

(2) Previously approved on July 30, 2021, in paragraph (c)(503)(i)(D)(1) of this section and now deleted with replacement in (c)(596)(i)(A)(1), Rule 2.31, “Solvent Cleaning and Degreasing,” revised on April 12, 2017.

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(596) The following regulation was submitted on July 18, 2022, by the Governor’s designee, as an attachment to a letter dated July 11, 2022.

(i) Incorporation by reference.

(A) Yolo-Solano Air Quality Management District.

(1) Rule 2.31, “Solvent Cleaning and Degreasing,” revised on July 14, 2021.

(2) [Reserved]

(B) [Reserved]

(ii) [Reserved]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[MB Docket Nos. 03–185 and 22–261; FCC 23–25; FR ID 138531]

Establishing Rules for Digital Low Power Television and Television Translator Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) adopts several rule updates to otherwise outdated rules for low power television and TV translator stations following the July 13, 2021, transition from analog to digital operations. These changes are designed to ensure the Commission’s rules clearly reflect its requirements, and are understandable to all stakeholders.

DATES: Effective June 12, 2023, except for the amendments in instruction 3 (§ 74.703), instruction 7 (§ 74.734), instruction 8 (§ 74.735), instruction 11 (§ 74.751), instruction 13 (§ 74.763), and instruction 15 (§ 74.784) which are delayed indefinitely. The Commission will publish a separate document in the **Federal Register** announcing the effective date of these amendments.

FOR FURTHER INFORMATION CONTACT: Emily Harrison, Media Bureau, at (202) 418–1665 or Emily.Harrison@fcc.gov. For additional information concerning the Paperwork Reduction Act (PRA) information collection requirements contained in this document, contact Cathy Williams at 202–418–2918, or Cathy.Williams@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission’s *Report and Order*, in MB Docket Nos. 03–185, 22–261; FCC 23–25, adopted on April 17, 2023, and released on April 17, 2023. The full text of this document is available for download at <https://www.fcc.gov/document/fcc-adopts-amendments-lptv-and-tv-translator-rules>. To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to FCC504@fcc.gov or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

Paperwork Reduction Act of 1995 Analysis

This document contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, *see* 44 U.S.C. 3507. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document in a separate **Federal Register** Notice, as required by the PRA. These new or modified information collections will become effective after the Commission publishes a document in the **Federal Register** announcing such approval and the relevant effective date.

In addition, 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 the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Congressional Review Act

The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office (GAO) pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

Synopsis

Rules Applicable to LPTV/Translator Digital Operations

When the Commission initially adopted rules for digital LPTV/ translators in 2004, it did not apply all of the part 74 rules to digital LPTV/ translators. Instead, it adopted eleven rules specifically for digital LPTV/ translator stations, and also identified in § 74.789 which of the part 74 rules applicable to analog LPTV/translator operations would also apply to digital LPTV/translator operations. *NPRM* at

para. 10, citing 47 CFR 74.786 through 74.796; *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, MB Docket No. 03–185, Report and Order, 19 FCC Rcd 19331 (2004) (2004 Order) (subsequent history omitted). Now that the LPTV/translator digital transition is completed, we tentatively concluded in the *NPRM* that it is necessary and appropriate to eliminate the analog version of our rules, and update all of the part 74 rules as necessary for digital operations. *NPRM* at para. 10. We tentatively concluded that the transition to digital operation did not provide any basis to relieve LPTV/translator stations of these obligations and that their continued applicability is in the public interest. *Id.* No commenters opposed our proposal and ATBA offered support. *See* Comments of the Advanced Television Broadcasting Alliance, MB Docket Nos. 03–185 and 22–261 (filed Oct. 24, 2022) (ATBA Comments) at 2. We therefore now adopt the proposals.

Specifically, we adopt the following unopposed proposals, for the reasons discussed in the *NPRM*. First, we conclude that a revised § 74.702(b) (Channel assignments), which describes LPTV/translator stations’ secondary status with respect to a primary station’s proposal to change the Table of TV Allotments, should apply to digital LPTV/translator stations, consistent with existing practice. In addition, § 74.702(a) and § 74.786 (Digital channel assignments) reflect the same information pertaining to channel assignments. We therefore retain the requirements in § 74.702(a) and delete § 74.786. Similarly, we also delete §§ 74.789 (Broadcast regulations applicable to low power television and television translator stations) and 74.787(a)(5)(viii) (Licensing). For the reasons discussed in the *NPRM*, we conclude that there is no need to have rules specifying which part 74 rules apply to digital LPTV/translators, as, with the elimination of the analog rules, all rules in part 74 will apply to digital. We also adopt and apply to digital LPTV/translator stations a new § 74.737 regarding antenna location, which tracks and replaces a corresponding rule that has previously applied to analog LPTV/translator stations, and a new § 74.762 regarding frequency measurements. We adopt new station identification requirements in 47 CFR 74.783 that apply to digital operations, as discussed *infra*.

