paragraph (b)(3)(i)-Maximum Allowable ERP and Antenna Height for TV Stations on Channels 14-36, All Zones

Antenna HAAT (meters)	ERP (kW)
610	316
580	350
550	400
520	460
490	540
460	630
425	750
395	900
365	1000

(ii) For TV stations located in Zone I, II or III that operate on channels 14-36 with an HAAT that exceeds 610 meters, the allowable maximum ERP expressed in decibels above 1 kW (dBk) is determined using the following formula, with HAAT expressed in meters:

$$ERP_{\max} = 72.57 - 17.08 * \log_{10}(\text{HAAT})$$

Where:

$ERP_{\max}$  = Maximum Effective Radiated Power measured in decibels above 1 kW (dBk).

HAAT = Height Above Average Terrain measured in meters.

(4) [Reserved]



(5) [Reserved]

(6) The effective radiated power in any horizontal or vertical direction may not exceed the maximum values permitted by this section, except that licensees and permittees may request an increase in either ERP in some azimuthal direction or antenna HAAT, or both, up to the maximum permissible limits on TV power set forth in paragraph (b)(1), (2), or (3) of this section, as appropriate, up to that needed to provide the same geographic coverage area as the largest station within their market. Such requests must be accompanied by a technical showing that the increase complies with the technical criteria in § 73.620, and thereby will not result in new interference exceeding the *de minimis* standard set forth in that section, or statements agreeing to the change from any co-channel or adjacent channel stations that might be affected by potential new interference, in accordance with § 73.620(e). For the purposes of this paragraph:

(i) The maximum ERP value shall not exceed the maximum permitted at any height within the relevant zone consistent with the values permitted in paragraph (b)(1), (2), or (3) of this section.

The associated maximum height for that given ERP may be exceeded.

(ii) Stations in the same Nielsen DMA are considered to be in the same market.

(iii) “Geographic coverage area” is defined as the number of square kilometers found within a station’s F(50,90) contour as calculated in § 73.619. A station taking advantage of this provision need not specify coverage that is congruent with or encompassed by the largest station in the market.

(7) [Removed]

\* \* \* \* \*

### § 73.615 [Removed]

11. Remove § 73.615.

12. Section 73.616 is amended by:

a. Revising the section heading;

b. Removing and reserving paragraphs (a), (b), and (c);

- c. Revising the introductory text to paragraph (d) and paragraph (d)(1); and
- d. Removing and reserving paragraphs (d)(2), (e) and (g).

The revisions read as follows:

**§ 73.616 References to TV station interference protection methodology.**

(a) through (c) [Reserved]

(d) Calculation of interference

(1) For evaluating compliance with the requirements of this paragraph, interference to populations served is to be predicted based on the most recent official decennial U.S. Census population data as identified by the Media Bureau in a Public Notice issued not less than 60 days prior to use of the data for a specific year in application processing and otherwise according to the procedure set forth in OET Bulletin No. 69: “Longley-Rice Methodology for Evaluating TV Coverage and Interference” (February 6, 2004) (incorporated by reference, see § 73.8000), including population served within service areas determined in accordance with § 73.619, consideration of whether F(50,10) undesired signals will exceed the following desired-to-undesired (D/U) signal ratios, assumed use of a directional receiving antenna, and use of the terrain dependent Longley-Rice point-to-point propagation model. Applicants may request the use of a cell size other than the default of 2.0 km per side, but only requests for cell sizes of 1.0 km per side or 0.5 km per side will be considered. The threshold levels at which interference is considered to occur are:

\* \* \* \* \*

(2) [Reserved]

(e) [Reserved]

\* \* \* \* \*

(g) [Reserved]

13. Section 73.617 is added to read as follows:

**§ 73.617 Interference protection of other services.**

(a) *Protection of land mobile operations on channels 14-20.* The Commission will not accept petitions

to amend the Table of TV Allotments, applications for new TV stations, or applications to change the channel or location of authorized TV stations that would use channels 14-20 where the distance between the TV reference coordinates as defined in § 73.622(d), would be located less than 250 km from the city center of a co-channel land mobile operation or 176 km from the city center of an adjacent channel land mobile operation. Such filings that do not meet the minimum TV-to-land mobile spacing standards will, however, be considered where all affected land mobile licensees consent to the requested action. Land mobile operations are authorized on these channels in the following markets:

Table 1 to paragraph (a)- Land mobile operations to be protected.

City	Channels	Latitude	Longitude
Boston, MA	14, 16	42° 21' 24.4"	71° 03' 23.2"
Chicago, IL	14, 15	41° 52' 28.1"	87° 38' 22.2"
Cleveland, OH	14, 15	41° 29' 51.2"	81° 49' 49.5"
Dallas, TX	16	32° 47' 09.5"	96° 47' 38.0"
Detroit, MI	15, 16	42° 19' 48.1"	83° 02' 56.7"
Houston, TX	17	29° 45' 26.8"	95° 21' 37.8"
Los Angeles, CA	14, 16, 20	34° 03' 15.0"	118° 14' 31.3"
Miami, FL	14	25° 46' 38.4"	80° 11' 31.2"
New York, NY	14, 15, 16	40° 45' 06.4"	73° 59' 37.5"
Philadelphia, PA	19, 20	39° 56' 58.4"	75° 09' 19.6"
Pittsburgh, PA	14, 18	40° 26' 19.2"	79° 59' 59.2"
San Francisco, CA	16, 17	37° 46' 38.7"	122° 24' 43.9"
Washington, DC	17, 18	38° 53' 51.4"	77° 00' 31.9"

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

requires television stations to protect this land mobile operation.

(b) *Protection of land mobile operations below channel 14.* (1) TV broadcast stations operating on Channel 14 must take special precautions to avoid interference to adjacent spectrum land mobile radio service facilities. Where a TV station is authorized and operating prior to the authorization and operation of the land mobile facility, a Channel 14 station must attenuate its emissions within the frequency range 467 to 470 MHz if necessary to permit reasonable use of the adjacent frequencies by land mobile licensees.

(2) The requirements listed below apply to permittees authorized to construct a new station on TV Channel 14, and to licensees authorized to change the channel of an existing station to Channel 14, to increase effective radiated power (ERP) (including any change in directional antenna characteristics that results in an increase in ERP in any direction), or to change the transmitting location of an existing station.

(i) For the purposes of this paragraph (b), a protected land mobile facility is a receiver that is intended to receive transmissions from licensed land mobile stations within the frequency band below 470 MHz, and is associated with one or more land mobile stations for which a license has been issued by the Commission, or a proper application has been received by the Commission prior to the date of the filing of the TV construction permit application. However, a land mobile facility will not be protected if it is proposed in an application that is denied or dismissed and that action is no longer subject to Commission review. Further, if the land mobile station is not operating when the TV facility commences operation and it does not commence operation within the time permitted by its authorization in accordance with part 90 of this chapter, it will not be protected.

(ii) A TV permittee must take steps before construction to identify potential interference to normal land mobile operation that could be caused by TV emissions outside the authorized channel, land mobile receiver desensitization or intermodulation. It must install filters and take other precautions as necessary, and submit evidence that no interference is being caused before it will be permitted to transmit programming on the new facilities pursuant to the provisions of § 73.1615 or § 73.1620. A

TV permittee must reduce its emissions within the land mobile channel of a protected land mobile facility that is receiving interference caused by the TV emission producing a vertically polarized signal and a field strength in excess of 17 dBu at the land mobile receiver site on the land mobile frequency. The TV emission should be measured with equipment set to a 30 kHz measurement bandwidth including the entire applicable land mobile channel. A TV permittee must correct a desensitization problem if its occurrence can be directly linked to the start of the TV operation and the land mobile station is using facilities with typical desensitization rejection characteristics. A TV permittee must identify the source of an intermodulation product that is generated when the TV operation commences. If the intermodulation source is under its control, the TV permittee must correct the problem. If the intermodulation source is beyond the TV permittee's control, it must cooperate in the resolution of the problem and should provide whatever technical assistance it can.

(c) *Channel 6 protection of FM radio stations.* Parties requesting new allotments on channel 6 be added to the Table of TV Allotments must submit an engineering study demonstrating that no interference would be caused to existing FM radio stations on FM channels 200-220.

(d) *Blanketing interference.* Present information is not sufficiently complete to establish blanketing interference areas for television broadcast stations. Blanketing interference is interference in an area adjacent to a transmitter in which the reception of other stations is subject to interference due to the strong signal from this station. The authorization of station construction in areas where blanketing interference is found to be excessive will be on the basis that the applicant will assume full responsibility for the adjustment of reasonable complaints arising from excessively strong signals of the applicant's station or take other corrective action.

(e) *Medical telemetry device notification condition.* Stations should be aware that a condition is placed on all TV broadcast station authorizations that result in a change in coverage area, including all authorizations for new stations, which requires TV broadcasters to identify and notify hospital and other health care facilities within the station's coverage area to avoid interference to medical telemetry devices.

14. Section 73.618 is added to read as follows:

**§ 73.618 Antenna location and principal community coverage.**

(a) The TV antenna location shall be chosen so that, on the basis of the effective radiated power (ERP) and antenna height above average terrain (HAAT) employed, the following minimum F(50,90) field strength in dB above one uV/m will be provided over the entire principal community to be served:

Table 1 to paragraph (a)- Minimum field strength required over principal community.

Channels 2-6 35 dBu.

Channels 7-13 43 dBu.

Channels 14-36 48 dBu.

(b) The location of the antenna must be so chosen that there is not a major obstruction in the path over the principal community to be served.

(c) For the purposes of this section, coverage is to be determined in accordance with § 73.619(b). Under actual conditions, the true coverage may vary from these estimates because the terrain over any specific path is expected to be different from the average terrain on which the field strength charts were based. Further, the actual extent of service will usually be less than indicated by these estimates due to interference from other stations. Because of these factors, the predicted field strength contours give no assurance of service to any specific percentage of receiver locations within the distances indicated.

15. Section 73.619 is added to read as follows:

**§ 73.619 Contours and service areas.**

(a) *Purposes of the field strength contours.* The field strength contours will be considered for the following purposes only:

- (1) In the estimation of coverage resulting from the selection of a particular transmitting antenna site by an applicant for a TV station.
- (2) In connection with problems of coverage arising out of application of § 73.3555.
- (3) In determining compliance with § 73.618(a) concerning the minimum field strength to be provided over the principal community to be served.

(b) *Determining coverage.* (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 DTV 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.

(2)(i) The effective radiated power to be used is that radiated at the vertical angle corresponding to the depression angle between the transmitting antenna center of radiation and the radio horizon as determined individually for each azimuthal direction concerned. The depression angle is based on the difference in elevation of the antenna center of radiation above the average terrain and the radio horizon, assuming a smooth spherical earth with a radius of 8,495.5 kilometers (5,280 miles) and shall be determined by the following equation:

Equation 1 to paragraph (b)(2)(i)

$$A = 0.0277 \times \sqrt{H}$$

Where:

A is the depression angle in degrees.

H is the height in meters of the transmitting antenna radiation center above average terrain of the 3.2-16.1 kilometers (2-10 miles) sector of the pertinent radial.

(ii) This equation is empirically derived for the limited purpose specified here of determining distance to filed strength contours for coverage. Its use for any other purpose may be inappropriate.

(3) Applicants for new TV stations or changes in the facilities of existing TV stations must submit to the FCC a showing as to the location of their stations' or proposed stations' contour. This showing is to include a map showing this contour, except where applicants have previously submitted material to the FCC containing such information and it is found upon careful examination that the contour locations indicated therein would not change, on any radial, when the locations are determined under this section. In the latter cases, a statement by a qualified engineer to this effect will satisfy this requirement and no contour maps need be submitted.

(4) The antenna height to be used with these charts is the height of the radiation center of the antenna above the average terrain along the radial in question. In determining the average elevation of the terrain, the elevations between 3.2-16.1 kilometers (2-10 miles) from the antenna site are employed. Path profiles shall be determined for 8 radials beginning at the antenna site and extending 16.1 kilometers (10 miles) therefrom. The radials should be determined for each 45 degrees of azimuth starting with True North. 10 points per kilometer of elevation (uniformly spaced) should be used for each radial. It is not necessary to take the curvature of the earth into consideration in this procedure, as this factor is taken care of in the charts showing signal strengths. The average elevation of the 12.9 kilometer (8 miles) distance between 3.2-16.1 kilometers (2-10 miles) from the antenna site should then be determined from the path profile for each radial. In directions where the terrain is such that negative antenna heights or heights below 30.5 meters (100 feet) for the 3.2 to 16.1 kilometers (2 to



10 mile) sector are obtained, an assumed height of 30.5 meters (100 feet) shall be used for the prediction of coverage. Actual calculated values should be used for computation of height above average terrain.

(5) In the preparation of the path profiles previously described, and in determining the location and height above sea level of the antenna site, the elevation or contour intervals shall be taken from a high quality bald earth terrain map or dataset such as the United States Geological Survey Topographic Quadrangle Maps or the National Elevation Dataset. If a dataset is used, the data must be processed for intermediate points along each radial using linear interpolation techniques.

(6) It is anticipated that many of these calculations may be done using computer software and with computerized datasets. If software or datasets besides those officially adopted by the FCC are utilized, the alternate software or data must be identified.

(c) *TV Service Areas.* (1) The service area of a TV station is the geographic area within the station's noise-limited F(50,90) contour where its signal strength is predicted to exceed the noise-limited service level. The noise-limited contour is the area in which the predicted F(50,90) field strength of the station's signal, in dB above 1 microvolt per meter (dBu) as determined using the method in § 73.619(b) exceeds the following levels (these are the levels at which reception of TV service is limited by noise):

Table 1 to paragraph (c)(1)- Noise limited service levels.

	dBu
Channels 2-6	28
Channels 7-13	36
Channels 14-36	41

(2) Within this contour, service is considered available at locations where the station's signal strength, as predicted using the terrain dependent Longley-Rice point-to-point propagation model, exceeds the levels above. Guidance for evaluating coverage areas using the Longley-Rice methodology is provided in *OET Bulletin No. 69*. For availability of OET Bulletin No. 69 (which is incorporated by reference elsewhere in this part), contact FCC (see § 73.8000 for contact information).

(d) *Protected facilities of an allotment.* The protected facilities of a TV allotment shall be the facilities (effective radiated power, antenna height and antenna directional radiation pattern, if any) authorized by a construction permit or license, or, where such an authorization is not available for establishing reference facilities, the facilities designated in the FCC order creating or modifying the Table of TV Allotments.

16. Section 73.620 is added to read as follows:

**§ 73.620 Interference calculation and protection of TV broadcast services.**

(a) Due to the frequency spacing that exists between Channels 4 and 5, between Channels 6 and 7, and between Channels 13 and 14, the minimum adjacent channel technical criteria specified in this section shall not be applicable to these pairs of channels (see § 73.603(a)).

(b) Interference is to be predicted based on the procedures found in § 73.616(d)(1).

(c) An application will not be accepted if it is predicted to cause interference to more than an additional 0.5 percent of the population served by another TV station. For this purpose, the population served by the station receiving additional interference does not include portions of the population within the noise-limited service contour of that station that are predicted to receive interference from the TV allotment facilities of the applicant or portions of that population receiving masking interference from any other station.

(d) A petition to add a new channel to the TV Table or any application to modify an existing TV station or allotment will not be accepted if it is predicted to cause more than 0.5 percent new interference, consistent with paragraphs (a) and (b) of this section, to a Class A TV station authorized pursuant to subpart J of this part, within the protected contour defined in § 73.6010.

(e) Negotiated agreements on interference. TV stations may operate with increased effective radiated power (ERP) and/or antenna height above average terrain (HAAT) that would result in more than 0.5 percent additional interference to another TV station if that station agrees, in writing, to accept the additional interference. Such agreements must be submitted with the application for authority to construct or modify the affected TV station. Negotiated agreements under this paragraph can include

the exchange of money or other considerations from one station to another, including payments to and from noncommercial television stations assigned to reserved channels. Applications submitted pursuant to the provisions of this paragraph will be granted only if the Commission finds that such action is consistent with the public interest.

(f) The interference protection requirements contained in this section apply to television station operations under both the TV transmission standard in § 73.682(d) and the Next Gen TV transmission standard in § 73.682(f).