We also adopt two proposals, with some modification, that did receive comment. In the *NPRM*, we proposed that § 74.750 (Transmission system facilities), regarding the certification of equipment, should continue to apply to digital LPTV/translator stations. Section 74.750(c)(5), which we proposed to move to new § 74.795(b)(6) in the *NPRM* at paragraph 10, requires that an LPTV/translator station's transmission equipment be capable of automatically placing the station in a "non-radiating condition" if the station's input channel is lost, either due to the absence of a transmitting signal or failure of the receiving portion of the facilities used for rebroadcasting the signal of another station. Canyon TV/Cannaliato suggests this rule is no longer relevant after the digital transition, because the transmitter would not be transmitting white noise if it were to lose its input channel. Comments of Canyon TV, MB Docket No. 03–185 (filed Aug. 17, 2022) (Canyon TV/Cannaliato Comments) at 1. Canyon TV/Cannaliato states that it is the licensee of one translator in the State of Montana. Canyon TV/Cannaliato comments at 1. Canyon TV/Cannaliato asserts that the requirement exists "to prevent the transmission of out of band and spurious energy" and offers that a better rule might be to require licensees to ensure a translator which loses its input channel "does not radiate any spurious or out of band energy that is less than 60db [sic] below the amplitude of the pilot carrier." *Id.* We disagree. We do not believe it is in the public interest for a station to transmit null packets in the event it loses its input channel and can no longer provide over-the-air programming to viewers. This practice would occupy spectrum that may be used by other entities to provide service to the public and may cause interference to other stations, even if the station that has lost its input channel is otherwise operating in accordance with the rules. See 47 CFR 74.763(c) (Time of operation) ("Failure of a low power TV or TV translator station to operate for a period of 30 days or more, except for causes beyond the control of the licensee, shall be deemed evidence of discontinuation of operation and the license of the station may be cancelled at the discretion of the FCC."). See also ATBA Comments at 2 (supporting a number of the Commission's proposed changes, including "[m]odifying Section 74.750 regarding the certification of equipment to reflect the completion of the LPTV/translator analog to digital transition"). We also note that transmitting null packets would not

constitute "broadcasting" as that term is defined in the Communications Act of 1934, as amended, and that LPTV/translator stations that fail to broadcast a signal meant to be received by the general public must notify the Commission that they are silent, and are subject to automatic cancellation under section 312(g) of the Communications Act if they are silent for more than a consecutive 12-month period. See 47 U.S.C. 153(7) (BROADCASTING.—"The term 'broadcasting' means the dissemination of radio communications intended to be received by the public, directly or by the intermediary of relay stations."). See also 47 CFR 74.701(a) and (j) (Definitions). See 47 CFR 73.1740(a)(4) (Minimum operating schedule) and 74.763(b) (Time of operation). 47 U.S.C 312(g); see also *ETC Communications, Inc.*, Letter, 25 FCC Rcd 10686, 10688 (MB 2010) (transmitting an equipment test pattern was insufficient to establish a break in a station's silence for the purpose of section 312(g)), citing *A–O Broadcasting Corporation*, Memorandum Opinion and Order, 23 FCC Rcd 603 (2008). We therefore adopt our proposed changes to § 74.750 (Transmission system facilities), including retaining certain aspects of technical requirements contained in § 74.750(c) (subsections (c)(5) and (c)(8)) and move them to digital rule § 74.795(b)(6) through(b)(7).

We also adopt new § 74.762 regarding frequency measurements, as proposed in the *NPRM*, with some modification. Canyon TV/Cannaliato objects to this proposal, which would require LPTV/translator stations to measure the frequency of their output channel as often as necessary to ensure operation consistent with the Advanced Television Systems Committee (ATSC) standard in § 73.682 of the rules. Consistent with the prior analog rule, these measurements would be required to be made during specified intervals not exceeding 14 months. In the event a station was found to be operating in a manner inconsistent with the standard, it would be required to promptly suspend operation and not resume operation until the transmitter is restored to its assigned frequency. Canyon TV/Cannaliato claims that this process would require removing modulation, which cannot be done with most transmission equipment currently in use, and that replacing such equipment would be costly and untimely with ATSC 3.0 on the horizon. See Canyon TV/Cannaliato Comments at 1, which state that "replacing these processors/exciters would be a financial burden at \$3,000+ for each translator