17. Section 73.621 is amended by removing and reserving paragraphs (g) and (h) and revising paragraph (j).

**§ 73.621 Noncommercial educational TV stations.**

\* \* \* \* \*

(g) [Reserved]

(h) [Reserved]

\* \* \* \* \*

(j) The requirements of this section apply to the entire digital bitstream of noncommercial educational television stations, including the provision of ancillary or supplementary services.

18. Revise § 73.622 to read as follows:

**§ 73.622 Table of TV allotments.**

(a) *General.* The following table of TV allotments contains the television channel allotments designated for the listed communities in the United States, its Territories, and possessions. Requests for addition of new TV allotments, or requests to change the channels allotted to a community, must be made in a petition for rule making to amend the Table of TV Allotments. A request to amend the Table of TV Allotments to add an allotment or change the channel of an allotment in the Table will be evaluated for technical acceptability using engineering criteria set forth in §§ 73.617, 73.618, and 73.620. A request to amend the TV table to add a new allotment will be evaluated for technical acceptability using the geographic spacing criteria set forth in § 73.622(k) and the engineering criteria set forth in §§ 73.614,

73.617, 73.618, and 73.620(a) and (d). TV allotments designated with an asterisk are assigned for use by non-commercial educational broadcast stations only. Rules governing noncommercial educational TV stations are contained in § 73.621.

(b) [Reserved]

(c) [Reserved]

(d) *Reference points and distance computations.* The reference coordinates of a TV allotment shall be the coordinates of the authorized facility. Where such a transmitter site is not available for use as reference coordinates, such as a new allotment, the coordinates shall be those designated in the FCC order modifying the Table of TV Allotments.

(e) [Reserved]

(f) [Reserved]

(g) [Reserved]

(h) [Reserved]

(i) [Reserved]

(j) *Table of TV Allotments.*

<i>Community</i>	<i>Channel No.</i>
------------------	--------------------

\* \* \* \* \*

*Tulsa*            *8, \*11, 12, 14, 16, 22, 26, 34*

\* \* \* \* \*

(k) *Minimum geographic spacing requirements for new TV allotments.* No petition to add a new channel to the Table of TV Allotments will be accepted unless it shows compliance with the requirements of this paragraph.

(1) Requests filed pursuant to this paragraph must demonstrate compliance with the principal community coverage requirements of § 73.618.

(2) Requests filed pursuant to this paragraph must meet the following requirements for geographic spacing with regard to all other TV stations and allotments:

(i) For VHF channels 2-13 in Zone I, co-channel allotments must be separated by 244.6 km, and no adjacent-channel allotments are permitted between 20 km and 110 km.

(ii) For UHF channels 14-36 in Zone I, co-channel allotments must be separated by 196.3 km, and no adjacent-channel allotments are permitted between 24 km and 110 km.

(iii) For VHF channels 2-13 in Zones II and III, co-channel allotments must be separated by 273.6 km, and no adjacent-channel allotments are permitted between 23 km and 110 km.

(iv) For UHF channels 14-36 in Zones II and III, co-channel allotments must be separated by 223.7 km, and no adjacent-channel allotments are permitted between 24 km and 110 km.

(3) Zones are defined in § 73.609. The minimum distance separation between a TV station in one zone and TV station in another zone shall be that of the zone requiring the lower separation.

(4) Due to the frequency spacing that exists between Channels 4 and 5, between Channels 6 and 7, and between Channels 13 and 14, the minimum geographic spacing requirements specified in paragraph (k)(2) of this section shall not be applicable to these pairs of channels (§ 73.603(a)).

19. Revise § 73.623 to read as follows:

**§ 73.623 TV application processing.**

(a) *General.* Applications for new TV broadcast stations or for changes in authorized TV stations filed pursuant to this section will not be accepted for filing if they fail to comply with the requirements of this section and §§ 73.614, 73.617, 73.618, and 73.620.

(b) *Availability of channels.* Applications may be filed to construct TV broadcast stations only on the channels designated in the Table of TV Allotments set forth in § 73.622(j), and only in the communities listed therein. Applications that fail to comply with this requirement, whether or not accompanied by a petition to amend the TV Table, will not be accepted for filing.

(c) through (g) [Reserved]

(h) *TV application processing priorities.*

- 
- (1) [Reserved]
- (2) TV applications for a construction permit or a modified construction permit:
- (i) Shall be afforded the interference protection set forth in § 73.620:
    - (A) through (C) [Reserved]
    - (D) By later-filed TV applications; and
    - (E) By later-filed rulemaking petitions to amend the Table of TV Allotments;
  - (ii) Must demonstrate the requisite interference protection set forth in § 73.620 to:
    - (A) TV licensed stations;
    - (B) TV construction permits;
    - (C) Earlier-filed TV applications;
    - (D) Existing TV allotments;
    - (E) Rulemaking petitions to amend the Table of TV Allotments for which a Notice of Proposed Rule Making has been released and the comment deadline specified therein has passed prior to the filing date of the TV application;
    - (F) through (J) [Reserved]
  - (iii) That do not provide the requisite interference protection set forth § 73.620 to the following applications and petitions will be deemed mutually exclusive with those applications and petitions:
    - (A) Other TV applications filed the same day;
    - (B) Rulemaking petitions to amend the Table of TV Allotments for which a Notice of Proposed Rule Making had been released and the comment deadline specified therein had not passed prior to the filing date of the TV application; and
    - (C) Earlier-filed rulemaking petitions to amend the Table of TV Allotments for which a Notice of Proposed Rule Making had not been released.
- (3) TV applicants and TV rulemaking petitioners that are mutually exclusive pursuant to this section will be notified by Public Notice and provided with a 90-day period of time to resolve their mutual exclusivity via engineering amendment or settlement. Those applications and petitions that remain

mutually exclusive upon conclusion of the 90-day settlement period will be dismissed.

20. Revise § 73.624 to read as follows:

**§ 73.624 Television broadcast stations.**

- (a) Television broadcast stations are assigned channels 6 MHz wide.
- (b) Minimum programming requirements. The TV service that is provided pursuant to this paragraph (b) must have a resolution of at least 480i (vertical resolution of 480 lines, interlaced).
  - (1) TV licensees or permittees that broadcast in ATSC 1.0 (using the transmission standard in 73.682(d)) shall transmit at least one free over the air video program signal at no direct charge to viewers.
  - (2) [Reserved]
  - (3) TV licensees or permittees that choose to broadcast an ATSC 3.0 signal (using the Next Gen TV transmission standard in § 73.682(f)) shall transmit at least one free over the air video programming stream on that signal that requires at most the signal threshold of a comparable received TV signal. TV licensees or permittees that choose to broadcast an ATSC 3.0 signal (using the Next Gen TV transmission standard in § 73.682(f)) shall also simulcast the primary video programming stream on its ATSC 3.0 signal by broadcasting an ATSC 1.0 signal (using the TV transmission standard in § 73.682(d)) from another broadcast television facility within its local market in accordance with the local simulcasting requirement in § 73.3801 and § 73.6029 and § 74.782 of this chapter.
- (c) Provided that TV broadcast stations comply with paragraph (b) of this section, TV broadcast stations are permitted to offer services of any nature, consistent with the public interest, convenience, and necessity, on an ancillary or supplementary basis. The kinds of services that may be provided include, but are not limited to computer software distribution, data transmissions, teletext, interactive materials, aural messages, paging services, audio signals, subscription video, and any other services that do not derogate TV broadcast stations' obligations under paragraph (b) of this section. Such services may be provided on a broadcast, point-to-point or point-to-multipoint basis, provided, however, that any video broadcast signal provided at no direct charge to viewers shall not be considered ancillary or

supplementary.

(1) TV licensees that provide ancillary or supplementary services that are analogous to other services subject to regulation by the Commission must comply with the Commission regulations that apply to those services, provided, however, that no ancillary or supplementary service shall have any rights to carriage under §§ 614 or 615 of the Communications Act of 1934, as amended, or be deemed a multichannel video programming distributor for purposes of section 628 of the Communications Act of 1934, as amended.

(2) In all arrangements entered into with outside parties affecting service operation, the TV licensee or permittee must retain control over all material transmitted in a broadcast mode via the station's facilities, with the right to reject any material in the sole judgement of the permittee or licensee. The licensee or permittee is also responsible for all aspects of technical operation involving such telecommunications services.

(3) In any application for renewal of a broadcast license for a television station that provides ancillary or supplementary services, a licensee shall establish that all of its program services are in the public interest. Any violation of the Commission's rules applicable to ancillary or supplementary services will reflect on the licensee's qualifications for renewal of its license.

(d) through (f) [Reserved]

(g) Commercial TV licensees and permittees, and low power television, TV translator, and Class A licensees and permittees, must annually remit a fee of 5 percent of the gross revenues derived from all ancillary and supplementary services, as defined by paragraph (c) of this section, which are feeable, as defined in paragraphs (g)(1)(i) and (ii) of this section. Noncommercial TV licensees and permittees must annually remit a fee of 5 percent of the gross revenues derived from all ancillary and supplementary services, as defined by paragraph (c) of this section, which are feeable, as defined in paragraphs (g)(1)(i) and (ii) of this section, except that such licensees and permittees must annually remit a fee of 2.5 percent of the gross revenues from such ancillary or supplementary services which are nonprofit, noncommercial, and educational.



(1) (i) All ancillary or supplementary services for which payment of a subscription fee or charge is required in order to receive the service are feeable. The fee required by this provision shall be imposed on any and all revenues from such services, including revenues derived from subscription fees and from any commercial advertisements transmitted on the service.

(ii) Any ancillary or supplementary service for which no payment is required from consumers in order to receive the service is feeable if the TV licensee directly or indirectly receives compensation from a third party in return for the transmission of material provided by that third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required). The fee required by this provision shall be imposed on any and all revenues from such services, other than revenues received from a third party in return for the transmission of commercial advertisements used to support broadcasting for which a subscription fee is not required.

(2) *Payment of fees.*

(i) Each December 1, all commercial and noncommercial TV licensees and permittees that provided feeable ancillary or supplementary services as defined in this section at any point during the 12-month period ending on the preceding September 30 will electronically report, for the applicable period:

(A) A brief description of the feeable ancillary or supplementary services provided;

(B) Gross revenues received from all feeable ancillary and supplementary services provided during the applicable period; and

(C) The amount of bitstream used to provide feeable ancillary or supplementary services during the applicable period. Licensees and permittees will certify under penalty of perjury the accuracy of the information reported. Failure to file information required by this section may result in appropriate sanctions.

(ii) A commercial or noncommercial TV licensee or permittee that has provided feeable ancillary or supplementary services at any point during a 12-month period ending on September 30 must

additionally file the FCC's standard remittance form (Form 159) on the subsequent December 1. Licensees and permittees will certify the amount of gross revenues received from feeable ancillary or supplementary services for the applicable 12-month period and will remit the payment of the required fee.

(iii) The Commission reserves the right to audit each licensee's or permittee's records which support the calculation of the amount specified on line 23A of Form 159. Each licensee or permittee, therefore, is required to retain such records for three years from the date of remittance of fees.

21. Amend § 73.625 by:

- a. Revising the section heading;
- b. Removing and reserving paragraphs (a) through (b);
- c. Revising paragraphs (c)(3)(ii) and (v);
- d. Adding paragraphs (c)(3)(vii) and (viii);
- e. Revising paragraphs (c)(4)(i) and (ii);
- f. Adding paragraph (c)(4)(iii);
- g. Revising paragraph (c)(5); and
- h. Adding paragraph (d).

The revisions and additions read as follows:

**§ 73.625 TV antenna system.**

(a) through (b) [Reserved]

(c) \* \* \*

\* \* \* \* \*

(3) \* \* \*

(ii) Relative field azimuth plane pattern (patterns for both horizontal and vertical polarization should be included if elliptical or circular polarization is used consistent with paragraph (d) of this section) of the proposed directional antenna. A value of 1.0 should be used for the maximum radiation in the horizontal polarization. The plot of the pattern should be oriented so that 0 degrees

corresponds to true North. Where mechanical beam tilt is intended, the amount of tilt in degrees of the antenna vertical axis and the orientation of the downward tilt with respect to true North must be specified, and a tabulation of the elevation pattern included consistent with paragraph (c)(3)(vii) of this section. A horizontal plane pattern reflecting the use of mechanical beam tilt may be requested if required to facilitate international coordination.

\* \* \* \* \*

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

\* \* \* \* \*

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

(viii) If a matrix pattern is submitted in the application form, similar tabulations shall be provided as necessary in the form of a spreadsheet to accurately represent the pattern.

(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 301, or FCC Form 340 for a noncommercial educational station) 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.

(ii) When the proposed TV antenna is to be mounted on a tower in the vicinity of an AM station directional antenna system and it appears that the operation of the directional antenna system may be affected, an engineering study must be filed with the TV application concerning the effect of the TV antenna on the AM directional radiation pattern. Field measurements of the AM stations may be

required prior to and following construction of the TV station antenna, and readjustments made as necessary.

(iii) In any case, where the TV licensee or permittee proposes to mount its antenna on or near an AM tower, as defined in § 1.30002, the TV licensee or permittee must comply with § 1.30002 or § 1.30003, as applicable.

(5) Applications proposing the use of electrical beam tilt must be accompanied by the following:

\* \* \* \* \*

(d) It shall be standard to employ horizontal polarization. However, circular or elliptical polarization may be employed if desired, in which case clockwise (right hand) rotation, as defined in the IEEE Standard Definition 42A65-3E2, and transmission of the horizontal and vertical components in time and space quadrature shall be used. For either omnidirectional or directional antennas the licensed effective radiated power of the vertically polarized component may not exceed the licensed effective radiated power of the horizontally polarized component. For directional antennas, the maximum effective radiated power of the vertically polarized component shall not exceed the maximum effective radiated power of the horizontally polarized component in any specified horizontal or vertical direction.

22. Section 73.626 is amended by revising the section heading and paragraphs (a), (b), (c)(1), (2), (d), (e), (f)(2), (f)(2)(i) through (iii), (f)(4), (5), and (6) to read as follows:

**§ 73.626 TV distributed transmission systems.**

(a) *Distributed transmission systems.* A TV 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, TV stations operating a DTS facility must comply with all rules applicable to TV single-transmitter stations.

(b) *Authorized service area.* For purposes of compliance with this section, a station's "authorized service area" is defined as the area within its predicted noise-limited service contour determined using the facilities authorized for the station in a license or construction permit for non-DTS, single-

transmitter-location operation (its “authorized facility”).

(c) \* \* \*

(1) TV station zones are defined in § 73.609.

(2) *DTS reference point.* A station's DTS reference point is established in the FCC Order that created or made final modifications to the Table of TV Allotments, § 73.622(j), and the corresponding facilities for the station's channel assignment as set forth in that FCC Order.

(d) *Determining DTS coverage.* The coverage for each DTS transmitter is determined based on the F(50,90) field strength given in the Table of Distances (in paragraph (c) of this section), calculated in accordance with § 73.619(b). The combined coverage of a DTS station is the logical union of the coverage of all DTS transmitters.

(e) *DTS protection from interference.* A DTS station must be protected from interference in accordance with the criteria specified in § 73.620. To determine compliance with the interference protection requirements of § 73.620, the population served by a DTS station shall be the population within the station's combined coverage contour, excluding the population in areas that are outside both the TV station's authorized service area and the Table of Distances area (in paragraph (c) of this section). Only population that is predicted to receive service by the method described in § 73.619(c)(2) from at least one individual DTS transmitter will be considered.

(f) \* \* \*

\* \* \* \* \*

(2) Each DTS transmitter's coverage is contained within either the TV station's Table of Distances area (pursuant to paragraph (c) of this section) or its authorized service area, except where such extension of coverage meets the following criteria:

(i) In no event shall the F(50,50) service contour of any DTS transmitter extend beyond that of its authorized facility and its Table of Distances F(50,50) area; and

(ii) In no event shall the F(50,10) node-interfering contour of any DTS transmitter, aside from one located at the site of its authorized facility, extend beyond the F(50,10) reference-interfering

contour of its authorized facility and its Table of Distances F(50,10) reference area; and

(iii) In no event shall the F(50,10) reference-interfering contour of a facility located at the site of its authorized facility extend beyond the F(50,10) reference-interfering contour of its authorized facility;

\* \* \* \* \*

(4) The coverage from one or more DTS transmitter(s) is shown to provide principal community coverage as required in § 73.618;

(5) The “combined field strength” of all the DTS transmitters in a network does not cause interference to another station in excess of the criteria specified in § 73.620, where the combined field strength level is determined by a “root-sum-square” calculation, in which the combined field strength level at a given location is equal to the square root of the sum of the squared field strengths from each transmitter in the DTS network at that location.