station, but also an untimely one with ATSC 3.0 on the horizon." Canyon TV/Cannaliato instead suggests that we employ a similar requirement to what is imposed on full power television stations in § 73.1540 (Carrier frequency measurements). *Id.* at 1–2. We would note that in September 2022, after Canyon TV/Cannaliato filed its comments, the Commission proposed to strike such language from 47 CFR 73.1540 because this technical engineering term related to analog television operation and is now obsolete. See *Part 73 NPRM* at n.12. By contrast, ATBA supports our proposed frequency measurement requirement. ATBA Comments at 2. No other comments were received regarding this proposal. We disagree with the premise of Canyon TV/Cannaliato's argument. We believe that LPTV/translator stations can meet the proposed frequency measurement requirement without replacing existing equipment. Stations can comply with the rule by reviewing the station's signal on a spectrum analyzer and determining that the pilot carrier (for ATSC 1.0) and the overall signal (for ATSC 1.0 and ATSC 3.0) appear correctly and are properly contained within their assigned spectrum, consistent with the standard in use and our rules. This approach would not be burdensome, even on an annual basis, and would ensure the station is operating in a manner consistent with the standard. We believe the rule as proposed is able to preemptively correct potential equipment issues and does not impose the cost of additional equipment on stations. However, for the sake of clarity, we identify the specific portions of § 73.682 that contain the information needed to conduct frequency measurements, rather than citing to the entire broadcast standard (§ 73.682 as a whole), which includes audio and video transmission standards irrelevant to frequency measurements, as well as the PSIP standard, which does not apply to LPTV/translators. Therefore, the rule we adopt today in § 74.762 replaces a reference to § 73.682 with references to § 73.682(d), A/53 Part 2 (for ATSC 1.0), and § 73.682(f)(2) (for ATSC 3.0).

LPTV/Translator Protection of Land Mobile Radio Service

We adopt the proposals set forth in the *NPRM* relating to LPTV/translator protection of the Land Mobile Radio Service (LMRS). Sections 74.709(a) and (b) (Land mobile station protection) of the Commission's rules require LPTV/translator stations to protect certain channels for use by the LMRS in thirteen U.S. cities listed in the rule,

which specifies a 130 kilometer radius from the coordinates for these cities as a threshold for determining interference. 47 CFR 74.709 (Land mobile station protection). The 130 kilometer radius around each set of coordinates was calculated based on the 1927 North American Datum (NAD 27). As a result of improvements in technology and measuring capabilities, NAD 27 has been superseded by the 1983 North American Datum (NAD 83). The Commission's Office of Engineering and Technology and Office of the Managing Director have 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." *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) (2008 OET/OMD Order). Because it provides greater accuracy and the older NAD 27 is outdated, we proposed in the *NPRM* to amend the rule to use NAD 83 for purposes of specifying these coordinates. *NPRM* at para. 12; 2008 OET/OMD Order, 23 FCC Rcd at 3796, para. 61, n.101. We further tentatively concluded that updating the coordinates in the rule to NAD 83 would serve the public interest by conforming the values with the coordinate system used in the Commission's LMS database and with those found in § 90.303(b) (Availability of frequencies) of the rules, which define the service that § 74.709 protects. *Id.* Section 90.303(b) defines the specific center points used to permit land mobile operations, which represent the specific locations that § 74.709(a) is designed to protect. *See* 47 CFR 90.303(a) (stating that "coordinates are referenced to the North American Datum 1983 (NAD83)") and (b) (listing coordinates of geographic centers and TV channels of thirteen urbanized areas). As such, conforming the values in § 74.709(a) to those of § 90.303(b) would help to ensure that land mobile operations are appropriately considered and protected from LPTV/translator operations. There is no equivalent to § 74.709(b) in the Part 90 rules, so we therefore proposed to convert these values to NAD 83 by conforming them to the as-filed coordinates for the associated television station if the associated station still exists at the same

location, or if it does not, converting them directly to NAD 83.

Commenters generally agree with our proposal to replace the NAD 27 coordinates with the more current NAD 83, but some commenters express specific concerns. *See, e.g.,* ATBA Comments at 2 ("First, the FCC proposes to replace the use of the near century old NAD 27 geodetic datum with the more current NAD 83 to determine land mobile protections. ATBA agrees that the use of NAD 83 will improve accuracy and consistency with the Commission's other databases.") (internal references omitted). The National Association of Broadcasters (NAB) points out, and the Society of Broadcast Engineers (SBE) agrees, that a few of the coordinates we proposed are different from those derived if the existing coordinates are converted to NAD 83 via the North American Datum Conversion program (NADCON). *See* Comments of the National Association of Broadcasters, MB Docket Nos. 03–185 and 22–261 (filed Oct. 24, 2022) (NAB Comments) at 2–3; Reply Comments of the Society of Broadcast Engineers, Inc., MB Docket Nos. 03–185 and 22–261 (filed Nov. 7, 2022) (SBE Reply) at 3–4. As NAB notes, NADCON was superseded by the NGS Coordinate Conversion and Transformation Tool (NCAT). NAB Comments at 2. We note that the coordinates we proposed are the ones found in Part 90 of the Commission's rules, and differ by 25 meters at most (approximately 82 feet). Given that the values in this table are designed to protect the Part 90 service, we believe the most consistent approach is to make the values in § 74.709 match those found in Part 90. Staff discovered after the *NPRM* was issued that the proposed Miami longitude seconds value contained a typographical error, which is being corrected in this *Report and Order*.