(6) Each DTS transmitter must be located within either the TV station's Table of Distances area or its authorized service area.

\* \* \* \* \*

**§ 73.641 [Removed]**

23. Remove § 73.641.

**§ 73.642 [Removed]**

24. Remove § 73.642.

**§ 73.643 [Removed]**

25. Remove § 73.643.

**§ 73.644 [Removed]**

26. Remove § 73.644.

**§ 73.646 [Removed]**

27. Remove § 73.646.

**§ 73.653 [Removed]**

28. Remove § 73.653.

29. Revise § 73.664 to read as follows:

**§ 73.664 Determining operating power.**

(a) *Required method.* The operating power of each TV transmitter shall normally be determined by the direct method.

(b) *Direct method.* The direct method of power determination for a TV transmitter uses the indications of a calibrated transmission line meter located at the RF output terminals of the transmitter. The indications of the calibrated meter are used to observe and maintain the authorized operating power of the transmitter. This meter must be calibrated whenever any component in the metering circuit is repaired or replaced and as often as necessary to ensure operation in accordance with the provisions of § 73.1560. The following calibration procedures are to be used:

(1) The transmission line meter is calibrated by measuring the average power at the output terminals of the transmitter, including any filters which may be used in normal operation. For this determination the average power output is measured while operating into a dummy load of substantially zero reactance and a resistance equal to the transmission line characteristic impedance.

(2) If electrical devices are used to determine the output power, such devices must permit determination of this power to within an accuracy of  $\pm 5\%$  of the power indicated by the full scale reading of the electrical indicating instrument of the device. If temperature and coolant flow indicating devices are used to determine the power output, such devices must permit determination of this power to within an accuracy of  $\pm 4\%$  of measured average power output. During this measurement the input voltage and current to the final radio frequency amplifier stage and the transmission line meter are to be read and compared with similar readings taken with the dummy load replaced by the antenna. These readings must be in substantial agreement.

(3) The meter must be calibrated with the transmitter operating at 80%, 100%, and 110% of the authorized power as often as may be necessary to maintain its accuracy and ensure correct transmitter operating power. In cases where the transmitter is incapable of operating at 110% of the authorized

power output, the calibration may be made at a power output between 100% and 110% of the authorized power output. However, where this is done, the output meter must be marked at the point of calibration of maximum power output, and the station will be deemed to be in violation of this rule if that power is exceeded. The upper and lower limits of permissible power deviation as determined by the prescribed calibration, must be shown upon the meter either by means of adjustable red markers incorporated in the meter or by red marks placed upon the meter scale or glass face. These markings must be checked and changed, if necessary, each time the meter is calibrated.

(c) *Indirect method.* The operating power is determined by the indirect method by applying an appropriate factor to the input power to the final radio-frequency amplifier stage of the transmitter using the following formula:

Formula 1 to introductory text of paragraph (c)

$$\text{Transmitter output power} = E_p \times I_p \times F$$

Where:

$E_p$  = DC input voltage of the final radio-frequency amplifier stage.

$I_p$  = DC input current of the final radio-frequency amplifier stage.

$F$  = Efficiency factor.

(1) If the above formula is not appropriate for the design of the transmitter final amplifier, use a formula specified by the transmitter manufacturer with other appropriate operating parameters.

(2) The value of the efficiency factor,  $F$  established for the authorized transmitter output power is to be used for maintaining the operating power, even though there may be some variation in  $F$  over the power operating range of the transmitter.

(3) The value of  $F$  is to be determined and a record kept thereof by one of the following procedures listed in order of preference:

(i) Using the most recent measurement data for calibration of the transmission line meter according to the procedures described in paragraph (b) of this section or the most recent measurements made by the licensee establishing the value of  $F$ . In the case of composite transmitters or those in which the



final amplifier stages have been modified pursuant to FCC approval, the licensee must furnish the FCC and also retain with the station records the measurement data used as a basis for determining the value of F.

(ii) Using measurement data shown on the transmitter manufacturer's test data supplied to the licensee, provided that measurements were made at the authorized channel and transmitter output power.

(iii) Using the transmitter manufacturer's measurement data.

**§ 73.665 [Removed]**

30. Remove § 73.665.

**§ 73.667 [Removed]**

31. Remove § 73.667.

**§ 73.669 [Removed]**

32. Remove § 73.669.

33. Revise § 73.681 to read as follows:

**§ 73.681 Definitions.**

*Antenna electrical beam tilt.* The shaping of the radiation pattern in the vertical plane of a transmitting antenna by electrical means so that maximum radiation occurs at an angle below the horizontal plane.

*Antenna height above average terrain.* The average of the antenna heights above the terrain from approximately 3.2 (2 miles) to 16.1 kilometers (10 miles) from the antenna for the eight directions spaced evenly for each 45 degrees of azimuth starting with True North. (In general, a different antenna height will be determined in each direction from the antenna. The average of these various heights is considered the antenna height above the average terrain. Where circular or elliptical polarization is employed, the antenna height above average terrain shall be based upon the height of the radiation center of the antenna which transmits the horizontal component of radiation.

*Antenna mechanical beam tilt.* The intentional installation of a transmitting antenna so that its axis is not vertical, in order to change the normal angle of maximum radiation in the vertical plane.

*Antenna power gain.* The square of the ratio of the root-mean-square free space field strength produced at 1 kilometer in the horizontal plane, in millivolts per meter for one kW antenna input power to 221.4 mV/m. This ratio should be expressed in decibels (dB). (If specified for a particular direction, antenna power gain is based on the field strength in that direction only.)

*Aspect ratio.* The ratio of picture width to picture height as transmitted.

*Auxiliary facility.* An auxiliary facility is an antenna separate a from the main facility's antenna, permanently installed on the same tower or at a different location, from which a station may broadcast for short periods without prior Commission authorization or notice to the Commission while the main facility is not in operation (e.g., where tower work necessitates turning off the main antenna or where lightning has caused damage to the main antenna or transmission system) (*See* § 73.1675).

*Effective radiated power.* The product of the antenna input power and the antenna power gain. This product should be expressed in kW and in dB above 1 kW (dBk). (If specified for a particular direction, effective radiated power is based on the antenna power gain in that direction only. The licensed effective radiated power is based on the maximum antenna power gain. When a station is authorized to use a directional antenna or an antenna beam tilt, the direction of the maximum effective radiated power will be specified.) Where circular or elliptical polarization is employed, the term effective radiated power is applied separately to the horizontally and vertically polarized components of radiation. For assignment purposes, only the effective radiated power authorized for the horizontally polarized component will be considered.

*Equivalent isotropically radiated power (EIRP).* The term “equivalent isotropically radiated power” (also known as “effective radiated power above isotropic”) means the product of the antenna input power and the antenna gain in a given direction relative to an isotropic antenna.

*Free space field strength.* The field strength that would exist at a point in the absence of waves reflected from the earth or other reflecting objects.

*Interlaced scanning.* A scanning process in which successively scanned lines are spaced an integral number of line widths, and in which the adjacent lines are scanned during successive cycles of the field

frequency.

*Polarization.* The direction of the electric field as radiated from the transmitting antenna.

*Standard television signal.* A signal which conforms to the television transmission standards.

*Synchronization.* The maintenance of one operation in step with another.

*Television broadcast band.* The frequencies in the band extending from 54 to 608 megahertz which are assignable to television broadcast stations. These frequencies are 54 to 72 megahertz (channels 2 through 4), 76 to 88 megahertz (channels 5 and 6), 174 to 216 megahertz (channels 7 through 13), and 470 to 608 megahertz (channels 14 through 36).

*Television broadcast station.* A station in the television broadcast band transmitting simultaneous visual and aural signals intended to be received by the general public.

*Television channel.* A band of frequencies 6 MHz wide in the television broadcast band and designated either by number or by the extreme lower and upper frequencies.

*Television transmission standards.* The standards which determine the characteristics of a television signal as radiated by a television broadcast station.

*Television transmitter.* The radio transmitter or transmitters for the transmission of both visual and aural signals.

*Vestigial sideband transmission.* A system of transmission wherein one of the generated sidebands is partially attenuated at the transmitter and radiated only in part.

34. Amend § 73.682 by:

- a. Removing and reserving paragraphs (a) through (c);
- b. Revising paragraph (d);
- c. Adding paragraph (e)(7); and
- d. Removing the Note to § 73.682.

The revisions and addition read as follows:

**§ 73.682 TV transmission standards.**

(a) through (c) [Reserved]

(d) *Broadcast television transmission standards.*

(1) Transmission of broadcast television signals shall comply with the standards (incorporated by reference, see § 73.8000) for such transmissions set forth in:

(i) ATSC A/52;

(ii) ATSC A/53, Parts 1-4 and 6: 2007 and ATSC A/53 Part 5:2010; and

(iii) ATSC A/65C.

(2) Although not incorporated by reference, licensees may also consult:

(i) ATSC A/54A: “Recommended Practice: Guide to Use of the ATSC Digital Television Standard, including Corrigendum No. 1,” (December 4, 2003, Corrigendum No. 1 dated December 20, 2006, and

(ii) ATSC A/69: “Recommended Practice PSIP Implementation Guidelines for Broadcasters,” (June 25, 2002).

(3) For availability of this material, contact ATSC (see § 73.8000 for contact information).

(e) \* \* \*

(7) For additional information regarding this requirement, *see* Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act, FCC 11-182.

\* \* \* \* \*

35. Amend § 73.683 by:

a. Revising the section heading and paragraph (a);

b. Removing and reserving paragraphs (b) and (c); and

c. Revising paragraph (d).

The revisions read as follows:

**§ 73.683 Presumptive determination of field strength at individual locations.**

(a) See § 73.619(c). For purposes of the cross-reference from § 90.307(b), the Grade B contour is defined as the F(50,50) contour at 64 dBu.

(b) through (c) [Reserved]

(d) For purposes of determining the eligibility of individual households for satellite retransmission of distant network signals under the copyright law provisions of 17 U.S.C. 119(d)(10)(A), field strength shall be determined by the Individual Location Longley-Rice (ILLR) propagation prediction model. Such eligibility determinations shall consider only the signals of network stations located in the subscriber's Designated Market Area. Guidance for use of the ILLR model in predicting the field strength of television signals for such determinations is provided in OET Bulletin No. 73. For availability of OET Bulletin No. 73, contact FCC (see § 73.8000 for contact information).

\* \* \* \* \*

**§ 73.684 [Removed]**

36. Remove § 73.684.

**§ 73.685 [Removed]**

37. Remove § 73.685.

38. Amend § 73.686 by:

- a. Revising paragraphs (c)(1)(i);
- b. Removing and reserving paragraph (d); and
- c. Revising paragraph (e) introductory text.

The revisions read as follows:

**§ 73.686 Field strength measurements.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(i) The population (P) of the community, and its suburbs, if any, is determined by reference to the most recent official decennial U.S. Census population data as identified by the Media Bureau in a Public Notice. (See § 73.620(b)).

\* \* \* \* \*

(d) [Reserved]

(e) *Collection of field strength data to determine television signal intensity at an individual location - cluster measurements -*

\* \* \* \* \*

39. Amend § 73.687 by:

- a. Removing and reserving paragraphs (a) and (b);
- b. Revising paragraph (c) introductory text;
- c. Removing and reserving paragraph (c)(1); and
- d. Removing paragraph (e).

The revisions read as follows:

**§ 73.687 Transmission system requirements.**

(a) through (b) [Reserved]

(c) *Requirements applicable to transmitters.*

(1) [Reserved]

\* \* \* \* \*

(e) [Removed]

40. Section 73.688 is amended by revising paragraph (a) to read as follows:

**§ 73.688 Indicating instruments.**

(a) Each TV broadcast station shall be equipped with indicating instruments which conform with the specifications described in § 73.1215 for measuring the operating parameters of the last radio stage of the transmitter, and with such other instruments as are necessary for the proper adjustment, operation, and maintenance of the transmitting system.

\* \* \* \* \*

**§ 73.691 [Removed]**

41. Remove § 73.691.

**§ 73.698 [Removed]**

42. Remove § 73.698.

**§ 73.699 [Amended]**

43. Section 73.699 is amended by removing Figures 5, 5(a), 6, 7, 8, 11, 12, 16, and 17.

44. Section 73.1001 is amended to revise paragraph (c) to read as follows:

**§ 73.1001 Scope.**

\* \* \* \* \*

(c) Certain provisions of subpart H of this part apply to International Broadcast Stations (subpart F, part 73), LPFM (subpart G, part 73), and Low Power TV and TV Translator Stations (subpart G, part 74) where the rules for those services so provide.

\* \* \* \* \*

45. Revise § 73.1015 to read as follows:

**§ 73.1015 Truthful written statements and responses to Commission inquiries and correspondence.**

The Commission or its representatives may, in writing, require from any applicant, permittee, or licensee written statements of fact relevant to a determination whether an application should be granted or denied, or to a determination whether a license should be revoked, or to any other matter within the jurisdiction of the Commission, or, in the case of a proceeding to amend the Table of FM Allotments or Table of TV Allotments, require from any person filing an expression of interest, written statements of fact relevant to that allotment proceeding. Any such statements of fact are subject to the provisions of § 1.17 of this chapter.

46. Section 73.1020 is amended by revising paragraphs (a)(1)(i) and (ii), (2)(i) and (ii), (3)(1)(i) and (ii), (4)(1)(i) and (ii), (5)(1)(i) and (ii), (6)(1)(i) and (ii), (7)(1)(i) and (ii), (8)(1)(i) and (ii), (9)(1)(i) and (ii), (10)(1)(i) and (ii), (11)(1)(i) and (ii), (12)(1)(i) and (ii), (13)(1)(i) and (ii), (14)(1)(i) and (ii), (15)(1)(i) and (ii), (16)(1)(i) and (ii), (17)(1)(i) and (ii), (18)(1)(i) and (ii) and (b) to read as follows:

**§ 73.1020 Station license period.**

(a) \* \* \*

(1) \* \* \*

(i) Radio stations, October 1, 2027.

- (ii) Television stations, October 1, 2028.
- (2) \* \* \*
- (i) Radio stations, December 1, 2027.
  - (ii) Television stations, December 1, 2028.
- (3) \* \* \*
- (i) Radio stations, February 1, 2028.
  - (ii) Television stations, February 1, 2029.
- (4) \* \* \*
- (i) Radio stations, April 1, 2028.
  - (ii) Television stations, April 1, 2029.
- (5) \* \* \*
- (i) Radio stations, June 1, 2028.
  - (ii) Television stations, June 1, 2029.
- (6) \* \* \*
- (i) Radio stations, August 1, 2028.
  - (ii) Television stations, August 1, 2029.
- (7) \* \* \*
- (i) Radio stations, October 1, 2028.
  - (ii) Television stations, October 1, 2029.
- (8) \* \* \*
- (i) Radio stations, December 1, 2028.
  - (ii) Television stations, December 1, 2029.
- (9) \* \* \*
- (i) Radio stations, February 1, 2029.
  - (ii) Television stations, February 1, 2030.
- (10) \* \* \*



- (i) Radio stations, April 1, 2029.
  - (ii) Television stations, April 1, 2030.
- (11) \* \* \*
- (i) Radio stations, June 1, 2029.
  - (ii) Television stations, June 1, 2030.
- (12) \* \* \*
- (i) Radio stations, August 1, 2029.
  - (ii) Television stations, August 1, 2030.
- (13) \* \* \*
- (i) Radio stations, October 1, 2029.
  - (ii) Television stations, October 1, 2030.
- (14) \* \* \*
- (i) Radio stations, December 1, 2029.
  - (ii) Television stations, December 1, 2030.
- (15) \* \* \*
- (i) Radio stations, February 1, 2030.
  - (ii) Television stations, February 1, 2031.
- (16) \* \* \*
- (i) Radio stations, April 1, 2030.
  - (ii) Television stations, April 1, 2031.
- (17) \* \* \*
- (i) Radio stations, June 1, 2030.
  - (ii) Television stations, June 1, 2031.
- (18) \* \* \*
- (i) Radio stations, August 1, 2030.
  - (ii) Television stations, August 1, 2031.