NAB also encourages us to add a note to § 74.709(a) for Cleveland, Ohio and Detroit, Michigan that is consistent with the notes found in Part 90 indicating that these channels are not available for land mobile use and thus do not require protection. NAB Comments at 4. *See* 47 CFR 90.303(b), nn. 2 and 3. *See also* SBE Reply at 6. We also note that there are full power and Class A television stations assigned to some of these channels already, making them unusable for land mobile operations at the present time. In addition, NAB urges the Commission to consider using this docket to "remove land mobile assignments that have remained unused for more than 50 years," citing Cleveland, Ohio and Detroit, Michigan. NAB Comments at 4. We note that a

pending petition for rulemaking submitted by the Land Mobile Communications Council (LMCC) also addresses this issue. In that petition, LMCC proposed removing the Cleveland, Ohio and Detroit, Michigan rows entirely from the relevant rule section in Part 90. *See Consumer & Governmental Affairs Bureau Reference Information Center Petition for Rulemakings Filed, Land Mobile Communications Counsel (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 (rel. Jan. 12, 2022); Petition for Rulemaking of Land Mobile Communications Council, RM–11915 (filed June 24, 2021). Due to the pendency of that petition, we decline at this time to add a note to § 74.709(a). We do not believe that this will create confusion for licensees, as the note in Part 90 already indicates that the Cleveland, Ohio and Detroit, Michigan channels are not available and thus those areas do not require protection.

NAB also requests that this update to the coordinates not result in stations having to relocate. NAB Comments at 4. We note that the coordinates in the rule are used only to determine whether an LPTV/translator application's interfering contour is outside of the relevant LMRS protected zone for the potentially affected channel and community for purposes of granting an application. We are not aware of any actual instance in which a station would have to relocate and we believe it is unlikely that these minor corrections will result in any stations suddenly finding themselves no longer compliant with § 74.709. But in response to NAB's concern, we clarify that absent any actual interference, we do not anticipate requiring an LPTV/translator station to make changes solely due to these coordinate updates. *See* 47 CFR 74.703(e) (Interference) provides that "[LPTV/translator] stations are being authorized on a secondary basis to existing land mobile uses and must correct whatever interference they cause to land mobile stations or cease operation." LPTV/translator stations are required to protect land mobile operations even if they otherwise comply with the rules.

LPTV Pilot Project Digital Data Services Act

We decline to adopt the *NPRM* proposal to delete the rule implementing the LPTV Pilot Project

Digital Data Services Act (DDSA). *NPRM* at para. 14. See LPTV Digital Data Services Act (Pub. L. 106–554, 114 Stat. 4577, Dec. 21, 2000 (DDSA), *codified at* 47 U.S.C. 336(h)); 47 CFR 74.785 (Low power TV digital data service pilot project). The DDSA mandated that the Commission issue regulations establishing a pilot project pursuant to which twelve specified LPTV stations could provide digital data services to demonstrate the feasibility of using LPTV stations to provide high-speed wireless digital data service, including internet access, to unserved areas. When the Commission implemented the DDSA in 2001, the Commission had not yet authorized Class A or LPTV/translator stations to operate digital facilities. The DDSA was implemented by the Commission in *Implementation of LPTV Digital Data Services Pilot Project*, Order, 16 FCC Rcd 9734 (2001); Order on Reconsideration, 17 FCC Rcd 2988 (2002); 47 CFR 74.785. In 2004, the Commission authorized all LPTV/translator stations to operate in digital. See *2004 Order*. Currently, all LPTV stations must operate in digital and may offer ancillary and supplementary services, including the services contained in the pilot project of the DDSA. See 47 CFR 74.790(i) and (m) (Permissible service of TV translator and LPTV stations); 73.624(c) and (e) (Digital television broadcast stations). The Commission's ancillary and supplementary rules provide that broadcasters may offer services that "include, but are not limited to computer software distribution, data transmissions, teletext, interactive materials, aural messages, paging services, audio signals, subscription video, and any other services that do not derogate DTV broadcast stations' obligations under paragraph (b) of this section." 47 CFR 73.624(c). One difference between the Commission's ancillary and supplementary rules and the DDSA is that the rules require that ancillary and supplementary services may not derogate the station's required signal to viewers, while the DDSA does not. We stated in the *NPRM* that none of the stations identified in the statute are currently providing service pursuant to an experimental authorization issued under the DDSA, and that some of the stations have been cancelled. *NPRM* at para. 14. At the time the statute was enacted, the LPTV stations to which it applied were KHLM–LP, Houston, Texas; WTAM–LP, Tampa, Florida; WWRJ–LP, Jacksonville, Florida; WVBG–LP, Albany, New York; KHII–LP, Honolulu, Hawaii; KPHE–LP (K19DD), Phoenix, Arizona; K34FI and

K65GZ, Bozeman, Montana; WXOB–LP, Richmond, Virginia; WIIW–LP, Nashville, Tennessee; WSPY–LP (now WLPD–CD), Plano, Illinois; W24AJ (now WPVN–CD), Aurora, Illinois; and "[a] station and repeaters . . . [to provide] service to communities in the Kenai Peninsula Borough and Matanuska Susitna Borough." According to LMS, three of these stations (K34FI, K44GE (formerly K65GZ), and WXOB–LP) have been cancelled. In addition, two of the stations (WLPD–CD and WPVN–CD) are now Class A television stations, and the DDSA only applies to LPTV stations. As a result, in the *NPRM*, we tentatively concluded that this rule served no useful purpose. *NPRM* at para. 14.

Three comments were submitted in response to this proposal in the *NPRM*, all urging the retention of the DDSA rule. These commenters question the Commission's authority to modify the Congressional directive, and seek to preserve the program. Comments of U.S. Television LLC, MB Docket Nos. 03–185 and 22–261 (filed Oct. 24, 2022) (U.S. Television LLC Comments) at 1–2; Comments of Wireless Access, LLC, MB Docket Nos. 03–185 and 22–261 (filed Oct. 24, 2022) (Wireless Access Comments) at 1, 4; Reply Comments of the LPTV Broadcasters Association, MB Docket Nos. 03–185 and 22–261 (filed Nov. 3, 2022) (LPTV Broadcasters Association Reply) at 3. Based on the interests set forth by these commenters, we conclude that retaining the DDSA digital pilot program rule may serve a useful purpose, and therefore, we decline to adopt the proposal in the *NPRM* and will retain the DDSA digital pilot program rule.

Station Identification

After evaluation of the record, we are persuaded to adopt our LPTV station identification proposals, but we decline to adopt our proposed changes to identification requirements for TV translator stations at this time. In the *NPRM*, we examined § 74.783(a) (Station identification), which requires analog LPTV/translator stations to provide station identification. *NPRM* at para. 15. See 47 CFR 74.783(a) through (c) (Station identification). When the Commission adopted its rules for digital LPTV/translator operations in 2004, it declined to adopt a separate rule for digital stations, choosing instead to allow such LPTV/translator stations the flexibility to identify themselves in different manners, including following the analog station identification provisions in § 74.783(a). See *2004 Order*, 19 FCC Rcd at 19337–38, paras. 15–18 (noting that Commission was unable to award second channels to

LPTV/translator or Class A stations to facilitate their digital transitions due to the lack of sufficient spectrum. To prevent the disruption of service to viewers, the Commission determined that the low power television digital transition should be completed at some fixed time after the deadline for full power television stations, which would allow viewers to transition to digital service without loss of their existing service). See *id.* at 19394, para. 192 (declining to establish identification requirements for digital LPTV and TV translator stations). While the Commission declined to adopt such a requirement, it explained that it believed that digital TV translator and LPTV stations could be practically identified by other means. The Commission encouraged "operators of digital LPTV and TV translator stations to experiment with possible means for identifying their stations" and "plan[ned] to revisit this issue in a future periodic review proceeding." See *id.* at 19395, para. 194. Thus, we disagree with the National Television Association's (NTA) assertion that "18 years ago the Commission decided that digital translators would not be subject to a station identification requirement." Comments of the National Television Association, MB Docket Nos. 03–185 and 22–261 (filed Oct. 24, 2022) (NTA Comments) at 1. These provisions allow identification via (1) transmitting the call sign in International Morse Code at least once every hour, or (2) arranging for the primary station whose signal is being rebroadcast to identify the translator station by transmitting an easily readable visual presentation or a clearly understandable aural presentation of the translator station's call letters and location. 47 CFR 74.783(a)(1) and (2) (Station identification). We tentatively concluded in the *NPRM* that given the completion of the LPTV/translator digital transition, we should require digital LPTV/translator stations to comply with the station identification provisions set forth in § 74.783, as revised to reflect digital operations. *NPRM* at para. 15; 47 CFR 74.783(a)(1) and (2). We also proposed in the *NPRM* to include the option for LPTV/translator stations to use the Program and System Information Protocol (PSIP) to transmit the station's call sign as the "short channel name" on at least one stream of programming that the LPTV/translator station transmits. PSIP transmits a television station's virtual channel (see *infra*), and can also transmit electronic program guides with titles and descriptions to be decoded

and displayed by a viewer's digital receiver. ATSC A/65C defines the standard protocol—referred to as PSIP—for the transmission of data tables compatible with digital multiplex bit streams via terrestrial broadcasts. *NPRM* at para. 16. The “short channel name” is a seven character field in the Terrestrial Virtual Channel Table that stations use to comply with the digital transmission standard set forth in ATSC A/65C as incorporated in § 73.682(d) of our rules. *See* 47 CFR 73.682(d). For example, a station would enter in the short channel name field the station's call sign, e.g., “K20DA-D.”