(b) For the deadline for filing petitions to deny renewal applications, see § 73.3516(e).

\* \* \* \* \*

47. Section 73.1030 is amended by revising paragraphs (a)(1) and (b)(2) to read as follows:

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

(a) \*\*\*

(1) *Radio astronomy and radio research installations.* In order to minimize harmful interference at the National Radio Astronomy Observatory site located at Green, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory at Sugar Grove, Pendleton County, West Virginia, a licensee proposing to operate a short-term broadcast auxiliary station pursuant to § 74.24 of this chapter, and any applicant for authority to construct a new broadcast station, or for authority to make changes in the frequency, power, antenna height, or antenna directivity of an existing station within the area bounded by 39°15' N on the north, 78°30' W on the east, 37°30' N on the south, and 80°30' W on the west, shall notify the Interference Office, National Radio Astronomy Observatory, P.O. Box 2, Green Bank, West Virginia 24944. Telephone: (304) 456-2011; E-mail: nrqz@nrao.edu. \* \* \*

\* \* \* \* \*

(b) \* \* \*

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Institute for Telecommunication Sciences, 325 Broadway, Boulder, CO 80305; telephone (303) 497-4220, e-mail frequencymanager@ntia.gov, in advance of filing their applications with the Commission.

48. Amend § 73.1201 by:

- a. Revising paragraph (b)(1);
- b. Removing and reserving paragraph (d); and
- c. Adding paragraph (e):

The revisions and additions read as follows:

**§ 73.1201 Station identification.**

\* \* \* \* \*

(b) \* \* \*

(1) Official station identification shall consist of the station's call letters immediately followed by the community or communities specified in its license as the station's location; Provided, That the name of the licensee, the station's frequency, the station's channel number, as stated on the station's license, and/or the station's network affiliation may be inserted between the call letters and station location. TV stations, or DAB Stations, choosing to include the station's channel number in the station identification must use the station's major channel number and may distinguish multicast program streams. For example, a TV station with major channel number 26 may use 26.1 to identify an HDTV program service and 26.2 to identify an SDTV program service. A TV station that is devoting one of its multicast streams to transmit the programming of another television licensee must identify itself and may also identify the licensee that it is transmitting. If a TV station in this situation chooses to identify the station that is the source of the programming it is transmitting, it must use the following format: Station WYYY, community of license (call sign and community of license of the station whose multicast stream is transmitting the programming), bringing you WXXX, community of license (call sign and community of license of the licensee providing the programming). The transmitting station may insert between its call letters and its community of license the following information: the frequency of the transmitting station, the channel number of the transmitting station, the name of the licensee of the transmitting station and the licensee providing the programming, and/or the name of the network of either station. Where a multicast station is carrying the programming of another station and is identifying that station as the source of the programming, using the format described above, the identification may not include the frequency or channel number of the program source. A radio station operating in DAB hybrid mode or extended hybrid mode shall identify its digital signal, including any free multicast audio programming streams, in a manner that appropriately alerts its audience to the fact that it is listening to a digital audio broadcast. No other

insertion between the station's call letters and the community or communities specified in its license is permissible.

\* \* \* \* \*

(d) [Reserved]

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

(1) All TV and Class A TV stations shall transmit their assigned odd-numbered TSID.

(2) In ATSC 3.0, a similar value is used called a Bit Stream ID (BSID). Stations operating in ATSC 3.0 mode shall utilize their assigned even-numbered TSID as their BSID, consistent with paragraph (e)(1) of this section.

49. Section 73.1207 is amended by revising paragraph (b)(2) to read as follows:

**§ 73.1207 Rebroadcasts.**

\* \* \* \* \*

(b) \* \* \*

\*\*\*\*\*

(2) Permission must be obtained from the originating station to rebroadcast any subsidiary communications transmitted by means of a multiplex subcarrier.

\* \* \* \* \*

50. Section 73.1216 is amended by adding paragraphs (a)(1) through (3) and (d), and removing Notes 1, 2 and 3 to read as follows:

**§ 73.1216 Licensee-conducted contests.**

(a) \* \* \*

(1) A contest is a scheme in which a prize is offered or awarded, based upon chance, diligence, knowledge or skill, to members of the public;

(2) Material terms include those factors which define the operation of the contest and which affect participation therein. Although the material terms may vary widely depending upon the exact nature

of the contest, they will generally include: How to enter or participate; eligibility restrictions; entry deadline dates; whether prizes can be won; when prizes can be won; the extent, nature and value of prizes; basis for valuation of prizes; time and means of selection of winners; and/or tie-breaking procedures.

(3) In general, the time and manner of disclosure of the material terms of a contest are within the licensee's discretion. However, the obligation to disclose the material terms arises at the time the audience is first told how to enter or participate and continues thereafter.

\* \* \* \* \*

(d) This section is not applicable to licensee-conducted contests not broadcast or advertised to the general public or to a substantial segment thereof, to contests in which the general public is not requested or permitted to participate, to the commercial advertisement of non-licensee-conducted contests, or to a contest conducted by a non-broadcast division of the licensee or by a non-broadcast company related to the licensee.

51. Revise § 73.1217 to read as follows:

**§ 73.1217 Broadcast hoaxes.**

(a) No licensee or permittee of any broadcast station shall broadcast false information concerning a crime or a catastrophe if:

- (1) The licensee knows this information is false;
- (2) It is foreseeable that broadcast of the information will cause substantial public harm, and
- (3) Broadcast of the information does in fact directly cause substantial public harm.

(b) Any programming accompanied by a disclaimer will be presumed not to pose foreseeable harm if the disclaimer clearly characterizes the program as a fiction and is presented in a way that is reasonable under the circumstances.

(c) For purposes of this rule, "public harm" must begin immediately, and cause direct and actual damage to property or to the health or safety of the general public, or diversion of law enforcement or other public health and safety authorities from their duties. The public harm will be deemed foreseeable if the licensee

could expect with a significant degree of certainty that public harm would occur. A “crime” is any act or omission that makes the offender subject to criminal punishment by law. A “catastrophe” is a disaster or imminent disaster involving violent or sudden event affecting the public.

52. Section 73.1250 is amended by revising paragraph (e) to read as follows:

**§ 73.1250 Broadcasting emergency information.**

\* \* \* \* \*

(e) Immediately upon cessation of an emergency during which broadcast facilities were used for the transmission of point-to-point messages under paragraph (b) of this section, or when daytime facilities were used during nighttime hours by an AM station in accordance with paragraph (f) of this section, a report in letter form shall be forwarded to the FCC’s main office indicated in § 0.401(a) of this chapter setting forth the nature of the emergency, the dates and hours of the broadcasting of emergency information, and a brief description of the material carried during the emergency. A certification of compliance with the noncommercialization provision of paragraph (f) of this section must accompany the report where daytime facilities are used during nighttime hours by an AM station, together with a detailed showing, under the provisions of that paragraph, that no other broadcast service existed or was adequate.

\* \* \* \* \*

53. Section 73.1350 is amended by removing and reserving paragraph (f)(3) and revising paragraph (h) to read as follows:

**§ 73.1350 Transmission system operation.**

\* \* \* \* \*

(f) \*\*\*

(3) [Removed]

\* \* \* \* \*

(h) Whenever a transmission system control point is established at a location other than the main studio or transmitter, a letter of notification of that location must be sent to the FCC via a Change of Control

Point Notice in LMS within 3 days of the initial use of that point. The letter should include a list of all control points in use, for clarity. This notification is not required if responsible station personnel can be contacted at the transmitter or studio site during hours of operation.

\* \* \* \* \*

54. Section 73.1540 is amended by revising paragraph (a) to read as follows:

**§ 73.1540 Carrier frequency measurements.**

(a) The carrier frequency of each AM and FM station shall be measured or determined as often as necessary to ensure that they are maintained within the prescribed tolerances.

\* \* \* \* \*

**§ 73.1545 [Amended]**

55. Section 73.1545 is amended by removing and reserving paragraph (c), and removing paragraph (e) and the Note to paragraph (e).

56. Amend § 73.1560 by:

- a. Revising paragraphs (a)(1) and (c)(1);
- b. Removing and reserving paragraph (c)(2); and
- c. Revising paragraph (d).

The revisions read as follows:

**§ 73.1560 Operating power and mode tolerances.**

(a) \* \* \*

(1) Except for AM stations using modulation dependent carrier level (MDCL) control technology, or as provided for in paragraph (d) of this section, the antenna input power of an AM station, as determined by the procedures specified in § 73.51, must be maintained as near as practicable to the authorized antenna input power and may not be less than 90 percent nor greater than 105 percent of the authorized power. AM stations may, without prior Commission authority, commence MDCL control technology use, provided that within 10 days after commencing such operation, the licensee submits an electronic notification of commencement of MDCL control operation using FCC Form

2100 Schedule 338. The transmitter of an AM station operating using MDCL control technology, regardless of the MDCL control technology employed, must achieve full licensed power at some audio input level or when the MDCL control technology is disabled. MDCL control operation must be disabled before field strength measurements on the station are taken.

\* \* \* \* \*

(c) \* \* \*

(1) Except as provided in paragraph (d) of this section, the output power of a TV or Class A TV transmitter, as determined by the procedures specified in § 73.664, must be maintained as near as is practicable to the authorized transmitter output power and may not be less than 80% nor more than 110% of the authorized power.

(2) [Removed]

\* \* \* \* \*

(d) *Reduced power operation.* In the event it becomes technically impossible to operate at authorized power, a broadcast station may operate at reduced power for a period of not more than 30 days without specific authority from the FCC. If operation at reduced power will exceed 10 consecutive days, notification must be made to the FCC in a Reduced Power Notification via LMS, not later than the 10th day of the lower power operation. In the event that normal power is restored within the 30 day period, the licensee must notify the FCC of the date that normal operation was restored. If causes beyond the control of the licensee prevent restoration of the authorized power within 30 days, a request for Special Temporary Authority (see § 73.1635) must be made to the FCC via LMS for additional time as may be necessary.

#### **§ 73.1570 Modulation levels: AM and FM.**

57. Section 73.1570 is amended by revising the section heading to read as follows and removing and reserving paragraph (b)(3).

#### **§ 73.1590 [Amended]**

58. Section 73.1590 is amended by removing and reserving paragraphs (a)(5), (c)(1), and (3).



59. Section 73.1615 is amended by revising paragraphs (b)(3) and (c)(1) to read as follows:

**§ 73.1615 Operating during modification of facilities.**

\* \* \* \* \*

(b) \* \* \*

(3) Operate in a nondirectional mode during the presently licensed hours of directional operation with power reduced to 25% or less of the nominal licensed power, or whatever higher power, not exceeding licensed power, will insure that the radiated field strength specified by the license is not exceeded at any given azimuth for the corresponding hours of directional operation, or

\* \* \* \* \*

(c) \* \* \*

(1) Should it be necessary to continue the procedures in either paragraph (a) or (b) of this section beyond 30 days, a Silent STA application or an Engineering STA application must be filed via LMS.

\* \* \* \* \*

60. Section 73.1620 is amended by revising paragraphs (a)(1) through (3), and removing paragraphs (f) and (g) to read as follows:

**§ 73.1620 Program tests.**

(a) \* \* \*

(1) The permittee of a nondirectional AM or FM station, or a nondirectional or directional TV or Class A TV station, may begin program tests upon notification to the FCC in a "Program Test Authority" filing via LMS provided that within 10 days thereafter, an application for a license is filed with the FCC in Washington, DC. Television, Class A, TV translator, and low power television broadcast stations authorized on channel 14 must comply with § 73.617(b)(2)(ii).

(2) The permittee of an FM station with a directional antenna system must file an application for license on FCC Form 2100 Schedule 302-FM in LMS requesting authority to commence program test operations at full power. This license application must be filed at least 10 days prior to the date on which full power operations are desired to commence. The application for license must contain any

exhibits called for by conditions on the construction permit. The staff will review the license application and the request for program test authority and issue a letter notifying the applicant whether full power operation has been approved. Upon filing of the license application and related exhibits, and while awaiting approval of full power operation, the FM permittee may operate the directional antenna at one half (50%) of the authorized effective radiated power. Alternatively, the permittee may continue operation with its existing licensed facilities pending the issuance of program test authority at the full effective radiated power by the staff.

(3) FM licensees replacing a directional antenna pursuant to § 73.1690 (c)(2) without changes which require a construction permit (*see* § 73.1690(b)) may immediately commence program test operations with the new antenna at one half (50%) of the authorized ERP upon installation. If the directional antenna replacement is an EXACT duplicate of the antenna being replaced (*i.e.*, same manufacturer, antenna model number, and measured composite pattern), program tests may commence with the new antenna at the full authorized power upon installation. The licensee must file a modification of license application on FCC Form 2100 Schedule 302-FM within 10 days of commencing operations with the newly installed antenna, and the license application must contain all of the exhibits required by § 73.1690(c)(2). After review of the modification-of-license application to cover the antenna change, the Commission will issue a letter notifying the applicant whether program test operation at the full authorized power has been approved for the replacement directional antenna.

\* \* \* \* \*

(f) [Removed]

(g) [Removed]

61. Section 73.1635 is amended by revising paragraphs (a)(2), (3), and (5) to read as follows:

**§ 73.1635 Special temporary authorizations (STA).**

(a) \* \* \*

(2) The request is to be filed electronically in LMS using the “Engineering STA Application” and shall fully describe the proposed operation and the necessity for the requested STA. Such letter

requests shall be signed by the licensee or the licensee's representative.

(3) A request for a STA necessitated by unforeseen equipment damage or failure may be made without regard to the procedural requirements of this section (e.g. via e-mail or telephone). Any request made pursuant to this paragraph shall be followed by a written confirmation request conforming to the requirements of paragraph (a)(2) of this section. Confirmation requests shall be submitted within 24 hours. (See also § 73.1680 Emergency Antennas).

\* \* \* \* \*

(5) Certain rules specify special considerations and procedures in situations requiring an STA or permit temporary operation at variance without prior authorization from the FCC when notification is filed as prescribed in the particular rules. See § 73.62, Directional antenna system tolerances; § 73.157, Antenna testing during daytime; § 73.158, Directional antenna monitoring points; § 73.1250, Broadcasting emergency information; § 73.1350, Transmission system operation; § 73.1560, Operating power and mode tolerances; § 73.1570, Modulation levels: AM, and FM; § 73.1615, Operation during modification of facilities; § 73.1680, Emergency antennas; and § 73.1740, Minimum operating schedule.

\* \* \* \* \*

62. Section 73.1675 is amended by revising paragraphs (a)(1)(iii) and (b) to read as follows:

**§ 73.1675 Auxiliary antennas.**

(a) \*\*\*

(1) \* \* \*

(iii) TV stations: The noise limited contour as defined in §73.619(c).

\* \* \* \* \*

(b) An application for a construction permit to install a new auxiliary antenna, or to make changes in an existing auxiliary antenna for which prior FCC authorization is required (see § 73.1690), must be filed electronically in LMS using FCC Form 2100 (see § 73.3500 for Schedules) for AM, FM, and TV stations, or on FCC Form 2100, Schedule 340 for noncommercial educational FM stations.

\* \* \* \* \*

63. Section 73.1690 is amended by revising paragraphs (b) introductory text, (b)(3), and (c)(3) to read as follows:

**§ 73.1690 Modification of transmission systems.**

\* \* \* \* \*

(b) The following changes may be made only after the grant of a construction permit application on FCC Form 2100 (see § 73.3500 for Schedules) for AM, FM, and TV stations or Form 2100, Schedule 340 for noncommercial educational stations:

(3) Any change which would require an increase along any azimuth in the composite directional antenna pattern of an FM station from the composite directional antenna pattern authorized (see § 73.316), or any increase from the authorized directional antenna pattern for a TV broadcast (see § 73.625) or Class A TV station (see § 73.6025).

\* \* \* \* \*

(c) \* \* \*

(3) A directional TV on Channels 2 through 13 or 22 through 36 or a directional Class A TV on Channels 2 through 13 or 22 through 36, or a directional TV or Class A TV station on Channels 15 through 21 which is in excess of 341 km (212 miles) from a cochannel land mobile operation or in excess of 225 km (140 miles) from a first-adjacent channel land mobile operation (*see* § 74.709(a) and (b) of this chapter for tables of urban areas and reference coordinates of potentially affected land mobile operations), may replace a directional TV or Class A TV antenna by a license modification application, if the proposed horizontal theoretical directional antenna pattern does not exceed the licensed horizontal directional antenna pattern at any azimuth and where no change in effective radiated power will result. The modification of license application on Form 2100 (see § 73.3500 for Schedules) must contain all of the data set forth in § 73.625(c)(3) or § 73.6025(a), as applicable.

\* \* \* \* \*

64. Section 73.1740 is amended by revising paragraph (a)(4) to read as follows:

**§ 73.1740 Minimum operating schedule.**

(a) \* \* \*

(4) In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. A “Reduced Power” or “Suspension of Operation” Notification must be made via LMS not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30 day period, the licensee will so notify the FCC of this date. If the causes beyond the control of the licensee make it impossible to comply within the allowed period, informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary.

\* \* \* \* \*

65. Revise § 73.1750 to read as follows:

**§ 73.1750 Discontinuance of operation.**

The licensee of each station shall provide notification to the FCC in a “Cancellation Application” via LMS of the permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Attention: Audio Division (radio) or Video Division (television), Media Bureau, for cancellation. The license of any station that fails to transmit broadcast signals for any consecutive 12 month period expires as a matter of law at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary. If a licensee surrenders its license pursuant to an interference reduction agreement, and its surrender is contingent on the grant of another application, the licensee must identify in its notification the contingencies involved.

66. Section 73.2080 is amended by revising paragraphs (c)(6) and (f)(1) through (5) to read as follows:

**§ 73.2080 Equal employment opportunities (EEO).**

\* \* \* \* \*

(c) \* \* \*

(6) Annually, on the anniversary of the date a station is due to file its renewal application, the station shall place in its public file, maintained pursuant to § 73.3526 or § 73.3527, and on its web site, if it has one, an EEO public file report containing the following information (although if any broadcast licensee acquires a station pursuant to FCC Form 2100 Schedule 314 or FCC Form 2100 Schedule 315 during the twelve months covered by the EEO public file report, its EEO public file report shall cover the period starting with the date it acquired the station):

\* \* \* \* \*

(f) \* \* \*

(1) All broadcast stations, including those that are part of an employment unit with fewer than five full-time employees, shall file a Broadcast Equal Employment Opportunity Program Report (Form 2100 Schedule 396) with their renewal application. Form 2100 Schedule 396 is filed on the date the station is due to file its application for renewal of license. If a broadcast licensee acquires a station pursuant to FCC Form 2100 Schedule 314 or FCC Form 2100 Schedule 315 during the period that is to form the basis for the Form 2100 Schedule 396, information provided on its Form 2100 Schedule 396 should cover the licensee's EEO recruitment activity during the period starting with the date it acquired the station. Stations are required to maintain a copy of their Form 2100 Schedule 396 in the station's public file in accordance with the provisions of §§ 73.3526 and 73.3527.

(2) The Commission will conduct a mid-term review of the employment practices of each broadcast television station that is part of an employment unit of five or more full-time employees and each radio station that is part of an employment unit of eleven or more full-time employees, four years following the station's most recent license expiration date as specified in § 73.1020. If a broadcast licensee acquires a station pursuant to FCC Form 2100 Schedule 314 or FCC Form 2100 Schedule 315 during the period that is to form the basis for the mid-term review, that review will cover the

licensee's EEO recruitment activity during the period starting with the date it acquired the station.

(3) If a station is subject to a time brokerage agreement, the licensee shall file Forms 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 Forms 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 Forms 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 Forms 2100 Schedule 396 and EEO public file reports filed for its own station that is geographically closest to the brokered station.

(4) Broadcast stations subject to this section shall maintain records of their recruitment activity necessary to demonstrate that they are in compliance with the EEO rule. Stations shall ensure that they maintain records sufficient to verify the accuracy of information provided in Form 2100 Schedule 396 and EEO public file reports. To determine compliance with the EEO rule, the Commission may conduct inquiries of licensees at random or if it has evidence of a possible violation of the EEO rule. In addition, the Commission will conduct random audits. Specifically, each year approximately five percent of all licensees in the television and radio services will be randomly selected for audit, ensuring that, even though the number of radio licensees is significantly larger than television licensees, both services are represented in the audit process. Upon request, stations shall make records available to the Commission for its review.

(5) The public may file complaints throughout the license term based on the contents of a station's public file. Provisions concerning filing, withdrawing, or non-filing of informal objections or petitions to deny license renewal, assignment, or transfer applications are delineated in §§ 73.3584 and 73.3587-3589 of the Commission's rules.

\* \* \* \* \*

67. Section 73.3500 is amended by revising paragraphs (a) and (b) and removing paragraph (b)(1) to read as follows:

**§ 73.3500 Application and report forms.**

(a) Following are the FCC broadcast application and report forms, listed by number.

Form number	Title
175	Application to Participate in an FCC Auction
2100 Schedule A	Application for Authority to Construct or Make Changes in a TV Commercial Broadcast/Noncommercial Educational Broadcast Station.
2100 Schedule 301-AM	Application for AM Station Construction Permit
2100 Schedule 301-FM	Application for Commercial FM Station Construction Permit
2100 Schedule 302-AM	Application for AM Broadcast Station License.
2100 Schedule E	Application for Class A Television Broadcasting Station Construction Permit.
2100 Schedule 302-FM	Application for FM Station License.
2100 Schedule B	Application for Television Broadcast Station License.
2100 Schedule F	Application for Class A Television Broadcast Station License
2100 Schedule 303-S	Application for Renewal of License for Commercial or Noncommercial AM, FM, TV, Class A TV, FM Translator, TV Translator, LPTV, or LPFM Station
308	Application for Permit to Deliver Programs to Foreign Broadcast Stations.
309	Application for Authority to Construct or Make Changes in an International or Experimental Broadcast Station.
310	Application for an International or Experimental Broadcast Station License.



Form number	Title
311	Application for Renewal of an International or Experimental Broadcast Station License.
2100 Schedule 314	Application for Consent to Assignment of Broadcast Station Construction Permit or License.
2100 Schedule 315	Application for Consent to Transfer of Control of Entity Holding Broadcast Station Construction Permit or License.
2100 Schedule 316	Application for Consent to Assign Broadcast Station Construction Permit or License or Transfer Control of Entity Holding Broadcast Station Construction Permit or License.
2100 Schedule 318	Application for Low Power FM Station Construction Permit.
2100 Schedule 319	Application for Low Power FM Station License.
323	Ownership Report for Commercial Broadcast Stations.
323-E	Ownership Report for Noncommercial Educational Broadcast Stations.
2100 Schedule 340	Application for Noncommercial Educational FM Station Construction Permit.
2100 Schedule 345	Application for Consent to Assign Construction Permit or License for TV or FM Translator or Low Power TV Station, or to Transfer Control of Entity Holding TV or FM Translator or Low Power TV Station.
2100 Schedule C	Application for Authority to Construct or Make Changes in a Low Power TV or TV Translator Station.
2100 Schedule D	Application for a Low Power TV or TV Translator Station License.
2100 Schedule 349	Application for FM Translator or FM Booster Station Construction Permit.
2100 Schedule 350	Application for FM Translator or FM Booster Station License.

Form number	Title
395-B	Annual Employment Report and instructions.
2100 Schedule 396	Broadcast Equal Employment Opportunity Program Report.
2100 Schedule 396-A	Broadcast Equal Employment Opportunity Model Program Report.
2100 Schedule H	Children's Television Programming Report.
601	FCC Application for Wireless Telecommunications Bureau Radio Service Authorization.
603	FCC Wireless Telecommunications Bureau Application for Assignments of Authorization and Transfers of Control.

(b) Any application on Form 2100 must be filed electronically.

(1) [Removed]

68. Section 73.3516 is amended by revising paragraphs (e) introductory text and (e)(1) to read as follows:

**§ 73.3516 Specification of facilities.**

\* \* \* \* \*

(e) A petition to deny an application for renewal of license of an existing broadcast station will be considered as timely filed if it is tendered for filing by the end of the first day of the last full calendar month of the expiring license term.

(1) If the license renewal application is not timely filed as prescribed in § 73.3539, the deadline for filing petitions to deny thereto is the 90th day after the FCC gives public notice that it has accepted the late-filed renewal application for filing.

\* \* \* \* \*

69. Section 73.3519 is amended by revising paragraph (a) to read as follows:

**§ 73.3519 Repetitious applications.**

(a) Where the FCC has denied an application for a new station or for any modification of services or facilities, or dismissed such application with prejudice, no like application involving service of the same

kind for substantially the same area by substantially the same applicant, or his successor or assignee, or on behalf or for the benefit of the original parties in interest, may be filed within 12 months from the effective date of the FCC's action.

\* \* \* \* \*

70. Revise § 73.3521 to read as follows:

**§ 73.3521 Mutually exclusive applications for low power television, and television translator stations.**

When there is a pending application for a new low power television or television translator station, or for major changes in an existing station, no other application which would be directly mutually exclusive with the pending application may be filed by the same applicant or by any applicant in which any individual in common with the pending application has any interest, direct or indirect, except that interests or less than 1% will not be considered.

**§ 73.3523 [Removed]**

71. Remove § 73.3523.

72. Section 73.3525 is amended by revising paragraphs (a) introductory text and (b) and removing the Note to read as follows:

**§ 73.3525 Agreements for removing application conflicts.**

(a) Whenever applicants for a construction permit for a broadcast station enter into an agreement to procure the removal of a conflict between applications pending before the FCC by withdrawal or amendment of an application or by its dismissal pursuant to § 73.3568, all parties thereto shall, within 5 days after entering into the agreement, file with the FCC a joint request for approval of such agreement. The joint request shall be accompanied by a copy of the agreement, including any ancillary agreements, and an affidavit of each party to the agreement setting forth:

\* \* \* \* \*

(b) Except where a joint request is filed pursuant to paragraph (a) of this section, any applicant filing an amendment pursuant to § 73.3522 (b)(1) and (c), or a request for dismissal pursuant to § 73.3568

(b)(1) and (c), which would remove a conflict with another pending application; or a petition for leave to amend pursuant to § 73.3522(b)(2) which would permit a grant of the amended application or an application previously in conflict with the amended application; or a request for dismissal pursuant to § 73.3568(b)(2), shall file with it an affidavit as to whether or not consideration (including an agreement for merger of interests) has been promised to or received by such applicant, directly or indirectly, in connection with the amendment, petition or request. Although § 74.780 of this chapter makes this section generally applicable to low power TV and TV translators stations, paragraph (b) of this section shall not be applicable to such stations.

\* \* \* \* \*

73. Amend § 73.3533 by:

- a. Revising paragraphs (a)(1), (4) through (7);
- b. Adding paragraph (a)(8); and
- c. Revising paragraph (b).

The revisions and additions read as follows:

**§ 73.3533 Application for construction permit or modification of construction permit.**

(a) \* \* \*

(1) FCC Form 2100, Schedule A (TV); FCC Form 2100, Schedule 301-FM (FM), FCC Form 2100, Schedule 301-AM (AM), “Application for Authority to Construct or Make Changes in an Existing Commercial Broadcast Station.”

\* \* \* \* \*

(4) FCC Form 2100, Schedule A (TV); FCC Form 2100, Schedule 340 (FM), “Application for Authority to Construct or Make Changes in a Noncommercial Educational Broadcast Station.”

(5) FCC Form 2100, Schedule C, “Application for Authority to Construct or Make Changes in a Low Power TV or TV Translator Station.”

(6) FCC Form 2100, Schedule 349, “Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station.”

(7) FCC Form 2100, Schedule 318, “Application for Construction Permit for a Low Power FM Broadcast Station.”

(8) FCC Form 2100, Schedule E, “Application for Authority to Make Changes in a Class A TV Station.”

(b) The filing of an application for modification of construction permit does not extend the expiration date of the construction permit.

\* \* \* \* \*

74. Section 73.3536 is amended by revising paragraphs (b)(1)(ii) and (iii), (b)(4) through (6), and (c) to read as follows:

**§ 73.3536 Application for license to cover construction permit.**

\* \* \* \* \*

(b) \* \* \*

(1)

(i) Form 2100, Schedule 302-AM for AM stations, “Application for AM Station License.”

(ii) Form 2100, Schedule 302-FM for FM stations, “Application for FM Station License.”

(iii) Form 2100, Schedule B for television stations, “Application for TV Station Broadcast License.”

\*\*\*\*\*

(4) FCC Form 2100, Schedule D, “Application for a Low Power TV or TV Translator Station License.”

(5) FCC Form 2100, Schedule 350, “Application for an FM Translator or FM Booster Station License.”

(6) FCC Form 2100, Schedule 319, “Application for a Low Power FM Broadcast Station License.”

(c) Eligible low power television stations which have been granted a certificate of eligibility may file FCC Form 2100, Schedule F, “Application for Class A Television Broadcast Station License.”

75. Section 73.3540 is amended by revising paragraphs (c) through (e), and (f) introductory text

to read as follows:

**§ 73.3540 Application for voluntary assignment or transfer of control.**

\* \* \* \* \*

(c) Application for consent to the assignment of construction permit or license must be filed on FCC Form 2100 Schedule 314 “Assignment of License or Construction Permit” or FCC Form 2100 Schedule 316 (See paragraph (f) of this section). For International Broadcast Stations, the application shall be filed electronically in the International Bureau Filing System (IBFS).

(d) Application for consent to the transfer of control of an entity holding a construction permit or license must be filed on FCC Form 2100 Schedule 315 “Transfer of Control” or FCC Form 2100 Schedule 316 (see paragraph (f) of this section). For International Broadcast Stations, applications shall be filed electronically in IBFS.

(e) Application for consent to the assignment of construction permit or license or to the transfer of control of an entity licensee or permittee for an FM or TV translator station, a low power TV station and any associated auxiliary station, such as translator microwave relay stations and UHF translator booster stations, only must be filed on FCC Form 2100 Schedule 345 “Application for Consent to Assign Construction Permit or License for TV or FM Translator or Low Power TV Station or to Transfer Control of Entity Holding TV or FM Translator, or a Low Power TV Station.”

(f) The following assignment or transfer applications may be filed on FCC Form 2100 Schedule 316:

\* \* \* \* \*

76. Section 73.3541 is amended by revising paragraph (b) to read as follows:

**§ 73.3541 Application for involuntary assignment of license or transfer of control.**

\* \* \* \* \*

(b) Within 30 days after the occurrence of such death or legal disability, an application on FCC Form 2100 Schedule 316 shall be filed requesting consent to involuntary assignment of such permit or license or for involuntary transfer of control of the entity holding such permit or license, to a person or entity legally qualified to succeed to the foregoing interests under the laws of the place having jurisdiction

over the estate involved.

**§ 73.3543 [Removed]**

77. Remove § 73.3543.

78. Section 73.3544 is amended by revising paragraphs (b) introductory text and paragraph (c)

to read as follows:

**§ 73.3544 Application to obtain a modified station license.**

\* \* \* \* \*

(b) An electronic filing via LMS of an Administrative Update, see § 73.3511(b), may be filed with the FCC, to cover the following changes:

\* \* \* \* \*

(c) A change in the name of the licensee where no change in ownership or control is involved may be accomplished by electronically filing via LMS an Administrative Update.

79. Revise § 73.3549 to read as follows:

**§ 73.3549 Requests for extension of time to operate without required monitors, indicating instruments, and EAS encoders and decoders.**

Requests for extension of authority to operate without required monitors, transmission system indicating instruments, or encoders and decoders for monitoring and generating the EAS codes and Attention Signal should be made to the FCC by electronically filing via LMS a STA. Such requests must contain information as to when and what steps were taken to repair or replace the defective equipment and a brief description of the alternative procedures being used while the equipment is out of service.