As discussed in detail below, in light of the record on these proposals, we decline to adopt identification requirements for TV translator stations at this time in light of concerns of commenters, but we may consider extending station identification requirements to TV translator stations in a future proceeding. We do find sufficient support to require digital LPTV stations to comply with the station identification provisions set forth in § 74.783 applicable to analog operations, updated to reflect digital operations. We also adopt our proposal to include an option for LPTV stations to use the PSIP to transmit the station's call sign as the “short channel name” on at least one stream of programming that the LPTV station transmits.

Identification Requirements for TV Translator Stations. A number of commenters objected to our proposed station identification requirements for TV translator stations. These commenters express concerns about cost and consumer confusion. NTA Comments at 1 and 3. In support, NTA cites translator use in Alaska and asserts that “Alaska Public Television operates about 125 heterodyne translators in very small and remote communities. Under the Commission's PSIP identification alternative, unless identified by DTV primary stations, these translators would have to be replaced at great cost.” *Id.* at 4. NTA also indicates that not all TV translator stations are identifying at this time, and if we were to adopt a rule, many of those translators would not have the means to do so. One translator owner and operator of a Montana translator station estimates that if not identified by their DTV primary station, the cost of updating equipment to enable translators to insert data into the PSIP of the received data would cost between \$4,000 and \$10,000 for each translator. *Id.* at 5 and Exhibit 1, Statement of Charles J. Cannaliato. NAB Comments at 5. *See also* SBE Reply at 2 (“SBE supports NAB's recommendation that [the ability of

translating stations to make changes in their PSIP] be limited to those LPTV stations that actually do originate programming to avoid causing confusion among viewers.”). NAB recommends instead that the use of PSIP for station identification purposes be limited to LPTV stations that originate programming and do not operate as translators. *Id.*

In light of the commenter concerns about the technical challenges inherent in our proposal for TV translators and the unintended costs that could be imposed by the proposed modification of the rule, we decline to adopt the proposed identification requirements for TV translator stations at this time. Consistent with the Commission's decision in 2004 to allow TV translator stations the flexibility to identify themselves in different manners, we encourage TV translator stations that are not currently providing station identification to explore options for providing identification. *See 2004 Order*, 19 FCC Rcd at 19395, para. 194. In this regard, instead of the proposed mandatory requirement, we adopt a rule that includes one voluntary option for TV translator stations to identify their signal, specifically, arranging with the originating station to provide identification in a visual manner. *See* revised § 74.783(b). We note that FM translator stations, despite not being able to use visual identification, are still required to identify. One option for identifying is to arrange for the primary station to identify the translator three times per day. *See* 47 CFR 74.1283(c)(1) (Station identification).

Identification Requirements for LPTV Stations. After evaluation of the record, we are persuaded to require LPTV stations to comply with our analog LPTV station identification rules now that the LPTV/translator digital transition is complete and analog operations have terminated. Accordingly, we adopt the proposal in the *NPRM* that digital LPTV stations continue to comply with the station identification provisions set forth in § 74.783, updated to reflect digital operations. *NPRM* at para. 15. We received support for this proposal, and received no opposition to the proposal with respect to LPTV stations that originate programming. ATBA Comments at 2 (ATBA “supports the Commission's proposals to update its station identification rules to reflect digital operations.”) (internal references omitted); Comments of One Ministries, Inc., MB Docket Nos. 03–185 and 22–261 (filed Sept. 26, 2022) (OMI Comments) (“OMI agrees that it is helpful to have the using [sic] the option

for LPTV/translator stations to use the Program and System Information Protocol (PSIP) to transmit the station's call sign as the ‘short channel name’ on at least one stream of programming that the LPTV/translator station transmits.”). We do not believe the transition to digital operation provides any basis to relieve LPTV stations that originate programming of their obligation to provide station identification, and we therefore adopt our proposal to require such stations to follow the station identification provisions set forth in § 74.783. Consistent with our decision above, LPTV stations that do not originate programming will be considered to be under the same rules for station identification as translators. *See supra*.