80. Section 73.3550 is amended by revising paragraphs (a), (b), (f), (i) through (k), and (m) to read as follows:

**§ 73.3550 Requests for new or modified call sign assignments.**

(a) All requests for new or modified call sign assignments for radio and television broadcast stations shall be made via LMS with the FCC. Licensees and permittees may utilize LMS to determine the availability and licensing status of any call sign; to select an initial call sign for a new station; to change

a station's currently assigned call sign; to modify an existing call sign by adding or deleting an "-FM," "-TV," or "-DT" suffix; to exchange call signs with another licensee or permittee in the same service; or to reserve a different call sign for a station being transferred or assigned.

(b) No request for an initial call sign assignment will be accepted from a permittee for a new radio or full-service television station until the FCC has granted a construction permit. Each such permittee shall request the assignment of its station's initial call sign expeditiously following the grant of its construction permit. All initial construction permits for low power TV stations will be issued with a low power TV call sign in accordance with § 74.791(a) of this chapter.

\* \* \* \* \*

(f) Only four-letter call signs (plus an LP, FM, TV, DT, or CA suffix, if used) will be assigned. The four letter call sign for LPFM stations will be followed by the suffix "-LP." However, subject to the other provisions of this section, a call sign of a station may be conformed to a commonly owned station holding a three-letter call assignment (plus FM, TV, DT, CA or LP suffixes, if used).

\* \* \* \* \*

(i) The provisions of this section shall not apply to International broadcast stations or to stations authorized under part 74 of this chapter (except as provided in § 74.791 of this chapter).

(j) A change in call sign assignment will be made effective on the date specified in the Call Sign Request Authorization generated by LMS acknowledging the assignment of the requested new call sign and authorizing the change. Unless the requested change in call sign assignment is subject to a pending transfer or assignment application, the requester is required to include in its on-line call sign request a specific effective date to take place within 45 days of the submission of its electronic call sign request. Postponement of the effective date will be granted only in response to a timely request and for only the most compelling reasons.

(k) Four-letter combinations commencing with "W" or "K" which are assigned as call signs to ships or to other radio services are not available for assignment to broadcast stations, with or without the "-FM," "-TV," or "-DT" suffix.



\* \* \* \* \*

(m) Where a requested call sign, without the “-FM,” “-TV,” “-CA,” “-DT,” or “-LP” suffix, would conform to the call sign of any other non-commonly owned station(s) operating in a different service, an applicant utilizing the on-line reservation and authorization system will be required to certify that consent to use the secondary call sign has been obtained from the holder of the primary call sign.

81. Section 73.3555 is amended by revising paragraph (b)(1)(i) to read as follows:

**§ 73.3555 Multiple ownership.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) The digital noise limited service contours of the stations (computed in accordance with § 73.619(c)) do not overlap; or

\* \* \* \* \*

82. Amend § 73.3572 by:

- a. Revising the section heading, paragraphs (a)(2) through (3);
- b. Removing and reserving paragraph (a)(4);
- c. Revising paragraphs (c) and (f); and
- d. Removing paragraphs (g) and (h).

The revisions read as follows:

**§ 73.3572 Processing of TV broadcast, Class A TV broadcast, low power TV, and TV translators 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, a major change is any change in:

\* \* \* \* \*

(3) Other changes will be considered minor, including changes made to implement a channel sharing

arrangement, provided they comply with the other provisions of this section.

(4) [Removed]

\* \* \* \* \*

(c) Amendments to Class A TV, low power TV and TV translator stations, or non-reserved television applications, which would require a new file number pursuant to paragraph (b) of this section, are subject to competitive bidding procedures and will be dismissed if filed outside a specified filing period. See 47 CFR 73.5002(a). When an amendment to an application for a reserved television allotment would require a new file number pursuant to paragraph (b) of this section, the applicant will have the opportunity to withdraw the amendment at any time prior to designation for a hearing if applicable; and may be afforded, subject to the discretion of the Administrative Law Judge, an opportunity to withdraw the amendment after designation for a hearing.

\* \* \* \* \*

(f) Applications for minor modification of Class A TV, low power TV and TV translator stations may be filed at any time, unless restricted by the FCC, and will be processed on a “first-come/first-served” basis, with the first acceptable application cutting off the filing rights of subsequent, competing applicants. Provided, however, that applications for minor modifications of Class A TV and those of TV broadcast stations may become mutually exclusive until grant of a pending Class A TV or TV broadcast minor modification application.

(g) [Removed]

(h) [Removed]

83. Section 73.3578 is amended by revising paragraph (b) to read as follows:

**§ 73.3578 Amendments to applications for renewal, assignment or transfer of control.**

\* \* \* \* \*

(b) Any amendment to an application for assignment of construction permit or license, or consent to the transfer of control of an entity holding such a construction permit or license, shall be considered to be a minor amendment, except that any amendment which seeks a change in the ownership interest of the

proposed assignee or transferee which would result in a change in control, or any amendment which would require the filing of FCC Form 2100 Schedules 314, 315, or 345 (*see* § 73.3500), if the changes sought were made in an original application for assignment or transfer of control, shall be considered to be a major amendment. However, the FCC may, within 15 days after the acceptance for filing of any other amendment, advise the applicant that the amendment is considered to be a major amendment and therefore is subject to the provisions of § 73.3580.

84. Section 73.3584 is amended by revising paragraphs (a) and (c) to read as follows:

**§ 73.3584 Procedure for filing petitions to deny.**

(a) For mutually exclusive applications subject to selection by competitive bidding (non-reserved channels) or fair distribution/point system (reserved channels), petitions to deny may be filed only against the winning bidders or tentative selectee(s), and such petitions will be governed by §§ 73.5006 and 73.7004, respectively. For all other applications the following rules will govern. Except in the case of applications for new low power TV and TV translator stations, for major changes in the existing facilities of such stations, or for applications for a change in output channel tendered by displaced low power TV and TV translator stations pursuant to § 73.3572(a)(1), any party in interest may file with the Commission a Petition to Deny any application (whether as originally filed or if amended so as to require a new file number pursuant to § 73.3571(j), § 73.3572(b), § 73.3573(b), § 73.3574(b) or § 73.3578) for which local notice pursuant to § 73.3580 is required, provided such petitions are filed prior to the day such applications are granted or designated for hearing; but where the FCC issues a public notice pursuant to the provisions of § 73.3571(c), § 73.3572(c) or § 73.3573(d), establishing a “cut-off” date, such petitions must be filed by the date specified. In the case of applications for transfers and assignments of construction permits or station licenses, Petitions to Deny must be filed not later than 30 days after issuance of a public notice of the acceptance for filing of the applications. In the case of applications for renewal of license, Petitions to Deny may be filed at any time up to the deadline established in § 73.3516(e). Requests for extension of time to file Petitions to Deny applications for new broadcast stations or major changes in the facilities of existing stations or applications for renewal

of license will not be granted unless all parties concerned, including the applicant, consent to such requests, or unless a compelling showing can be made that unusual circumstances make the filing of a timely petition impossible and the granting of an extension warranted.

\* \* \* \* \*

(c) In the case of applications for new low power TV and TV translator stations, for major changes in the existing facilities of such stations, or for applications for a change in output channel tendered by displaced low power TV and TV translator stations pursuant to § 73.3572(a)(1), any party in interest may file with the FCC a Petition to Deny any application (whether as originally filed or if amended so as to require a new file number pursuant to § 73.3572(b)) for which local notice pursuant to § 73.3580 is required, provided such petitions are filed within 30 days of the FCC Public Notice proposing the application for grant (applicants may file oppositions within 15 days after the Petition to Deny is filed); but where the FCC selects a tentative permittee pursuant to Section 1.1601 *et seq.*, Petitions to Deny shall be accepted only if directed against the tentative selectee and filed after issuance of and within 15 days of FCC Public Notice announcing the tentative selectee. The applicant may file an opposition within 15 days after the Petition to Deny is filed. In cases in which the minimum diversity preference provided for in § 1.1623(f)(1) has been applied, an “objection to diversity claim” and opposition thereto, may be filed against any applicant receiving a diversity preference, within the same time period provided herein for Petitions and Oppositions. In all pleadings, allegations of fact or denials thereof shall be supported by appropriate certification. However, the FCC may announce, by the Public Notice announcing the acceptance of the last-filed mutually exclusive application, that a notice of Petition to Deny will be required to be filed no later than 30 days after issuance of the Public Notice.

\* \* \* \* \*

85. Revise § 73.3587 to read as follows:

**§ 73.3587 Procedure for filing informal objections.**

Before FCC action on any application for an instrument of authorization, any person may file informal objections to the grant in LMS. Such objections may be submitted in letter form (without extra copies)

and shall be signed. The limitation on pleadings and time for filing pleadings provided for in § 1.45 of the rules shall not be applicable to any objections duly filed under this section.

86. Amend § 73.3598 by:

- a. Revising paragraphs (a) introductory text;
- b. Removing and reserving paragraph (b)(3); and
- c. Revising paragraph (c).

The revisions read as follows:

**§ 73.3598 Period of construction.**

(a) Except as provided in the last two sentences of this paragraph (a), each original construction permit for the construction of a new TV, AM, FM or International Broadcast; low power TV; low power FM; TV translator; FM translator; or FM booster station, or to make changes in such existing stations, shall specify a period of three years from the date of issuance of the original construction permit within which construction shall be completed and application for license filed. An eligible entity that acquires an issued and outstanding construction permit for a station in any of the services listed in this paragraph (a) shall have the time remaining on the construction permit or eighteen months from the consummation of the assignment or transfer of control, whichever is longer, within which to complete construction and file an application for license. For purposes of the preceding sentence, an “eligible entity” shall include any entity that qualifies as a small business under the Small Business Administration’s size standards for its industry grouping, as set forth in 13 CFR parts 121 through 201, at the time the transaction is approved by the FCC, and holds:

\* \* \* \* \*

(b) \*\*\*

(3) [Removed]

\* \* \* \* \*

(c) A permittee must notify the Commission as promptly as possible and, in any event, within 30 days, of any pertinent event covered by paragraph (b) of this section, and provide supporting documentation.

All notifications must be filed in LMS and must be placed in the station's local public file. For authorizations to construct stations in the Low Power FM service, on FM channels reserved for noncommercial educational use, and for noncommercial educational full power television stations, the Commission will identify and grant an initial period of tolling when the grant of a construction permit is encumbered by administrative or judicial review under the Commission's direct purview (e.g., petitions for reconsideration and applications for review of the grant of a construction permit pending before the Commission and any judicial appeal of any Commission action thereon), a request for international coordination under paragraph (b)(4) of this section, or failure of a condition under paragraph (b)(5) of this section. When a permit is encumbered by administrative or judicial review outside of the Commission's direct purview (e.g., local, state, or non-FCC Federal requirements), the permittee is required to notify the Commission of such tolling events.

\* \* \* \* \*

87. Section 73.3700 is amended by revising paragraphs (a)(2) and removing and reserving paragraphs (a)(6), (7), removing paragraph (a)(17), removing and reserving paragraphs (b)(1) through (4), removing paragraph (c)(6), and removing and reserving paragraphs (d), (g)(1) through (3), to read as follows:

**§ 73.3700 Post-incentive auction licensing and operation.**

(a) \* \* \*

\* \* \* \* \*

(2) *Channel reassignment public notice.* For purposes of this section, *Channel Reassignment Public Notice* means the public notice released upon the completion of the broadcast television spectrum incentive auction conducted under section 6403 of the *Spectrum Act* specifying the new channel assignments and technical parameters of any broadcast television stations that are reassigned to new channels. *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, GN

Docket No. 12-268, Public Notice, 32 FCC Rcd 2786 (WTB/MB 2017).

\* \* \* \* \*

(a)(6) through (7) [Reserved]

\* \* \* \* \*

(a)(17) [Removed]

(b)(1) through (4) [Reserved]

\* \* \* \* \*

(c)(6) [Removed]

(d) [Reserved]

\* \* \* \* \*

(g) \*\*\*

(1) through (3) [Reserved]

\* \* \* \* \*

88. Revise § 73.4000 to read as follows:

**§ 73.4000 Listing of FCC policies.**

The following sections list, solely for the purpose of reference and convenience, certain Policies of the FCC. The present listing of FCC policies and citations thereto should not be relied upon as an all-inclusive list. Failure to include a policy in this list does not affect its validity. In addition, documents listed may be revised by subsequent decisions and the inclusion of a document on this list does not necessarily reflect that it is currently valid. Each section bears the title of one Policy and the citations which will direct the user to the specific document(s) pertaining to that Policy.

89. Revise § 73.4017 to read as follows:

**§ 73.4017 Application processing: Commercial FM stations.**

See §§ 73.5000 through 73.5009.

90. Revise § 73.4055 to read as follows:

**§ 73.4055 Cigarette advertising.**

See 15 U.S.C. 1335; 15 U.S.C. 4402(c).

91. Revise § 73.4060 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 F.R. 459730, December 30, 1975.

\* \* \* \* \*

**§ 73.4082 [Removed and Reserved]**

92. Remove and reserve § 73.4082.

93. Revise § 73.4100 to read as follows:

**§ 73.4100 Financial qualifications; new AM and FM stations.**

See Public Notice, FCC 78-556, dated August 2, 1978. 69 FCC 2d 407; 43 FR 34841, August 7, 1978.

*See also Revision of Application for Construction Permit for Commercial Broadcast Station (FCC Form 301), Memorandum Opinion and Order, 50 R.R.2d 381, para. 6 (1981) and Certification of Financial Qualification by Applicants for Broadcast Station Construction Permits, Public Notice, 2 FCC Rcd 2122 (1987), 52 FR 17333 (May 7, 1987).*

94. Revise § 73.4101 to read as follows:

**§ 73.4101 Financial qualifications, TV stations.**

See Public Notice, FCC 79-299, dated May 11, 1979. 72 F.C.C. 2d 784; 44 FR 29160, May 18, 1979. *See also Revision of Application for Construction Permit for Commercial Broadcast Station (FCC Form 301), Memorandum Opinion and Order, 50 R.R.2d 381, para. 6 (1981) and Certification of Financial Qualification by Applicants for Broadcast Station Construction Permits, Public Notice, 2 FCC Rcd 2122 (1987), 52 FR 17333 (May 7, 1987).*

**§ 73.4107 [Removed and Reserved]**

95. Remove and reserve § 73.4107.

**§ 73.4108 [Removed and Reserved]**

96. Remove and reserve § 73.4108.



97. Revise § 73.4210 to read as follows:

**§ 73.4210 Procedure Manual: “The Public and Broadcasting”.**

See *The Public and Broadcasting*, a copy of which is available at:

<https://www.fcc.gov/media/radio/public-and-broadcasting>.

**§ 73.4247 [Removed and Reserved]**

98. Remove and reserve § 73.4247.

99. Section 73.4267 is amended by revising paragraphs (a) and (b) and removing paragraph (c) to read as follows:

**§ 73.4267 Time brokerage.**

(a) See Report and Order, MM Docket Nos. 94-150, 92-51, 87-154, FCC 99-207, adopted August 5, 1999, 64 FR 50622 (Sept. 17, 1999).

(b) See § 73.3555, Note 2(j).

(c) [Removed]

**§ 73.4247 [Removed and Reserved]**

100. Remove and reserve § 73.4247.

101. Section 73.5000 is amended by revising paragraph (a) to read as follows:

**§ 73.5000 Services subject to competitive bidding.**

(a) Mutually exclusive applications for new facilities and for major changes to existing facilities in the following broadcast services are subject to competitive bidding: AM; FM; FM translator; television; low-power television; television translator; and Class A television. Mutually exclusive applications for minor modifications of Class A television and television broadcast are also subject to competitive bidding. The general competitive bidding procedures set forth in part 1, subpart Q of this chapter will apply unless otherwise provided in part 73 or part 74 of this chapter.

\* \* \* \* \*

102. Section 73.5005 is amended by revising paragraph (a) to read as follows:

**§ 73.5005 Filing of long-form applications.**

(a) Within thirty (30) days following the close of bidding and notification to the winning bidders, unless a longer period is specified by public notice, each winning bidder must submit an appropriate long-form application (FCC Form 2100) for each construction permit or license for which it was the high bidder. Long-form applications filed by winning bidders shall include the exhibits required by § 1.2107(d) of this chapter (concerning any bidding consortia or joint bidding arrangements); § 1.2110(j) of this chapter (concerning designated entity status, if applicable); and § 1.2112 of this chapter (concerning disclosure of ownership and real party in interest information, and, if applicable, disclosure of gross revenue information for small business applicants).

\* \* \* \* \*

103. Section 73.5006 is amended by revising paragraph (b) to read as follows:

**§ 73.5006 Filing of petitions to deny against long-form applications.**

\* \* \* \* \*

(b) Within ten (10) days following the issuance of a public notice announcing that a long-form application for an AM, FM or television construction permit has been accepted for filing, petitions to deny that application may be filed in LMS. Within fifteen (15) days following the issuance of a public notice announcing that a long-form application for a low-power television, television translator or FM translator construction permit has been accepted for filing, petitions to deny that application may be filed. Any such petitions must contain allegations of fact supported by affidavit of a person or persons with personal knowledge thereof.

\* \* \* \* \*

104. Section 73.5007 is amended by revising paragraph (b)(2)(iii), (3)(iv), and (v) to read as follows:

**§ 73.5007 Designated entity provisions.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iii) Television broadcast station – the noise limited contour (*see* § 73.619(c));

\* \* \* \* \*

(3)\* \* \*

(iv) Television broadcast station – the noise limited contour (*see* § 73.619(c)).

(v) Low power television or television translator station - predicted, protected contour (*see* § 74.792(a) of this chapter).

\* \* \* \* \*

105. Amend § 73.6000 by revising the definition for “Locally-produced programming” to read as follows:

**§ 73.6000 Definitions.**

\* \* \*

*Locally produced programming* is programming produced within the predicted noise-limited contour (*see* § 73.619(c)) of a Class A station broadcasting the program or within the contiguous predicted noise-limited contours of any of the Class A stations in a commonly owned group.

\* \* \* \* \*

106. Section 73.6010 is amended by removing and reserving paragraph (b), and revising paragraphs (c) and (d) to read as follows:

**§ 73.6010 Class A TV station protected contour.**

\* \* \* \* \*

(b) [Reserved]

(c) A Class A TV station will be protected from interference within the following predicted signal contours:

- (1) 43 dBu for stations on Channels 2 through 6;
- (2) 48 dBu for stations on Channels 7 through 13; and
- (3) 51 dBu for stations on Channels 14 through 36.

(d) The Class A TV station protected contour is calculated from the effective radiated power and antenna height above average terrain, using the F(50,90) signal propagation method specified in §

73.619(b)(1).

\* \* \* \* \*

**§ 73.6012 [Removed]**

107. Remove § 73.6012.

**§ 73.6013 [Removed]**

108. Remove § 73.6013.

**§ 73.6014 [Removed]**

109. Remove § 73.6014.

110. Revise § 73.6017 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) and § 74.793(g) 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.

111. Revise § 73.6018 to read as follows:

**§ 73.6018 Class A TV station protection of TV stations.**

Class A TV stations must protect the TV service that would be provided by the facilities specified in the Table of TV Allotments in § 73.622(j), by authorized TV stations, and by applications that propose to expand TV stations' allotted or authorized coverage contour in any direction. Protection of these allotments, stations, and applications must be based on meeting the requirements of § 74.793 (b) through (e) of this chapter. An application to change the facilities of a Class A TV station will not be accepted if it fails to protect these TV allotments, stations, and applications in accordance with this section.

112. Revise § 73.6019 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) and (h) of this chapter. This protection must be afforded to applications for changes filed prior to the date the Class A station application is filed.

113. Revise § 73.6020 to read as follows:

**§ 73.6020 Protection of stations in the land mobile radio service.**

An application to change the facilities of an existing Class A TV station will not be accepted if it fails to protect stations in the land mobile radio service pursuant to the requirements specified in § 74.709 of this chapter.

114. Section 73.6022 is revised to read as follows:

**§ 73.6022 Negotiated interference.**

(a) Notwithstanding the technical criteria in this subpart J of this part, subpart E of this part, and subpart G of part 74 of this chapter regarding interference protection to and from Class A TV stations, Class A TV stations may negotiate agreements with parties of authorized and proposed TV, LPTV, TV translator, Class A TV stations or other affected parties to resolve interference concerns; *provided*, however, other relevant requirements are met with respect to the parties to the agreement. A written and signed agreement must be submitted with each application or other request for action by the Commission. Negotiated agreements under this paragraph can include the exchange of money or other considerations from one entity to another. Applications submitted pursuant to the provisions of this paragraph (a) will be granted only if the Commission finds that such action is consistent with the public interest.

(b) [Reserved]

115. Revise § 73.6023(a) through (c) to read as follows:

**§ 73.6023 Distributed transmission systems.**

(a) Station licensees may operate a commonly owned group of Class A stations with contiguous predicted TV noise-limited contours (pursuant to § 73.619(c)) on a common television channel in a distributed transmission system.

(b) A Class A TV 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, Class A stations operating a DTS facility must comply with all rules in this part applicable to Class A single-transmitter stations.

(c) For purposes of compliance with this section, a Class A station's "authorized facility" is the facility authorized for the station in a license or construction permit for non-DTS, single-transmitter-location operation. A Class A station's "authorized service area" is defined as the area within its protected contour (described by § 73.6010(c)) as determined using the authorized facility.

\* \* \* \* \*

116. Section 73.6024 is amended by revising paragraphs (b), removing and reserving paragraph (c) and revising paragraph (d) to read as follows:

**§ 73.6024 Transmission standards and system requirements.**

\* \* \* \* \*

(b) A Class A TV station may continue to operate with the transmitter operated under its previous LPTV license, provided such operation does not cause any condition of uncorrectable interference due to radiation of radio frequency energy outside of the assigned channel. Such operation must continue to meet the requirements of § 74.750 of this chapter.

(c) [Reserved]

(d) A Class A station must meet the emission requirements of § 74.794 of this chapter. Stations within 275 kilometers of the US-Mexico border shall specify the full-service emission mask.

117. Amend § 73.6025 by:

- a. Revising paragraph (a) introductory text;
- b. Removing paragraphs (a)(1) through (5);
- c. Removing and reserving paragraph (b); and
- d. Revising paragraph (d).

The revisions read as follows:

**§ 73.6025 Antenna system and station location.**

(a) Applications for modified Class A TV facilities proposing the use of directional antenna systems must include all appropriate documentation specified in § 73.625(c)(3).

(1) through (5) [Removed]

(b) [Reserved]

\* \* \* \* \*

(d) Class A TV stations are subject to the provisions in § 73.617(d) regarding blanketing interference.

118. Revise § 73.6026 to read as follows:

**§ 73.6026 Broadcast regulations applicable to Class A television stations.**

The following rules are applicable to Class A television stations:

(a) § 73.603 Numerical designation of television channels.

(b) § 73.624(b), (c) and (g) Television broadcast stations.

(c) § 73.658 Affiliation agreements and network program practice; territorial exclusivity in non-network program arrangements.

(d) § 73.664 Determining operating power.

(e) § 73.670 Commercial limits in children's programs.

(f) § 73.671 Educational and informational programming for children.

(g) § 73.673 Public information initiatives regarding educational and informational programming for children.

(h) § 73.688 Indicating instruments.

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

(j) § 73.3615(a) and (g) Ownership reports.

**§ 73.6027 [Removed]**

119. Remove § 73.6027.

120. Section 73.8000 is revised to read as follows:

**§ 73.8000 Incorporation by reference.**

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Federal Communications Commission (FCC) must publish a document in the Federal Register and the material must be available to the public. All approved incorporation by reference (IBR) material is available for inspection at the FCC and at the National Archives and Records Administration (NARA). Contact the FCC at: Federal Communications Commission's Reference Information Center, located at the address of the FCC's main office indicated in 47 CFR 0.401(a). For information on the availability of this material at NARA, visit [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html) or email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov). The material may be obtained from the following sources:

(a) Advanced Television Systems Committee (ATSC), 1300 I Street NW, Suite 400E, Washington, DC 20005; website: [www.atsc.org/standards.html](http://www.atsc.org/standards.html).

(1) ATSC A/52: "ATSC Standard Digital Audio Compression (AC-3)," 1995, IBR approved for § 73.682.

(2) ATSC A/53 Parts 1-4 and 6: 2007 "ATSC Digital Television Standard," (January 3, 2007) and ATSC A/53 Part 5: 2010 "ATSC Digital Television Standard: Part 5 - AC-3 Audio System Characteristic," (July 6, 2010); IBR approved for § 73.682. as listed below:

(i) A/53, Part 1:2007, "Digital Television System" (January 3, 2007),.

(ii) A/53, Part 2:2007, "RF/Transmission System Characteristics" (January 3, 2007).

(iii) A/53, Part 3:2007, "Service Multiplex and Transport Subsystem Characteristics" (January 3, 2007).

(iv) A/53, Part 4:2007, "MPEG-2 Video System Characteristics" (January 3, 2007), except for § 6.1.2 of A/53 Part 4: 2007, and the phrase "see Table 6.2" in section 6.1.1 Table 6.1 and section 6.1.3 Table



6.3.

(v) A/53, Part 5: 2010, “AC-3 Audio System Characteristics” (July 6, 2010).

(vi) A/53, Part 6:2007, “Enhanced AC-3 Audio System Characteristics” (January 3, 2007).

(3) ATSC A/65C: “ATSC Program and System Information Protocol for Terrestrial Broadcast and Cable, Revision C With Amendment No. 1 dated May 9, 2006,” (January 2, 2006), IBR approved for §§ 73.682.

(4) ATSC A/85:2013 “ATSC Recommended Practice: Techniques for Establishing and Maintaining Audio Loudness for Digital Television,” (March 12, 2013) (“ATSC A/85 RP”), IBR approved for § 73.682.

(5) ATSC A/321:2016, “System Discovery and Signaling” (March 23, 2016), IBR approved for § 73.682.

(6) ATSC A/322:2017 “Physical Layer Protocol” (June 6, 2017), IBR approved for § 73.682.

(b) Federal Communications Commission (FCC), Reference Information Center, located at the address of the FCC's main office indicated in 47 CFR 0.401(a), or at the FCC's Office of Engineering and Technology (OET) website: [www.fcc.gov/oet/info/documents/bulletins/](http://www.fcc.gov/oet/info/documents/bulletins/).

(1) OET Bulletin No. 69: “Longley-Rice Methodology for Evaluating TV Coverage and Interference” (February 6, 2004), IBR approved for § 73.616.

(2) [Reserved]

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

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

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

122. Section 74.701 is amended by revising paragraph (f) to read as follows:

### **§ 74.701 Definitions.**

\* \* \* \* \*

(f) *Low power TV station.* A station authorized under the provisions of this subpart G of this part that

may retransmit the programs and signals of a TV broadcast station and that may originate programming in any amount greater than 30 seconds per hour.

\* \* \* \* \*

123. Section 74.732 is amended by revising paragraph (e) to read as follows:

**§ 74.732 Eligibility and licensing requirements.**

\* \* \* \* \*

(e) A proposal to change the primary TV station being retransmitted or an application of a licensed translator station to include low power TV station operation, *i.e.*, program origination will be subject only to a notification requirement.

\* \* \* \* \*

124. Section 74.787 is amended by revising paragraph (a)(5)(v) to read as follows:

**§ 74.787 Licensing.**

(a) \* \* \*

(5) \* \* \*

\* \* \* \* \*

(v) *Pre-auction digital service area* is the geographic area within the full power station's noise-limited contour that was protected in the incentive auction repacking process. The service area of the digital-to-digital replacement translator shall be limited to only the demonstrated loss area within the full power station's pre-auction digital service area, provided that an applicant for a digital-to-digital replacement television translator may propose a *de minimis* expansion of its full power pre-auction digital service area upon demonstrating that the expansion is necessary to replace a loss in its pre-auction digital service area.

\* \* \* \* \*

125. Section 74.792 is amended by revising paragraph (b) to read as follows:

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

\* \* \* \* \*

(b) The low power TV or TV translator protected contour is calculated from the authorized effective radiated power and antenna height above average terrain, using the F(50,90) signal propagation method specified in § 73.619(b)(1) of this chapter.

126. Section 74.793 is amended by revising paragraphs (b), (e), (g), and (h) 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.

\* \* \* \* \*

(e) Protection to the authorized facilities of TV broadcast stations shall be based on not causing predicted interference to the population within the service area defined and described in § 73.619(c) of this chapter, except that a low power TV or TV translator station must not cause a loss of service to 0.5 percent or more of the population predicted to receive service from the authorized TV facilities.

\* \* \* \* \*

(g) Protection to the authorized facilities of Class A TV stations shall be based on not causing predicted interference to the population within the service area defined and described in § 73.6010 of this chapter, respectively, except that a low power TV or TV translator station must not cause a loss of service to 0.5 percent or more of the population predicted to receive service from the authorized Class A TV facilities.

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

\* \* \* \* \*

127. Section 74.794 is amended by revising the section heading, paragraphs (b) introductory

text, (b)(1) and (2) to read as follows:

**§ 74.794 Emissions.**

\* \* \* \* \*

(b) In addition to meeting the emission attenuation requirements of the simple or stringent mask (including attenuation of radio frequency harmonics), low power TV and TV translator stations authorized to operate on TV channels 22-24, (518-536 MHz), 32-36 (578-608 MHz), 38 (614-620 MHz), and 65-69 (776-806 MHz) must provide specific “out of band” protection to Radio Navigation Satellite Services in the bands: L5 (1164-1215 MHz); L2 (1215-1240 MHz) and L1 (1559-1610 MHz).

(1) An FCC-certificated transmitter specifically certified for use on one or more of the above channels must include filtering with an attenuation of not less than 85 dB in the GPS bands, which will have the effect of reducing harmonics in the GPS bands from what is produced by the transmitter, and this attenuation must be demonstrated as part of the certification application to the Commission.

(2) For an installation on one of the above channels with a transmitter not specifically FCC-certificated for the channel, a low pass filter or equivalent device rated by its manufacturer to have an attenuation of at least 85 dB in the GPS bands, which will have the effect of reducing harmonics in the GPS bands from what is produced by the transmitter, and must be installed in a manner that will prevent the harmonic emission content from reaching the antenna. A description of the low pass filter or equivalent device with the manufacturer's rating or a report of measurements by a qualified individual shall be retained with the station license. Field measurements of the second or third harmonic output of a transmitter so equipped are not required.

## APPENDIX B

## Final Regulatory Flexibility Act Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> an Initial Regulatory Flexibility Act Analysis (IRFA) was incorporated into the *Notice of Proposed Rulemaking (NPRM)* released in September 2022.<sup>2</sup> The Federal Communications Commission (Commission) sought written public comment on the proposals in the *NPRM*, including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.<sup>3</sup>

**A. Need for, and Objectives of, the Report and Order**

2. The *Report and Order* reflects the Commission's efforts to update its rules for full power and Class A television stations to reflect the current operating environment following the transition from analog to digital-only operations and the post-incentive auction transition to a smaller television band with fewer channels. The *Report and Order* largely adopts the rules proposed in the *NPRM*, with certain limited exceptions or modifications, in order to delete, update, or otherwise revise Commission rules for full power and Class A stations that no longer have any practical effect. As part of this comprehensive update, we also restructure a portion of our rules primarily consisting of the technical licensing, operating, and interference rules for full power television. Our actions in the *Report and Order* further the Commission's continued efforts to ensure that our rules clearly and accurately reflect existing requirements and are understandable by licensees and the public.

3. More specifically, we adopt revisions to the Commission's rules in light of the fact that all television services have ceased analog operations. We delete outdated rules that are no longer valid given changes in Commission-adopted policy, such as the elimination of the comparative hearing process to award and renew broadcast licenses, and we reorganize a portion of the part 73 rules to make the rules easier to find and more practical for users. Other non-substantive, technical revisions we make in the *Report and Order* include updating previously-adopted station license periods, deleting obsolete rules governing the post-incentive auction transition period, and correcting or updating *inter alia*, section headings, spelling, contact information, and rule cross-references, or language inadvertently omitted from a rule. We also update our rules to reference the current designation for form numbers (e.g., FCC Form 2100) and to require electronic filing in the Commission's Licensing and Management System (LMS). Additionally, we consider requests and comments on subjects not included in the *NPRM* proposals, the costs and benefits of the rules adopted, and the potential of the rule changes to promote or inhibit advances in diversity, equity, inclusion, and accessibility. The rules we adopt, and actions we take in the *Report and Order* to simplify, streamline, and modernize existing rules and procedures should reduce compliance costs, and make compliance with our licensing requirements easier for full power and Class A television stations.