We also adopt our proposal in the *NPRM* to revise § 74.783(a)(1) to provide an alternative identification method for LPTV stations to replace the outdated option to insert the call sign via Morse Code. *NPRM* at para. 16. 47 CFR 74.783(a)(1) (Station identification). Specifically, we proposed to allow the option to use PSIP to transmit the station's call sign as the “short channel name” on at least one stream of programming that the LPTV station transmits. *NPRM* at para. 16 and n.48. Commenters supported this update. OMI agrees that it is helpful for LPTV stations to use the PSIP to transmit the station's call sign as the “short channel name” on at least one stream of programming that the LPTV station transmits. OMI Comments. ATBA also supports the proposal, saying it “believes the proposed alternate methods for stations to identify their broadcasts will streamline the station identification process . . .” ATBA Comments at 2. We agree, and we amend the rules accordingly to include the option for LPTV stations to use PSIP to transmit the station's call sign as the “short channel name” on at least one stream of programming that the LPTV station transmits. In addition, because we have decided herein to apply these requirements to LPTV stations but not to TV translator stations, we reorganize § 74.783 to make it more clearly understandable by delineating the subsections that separately apply to LPTV stations (§ 74.783(a)), TV translators (§ 74.783(b)), and to both (§ 74.783(c)). *See infra*. In its comments, it appears that ATBA is suggesting that the alternative method apply to full power and Class A television stations. *See* ATBA Comments at 2–3 (stating the alternate method should apply to “all stations and streams”). To the extent that ATBA's proposal relates to stations

in categories beyond LPTV stations, the proposal is outside the scope of this part 74 LPTV/translator rules proceeding, and thus we decline to adopt it for other categories of stations.

While not opposing this change, one commenter expressed concern that, because some Commission-assigned LPTV/translator call signs are in the format of two numbers followed by three letters, this proposal would require eight characters, but the “short channel name” field in PSIP only allows seven characters. *See* revised § 74.791(d) (Call signs), as discussed. *See* Canyon TV/Cannaliato Comments at 1. This commenter proposed dropping the “-D” from the end of call signs which have such a designation, as this is a remnant of when it was necessary to distinguish between analog and digital operations. *Id.* While the “-D” may be superfluous with the transition of all LPTV/translator stations to digital, we do not believe it is necessary to prescribe a mandatory change of the call signs of a significant number of stations. Instead, we clarify here that any station with an eight character call sign that seeks to identify by this method may opt to drop the “-D” when placing it in the “short channel name” field. We have revised § 74.783 to include this clarification. *See* revised § 74.783(a)(2).

TSID Requirements. We adopt the proposal in the *NPRM* regarding LPTV/translator stations’ use of transport stream ID (TSID) with some modifications. To identify a station using the PSIP “short channel name,” a station must request and be assigned a TSID. *See NPRM* at para. 17. In the *NPRM*, we proposed to require that an LPTV/translator station that has requested and been assigned a TSID must broadcast with the station’s assigned TSID during its hours of operation. *Id.* We also proposed to require translator stations that had not been assigned a TSID to pass through the TSID of their respective originating station. *See NPRM* at para. 17 and Appendix B (proposed § 74.783(d)(1)). *See* revised § 74.783(c). The proposed requirement to broadcast with the assigned TSID would be in addition to, and not in place of, one of the other identification requirements. *See NPRM* at para. 17. We also proposed to apply the same requirement to a station’s bit stream ID (BSID), which is the equivalent value used in ATSC 3.0. *See NPRM* at para. 17 and proposed § 74.783(d)(2).

While the proposal did receive support (see OMI Comments), several commenters object to this proposal, concerned that it would require translators to insert a TSID or BSID. *See,*

e.g., Canyon TV/Cannaliato Comments at 1. Canyon TV/Cannaliato asserts that the proposal to use TSIDs would “impose a significant financial burden to community translators because the majority (perhaps more than 80%) of translator stations do not have the capability of inserting a TSID into the data stream.” *Id.* For example, NAB asserts that the use of a BSID is contrary to the applicable ATSC standard, and urges the Commission not to allow translator stations to use a BSID for identification, arguing that it would create industry and viewer confusion. NAB Comments at 5–6. SBE also joins NAB in “advocating against the use of BSID for translator stations operating in ATSC 3.0.” SBE Reply at 3. The *NPRM*’s proposal was directed only at scenarios where stations have assigned TSIDs because they are either originating programming or otherwise modifying the streams of originating stations. For example, a single TV translator station may rebroadcast the respective primary streams of several different originating television stations, each of which have their own TSIDs. A TV translator, however, can only pass through one TSID, and currently our rules do not address which TSID a TV translator station would use. Under our adopted rule, under these circumstances, a TV translator station providing PSIP would be required to ask to be assigned its own unique TSID and broadcast it. Our intent is to prevent a station that is modifying one or more originating station(s) stream(s) from failing to transmit a TSID, and preventing a station that is originating programming while providing PSIP data from failing to transmit its assigned TSID even though the PSIP equipment would allow it to do so. Our aim is to eliminate cases where stations that are originating programming and are assigned TSIDs do not properly transmit that TSID, or where stations are otherwise passing through signals from one or more originating stations but either fail to provide a TSID or provide an incorrect one. Contrary to commenter concerns, we do not expect a translator that is not otherwise altering the signal of a single originating station to insert a unique TSID or BSID different from that of the originating station. We therefore adopt our proposal, with clarifying changes to require stations assigned a TSID to transmit that TSID. *See* revised § 74.783(c)(1) (stating that all low power TV stations originating programming shall transmit their assigned odd-numbered TSID, if one has been assigned. All TV translator stations, and low power TV stations not originating