**B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA**

4. There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA.

**C. Response to Comments by the Chief Counsel for Advocacy of the Small Business**

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<sup>1</sup> 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).

<sup>2</sup> See *Amendment of Part 73 of the Commission's Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations*, MB Docket No. 22-227, Notice of Proposed Rulemaking, FCC 22-73 (Sept. 29, 2022) (*NPRM*).

<sup>3</sup> 5 U.S.C. § 604.

### Administration

5. Pursuant to the Small Business Jobs Act of 2010, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.<sup>4</sup>

6. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

### D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

7. 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 rules adopted herein.<sup>5</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>6</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act (SBA).<sup>7</sup> 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.<sup>8</sup>

8. The rules adopted in the *Report and Order* will directly affect small television broadcast stations. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

9. *Television Broadcasting.* This industry is comprised of “establishments primarily engaged in broadcasting images together with sound.”<sup>9</sup> These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public.<sup>10</sup> 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.<sup>11</sup> 2017 U.S. Census Bureau data indicate that 744 firms in this industry operated for the

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<sup>4</sup> *Id.* § 604(a)(3).

<sup>5</sup> *Id.* § 604(a)(4).

<sup>6</sup> *Id.* § 601(6).

<sup>7</sup> *Id.* § 601(3) (incorporating by reference the definition of “small business concern” in 15 U.S.C. § 632(a)(1)). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.” *Id.*

<sup>8</sup> 15 U.S.C. § 632.

<sup>9</sup> See U.S. Census Bureau, 2017 NAICS Definition, “515120 Television Broadcasting,” <https://www.census.gov/naics/?input=515120&year=2017&details=515120>.

<sup>10</sup> *Id.*

<sup>11</sup> See 13 CFR § 121.201, NAICS Code 515120 (as of 10/1/22 NAICS Code 516120).

entire year.<sup>12</sup> Of that number, 657 firms had revenue of less than \$25,000,000.<sup>13</sup> Based on this data we estimate that the majority of television broadcasters are small entities under the SBA small business size standard.

10. As of June 30, 2023, there were 1,375 licensed commercial television stations.<sup>14</sup> Of this total, 1,256 stations (or 91.3%) 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 July 17, 2023, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates as of June 30, 2023, there were 383 licensed noncommercial educational (NCE) television stations, 381 Class A TV stations, 1,902 LPTV stations and 3,123 TV translator stations.<sup>15</sup> 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.

#### **E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities**

11. In this section, we identify the reporting, recordkeeping, and/or other compliance requirements adopted in the *Report and Order*. Modified reporting requirements were adopted by the Commission replacing manual filing processes with electronic filing requirements. Television stations will now be required to make certain required notifications electronically through filings procedures using LMS as opposed to the previous manual filing process by letter. Similarly, regarding section 73.625(b)(5) which specifies a number of paper maps which should be used to prepare the profile graphs and to determine the location and height above sea level of the antenna height, the Commission clarifies that it expects small and other entities to make the required calculations by computer rather than manual paper calculations using paper maps. Accordingly, the multiple references to various sources of paper maps to make these types of calculations contained in the rules have been replaced with a reference to the National Elevation Dataset and other similar bald earth terrain datasets which are used by modern automated software currently used by the Commission and industry.

12. The removal of outdated manual processes, forms, and filing requirements in favor of using automated software, and implementation of electronic filing requirements for small and other entities will result in a modified paperwork obligation. Cost and benefit information on these and other proposals were requested by the Commission in the *NPRM*, however commenters did not provide any information on the cost impacts of our proposals. Therefore, while the Commission cannot quantify the cost of compliance for small entities, and is not in a position to determine whether small entities will have to hire professionals to comply with our decisions in the *Report and Order*, since it is widely accepted that automated processes are generally more efficient and less burdensome than manual processes, the Commission anticipates that our actions will lessen the administrative burden on small entities.

#### **F. Steps Taken to Minimize Significant Economic Impact on Small Entities, and**

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<sup>12</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 515120, <https://data.census.gov/cedsci/table?y=2017&n=515120&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>13</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>14</sup> *Broadcast Station Totals as of June 30, 2023*, Public Notice, DA 23-582 (rel. July 14, 2023) (*July 2023 Broadcast Station Totals PN*), <https://docs.fcc.gov/public/attachments/DA-23-582A1.pdf>.

<sup>15</sup> *Id.*

### Significant Alternatives Considered

13. The RFA requires an agency to provide, “a description of the steps the agency has taken to minimize the significant economic impact on small entities...including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.”<sup>16</sup>

14. The actions taken by the Commission in the *Report and Order* simplifying and streamlining our rules, and implementing automated and electronic filing requirements, should make it easier for small and other entities to comply with our rules. We consider the rules we adopted to be the least costly, and minimally burdensome for small and other entities impacted by the rules. In the absence of evidence to the contrary in the record, the Commission does not expect the adopted requirements to have a significant economic impact on small entities. Below we discuss actions we take in the *Report and Order* to minimize any significant economic impact on small entities and alternatives that were considered.

15. We adopted rule updates and reorganizations proposed in the *NPRM* to codify the Commission staff’s current practices or to better reflect technological advancements in the industry. The Commission anticipates that these changes generally will lessen the economic burdens on small entities due to increased administrative efficiency. For example, as we discussed above in Section E, references to outdated paper maps and manual calculations relating to section 73.625(b)(5) have been replaced by computer calculations, and current automated software used by the Commission and industry. Moreover, for section 73.625(b)(4), which describes how to plot certain radials on a graph and provides a range of options for the number of points of elevation to use in each radial, we conform the rule to reference the TVStudy software currently used for preparing and processing applications, and specify the use of 10 points per kilometer in all circumstances consistent with present practice found in the TVStudy software used by the Commission and licensees to process and prepare applications. These rule changes will enable small and other television stations to more easily comply with licensing requirements through familiar and low cost measures.

16. Moreover, the Commission took steps to decrease processing burdens and application approval delays for small and other entities by adopting the proposed amendment to Section 73.6024(d) to require Class A stations within 275 kilometers of the US-Mexico border to specify a full-service emission mask in any modification application. Pursuant to the Commission’s rules requiring coordination of applications in border regions with the neighboring countries’ appropriate regulatory officials, in coordination with Mexico’s Instituto Federal de Telecomunicaciones (IFT) it has been the Media Bureau staff’s experience that a two-step process takes place where the IFT routinely requests that applications submitted for coordination of Class A stations specify a full-service emission mask, and if such applications do not initially specify the full-service emission mask, IFT asks for it to be included in an amendment. The amendment we adopted in the *Report and Order* to section 73.6024(d) will result in the inclusion of a full-service emission mask specification with an application modification when initially submitted eliminating the need for small and other entities to have to subsequently amend their application.

17. Further, we provided small and other applicants flexibility by amending section 73.625(c)(3)(v) to require licensees to submit patterns in the form of a .pdf attachment to an application filed in LMS, and clarifying that similar plots are required for elevation or matrix patterns submitted in the LMS form. Our actions are consistent with modern practices and removes the administrative burden for small and other entities of an outdated manual requirement that horizontal plane patterns be plotted “to the largest scale possible on unglazed letter-size polar coordinate paper.”<sup>17</sup> We considered CDE’s

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<sup>16</sup> 5 U.S.C. § 604(a)(6).

<sup>17</sup> 47 CFR § 73.625(c)(3)(v).



comments disagreeing with this proposal in the *NPRM*, however, CDE did not explain its objection or provide any evidence to support an alternative decision, and merely stated “Not Agreed For ATSC 3.0 SFN.”<sup>18</sup>

18. Some commenters raised alternative positions which we considered in the *Report and Order*. Regarding the matrix antenna patterns described in proposed section 73.625(c)(3)(viii), NAB suggested that the Commission require only one or two representative azimuth and elevation patterns be supplied in a PDF attachment, and if additional visualizations are needed, the tabular spreadsheet data can be used in spreadsheet software to produce them.<sup>19</sup> The Commission agreed with NAB’s suggestion and adopted a revised rule consistent with this suggestion.

19. We considered the comments of CDE which disagreed with our proposal to delete obsolete language in section 73.664(c)(3)(iii) concerning the certification of equipment.<sup>20</sup> However, since CDE did not provide a reason for its disagreement, there was no evidence in the record, nor a valid reason for the Commission to depart from the proposal in the *NPRM*.<sup>21</sup> As we stated in the *NPRM*, the Commission no longer “type accepts” equipment, having overhauled the process to allow private parties to verify such equipment meets the Commission’s requirements, and the results of such verifications do not need to be submitted to the Commission. Accordingly, we deleted the obsolete language in section 73.664(c)(3)(iii).

20. The Commission also considered the objection Maranatha Broadcasting Company, Inc. (Maranatha), the licensee of WDPN-TV, to our proposed codification of the Commission’s 2001 clarification that a station may not exceed the effective radiated power level assigned in the station’s zone in section 73.622.<sup>22</sup> Maranatha proposed that the Commission retain the “largest station” rule or “make clear that any change that [the Commission] is making to its rules do not preclude power increases above zone maximums by low-VHF stations necessary to overcome the shortcomings of their digital signals and impulse noise inference.”<sup>23</sup> Due to the propagation characteristics of digital VHF signals and the deleterious effects of manmade noise on the reception of these signals, the Commission is aware that significant over-the-air reception problems may exist within the service area of VHF stations. Since the end of the DTV transition in June 2009, Commission staff has waived the power limits in sections 73.622(f)(5) or (6) of the rules a number of times to increase the power levels of stations operating on low

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<sup>18</sup> Supplemental Comments 2 (Late Filed) of Cohen, Dippell and Everist, P.C., MB Docket No. 22-227 (filed May 18, 2023) (CDE Supplemental Comments 2) at 18; *cf.* Supplemental Comments of Cohen, Dippell and Everist, P.C., MB Docket No. 22-227 (filed Apr. 10, 2023) (CDE Supplemental Comments 1) at 18 (indicating “Not Agreed”). ATSC 3.0 is the new TV transmission standard developed by the Advanced Television Systems Committee as the first Internet Protocol (IP)-based broadcast transmission platform, which merges the capabilities of over-the-air (OTA) broadcasting with the broadband viewing and information delivery methods of the Internet, using the same 6 MHz channels presently allocated for DTV service. *See Authorizing Permissive Use of the Next Generation Broadcast Television Standard*, GN Docket No. 16-142, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9930 (2017). For a discussion of Single Frequency Networks, or SFNs, *see id.* at 9987-89, paras. 115-20.

<sup>19</sup> Comments of the National Association of Broadcasters, MB Docket No. 22-227 (filed Apr. 10, 2023) at 12.

<sup>20</sup> CDE Supplemental Comments 2 at 9 (regarding the Commission’s proposal to delete obsolete language in section 73.664(c)(3)(iii) concerning the certification of equipment, CDE notes that its response is “Not Agreed.”).

<sup>21</sup> *Id.*

<sup>22</sup> Comments of Maranatha Broadcasting Company, Inc., MB Docket No. 22-227 (filed Apr. 10, 2023) (Maranatha Comments) at 2-5 (arguing that “restricting a DTV station’s ability to maximize height and power will be detrimental to the continued viability of low-VHF stations, arbitrary and capricious, and contrary to the public interest.”). *See also* Reply Comments of Cohen, Dippell and Everist, P.C., MB Docket No. 22-227 (filed Apr. 25, 2023) at 2 (noting that the “FCC should consider special exception to permit ‘largest in the market’ filings. However they should be permitted within a time constraint.”).

<sup>23</sup> Maranatha Comments at 5.

VHF channels above the 10 kW limit set forth in the rules. We declined Maranatha's request and adopted the provisions of section 73.622 as proposed in the *NPRM* because we do not believe that codifying the 2001 clarification limits our ability to continue to grant such waivers, as we have for Maranatha. We noted in the *Report and Order* that Maranatha's station WDPN-TV, on RF channel 2 in Zone I, currently operates with an ERP of 34 kW, pursuant to such a waiver of section 73.622(f)(6).

21. Commenters also raised proposals that we declined to adopt because the comments proposed to make material changes to our rules, or changes outside the scope of this proceeding. The scope of *NPRM* was limited to amendments to the Commission's rules primarily related to full power and Class A television service to reflect the current operating environment, and particularly, the end of the transition from analog to digital operations.<sup>24</sup>

#### **G. Report to Congress**

22. The Commission will send a copy of the *Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.<sup>25</sup> In addition, the Commission will send a copy of the *Report and Order*, including this FRFA, to the Chief Counsel for Advocacy of the SBA. The *Report and Order* and FRFA (or summaries thereof) will also be published in the *Federal Register*.<sup>26</sup>

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<sup>24</sup> Specifically, the *NPRM* proposed and sought comment on comprehensively deleting, updating, or otherwise revising Commission rules for full power and Class A stations that no longer have any practical effect given the transition from analog to digital-only operations and the post-incentive auction transition to a smaller television band with fewer channels. The *NPRM* also proposed and sought comment on a restructuring of subpart E of the Commission's rules, which largely consists of the technical licensing, operating, and interference rules for full power television. See *NPRM* at para. 1.

<sup>25</sup> 5 U.S.C. § 801(a)(1)(A).

<sup>26</sup> See *id.* § 604(b).

**APPENDIX C**

List of Commenters

Commenters

Cohen, Dippell and Everist, P.C.

Enterprise Wireless Alliance

Linley Gumm, Greg Best and Gary Sgrignoli

Maranatha Broadcasting Company, Inc.

National Association of Broadcasters

One Ministries, Inc.

Reply Commenters

Cohen, Dippell and Everist, P.C.

*Ex Parte* Comments

National Association of Broadcasters

## APPENDIX D

<b>Table 1: Cross-references</b>	
<b>Instead of referencing...</b>	<b>Reference...</b>
§ 73.614(b)(7) . . .	. . . § 73.625(c)(1).
§ 73.616(a) . . .	. . . § 73.622(a).
§ 73.616(b) . . .	. . . § 73.622(d).
§ 73.616(c) . . .	. . . § 73.619(d).
§ 73.616(d) . . .	. . . § 73.620(c).
§ 73.616(d)(2) . . .	. . . § 73.620(a).
§ 73.616(e) . . .	. . . § 73.620(d).
§ 73.616(g) . . .	. . . § 73.620(f).
§ 73.622(b) . . .	. . . § 73.622(j).
§ 73.622(c) . . .	. . . § 73.623(b).
§ 73.622(e) . . .	. . . § 73.619(c).
§ 73.622(f)(5) . . .	. . . § 73.614(b)(6).
§ 73.622(f)(6) . . .	. . . § 73.614(b)(1).
§ 73.622(f)(7) . . .	. . . § 73.614(b)(2).
§ 73.622(f)(8) . . .	. . . § 73.614(b)(3).
§ 73.622(h) . . .	. . . § 73.611.
§ 73.622(i) . . .	. . . § 73.622(j).
§ 73.623(c)(1) . . .	. . . § 73.618(a).
§ 73.623(c)(2) . . .	. . . § 73.620.
§ 73.623(c)(3) . . .	. . . § 73.620(b).
§ 73.623(c)(4) . . .	. . . § 73.620(a).
§ 73.623(c)(5) . . .	. . . § 73.620(d).
§ 73.623(d) . . .	. . . § 73.622(k).
§ 73.623(e) . . .	. . . § 73.617(a).
§ 73.623(f) . . .	. . . § 73.617(c).
§ 73.623(g) . . .	. . . § 73.620(e).
§ 73.625(a) . . .	. . . § 73.618.
§ 73.625(b) . . .	. . . § 73.619(b).
§ 73.683(c) . . .	. . . § 73.619(a).
§ 73.685(b) . . .	. . . § 73.618(b).
§ 73.685(d) . . .	. . . § 73.617(d).
§ 73.685(f) . . .	. . . § 73.625(c).
§ 73.687(e) . . .	. . . § 73.617(b).