programming, shall pass through the assigned TSID of the originating station, unless the station is modifying the signal of one or more originating stations in such a way that it is not clear which originating station’s TSID should be used. In that case, the station shall transmit its assigned odd-numbered TSID if one has been assigned). We conclude that the TSID requirement is in addition to, and not in place of, one of the other identification requirements. We also adopt the same requirement with respect to a station’s BSID, which has the same function as the TSID, but in the ATSC 3.0 context.

LPTV Virtual Channels. We adopt the proposal in the *NPRM* to codify the Media Bureau’s practice of requiring LPTV stations to transmit with a virtual channel that avoids conflicts with any full power or Class A station’s virtual channel in cases where a contour overlap would arise, or with virtual channels chosen by other LPTV stations. *NPRM* at para. 18. During the DTV transition, most full power television stations transmitted two over-the-air signals using two different radio frequency (RF) channels—an analog (NTSC) channel and a paired digital channel capable of transmitting multiple streams of programming. ATSC, an international, non-profit member organization, developed the PSIP standard setting forth rules and priorities for determining a digital television station’s “virtual” channel number, the channel number viewers see on their television receiver when they view a digital television station over-the-air. *See Request for Declaratory Ruling by Meredith Corporation and “Alternative PSIP Proposal” by PMCM TV, LLC for WJLP (formerly KVVV(TV)), Middletown Township, New Jersey, 32 FCC Rcd 7229, 7230, para. 3 and passim (2017), petitions for review denied, PMCM TV, LLC v. Fed. Comm’n, 731 Fed. App’x 1 (D.C. Cir. 2018).* Under Annex B.1.1 to ATSC 65/C, which sets forth the mandatory requirements for assigning the virtual channel number components of full power and Class A stations’ virtual channels, most of those stations’ virtual channel numbers begin with their analog channel numbers. A TV translator station is required to pass through the virtual channel number of its primary station unless it conflicts with a broadcaster operating in the service area of the translator, in which the translator must change its virtual channel number to a non-conflicting number. Annex B.1.10. As discussed below, Annex B does not apply to LPTV stations. We stated in the *NPRM* that

LPTV licensees are not required to comply with the virtual channel assignment methodology found in ATSC A/65C Annex B, as full power and Class A stations are, and we were not proposing to require them to do so. *NPRM* at para. 18.

ATBA agrees with our proposal, but asks us to provide “greater flexibility” to select a virtual channel. ATBA Comments at 3. In the absence of any further information of what this request entails, we decline to make further modifications. But we note that LPTV stations are already permitted to select any valid virtual channel within channels 2–69 that does not create a conflict.

SBE proposes that we require LPTV stations to enter their virtual channels in LMS. SBE Reply at 2–3. NAB, in its reply, also notes that virtual channel assignments and changes in virtual channel assignments should be included in the Commission’s database to “avoid potential conflicts and viewer confusion.” See Reply Comments of the National Association of Broadcasters, MB Docket Nos. 03–185 and 22–261 (filed Nov. 7, 2022) (NAB Reply) at 3. We note that we already allow stations to informally request that the staff enter their virtual channels into LMS on a voluntary basis, and encourage LPTV stations to do so. LPTV stations may ask the staff to indicate their virtual channel in LMS by sending a request to the Video Division in the Media Bureau. Such requests should include the station’s facility ID, virtual channel, and a map showing the station’s contour and the contours of surrounding stations using the indicated virtual channel to demonstrate the lack of overlap with other full power, Class A, and LPTV/translator stations. In the event that overlap with other full power, Class A, or LPTV/translator stations is observed, the staff will notify the station making the request that it must choose an alternative virtual channel. Because virtual channel assignments do not require Commission approval, we do not believe it is necessary to make this voluntary procedure mandatory, and we decline to explicitly require it.

SBE also requests that the Commission affirm that full power and Class A virtual channels have primary rights over those of LPTV/translator stations. SBE Reply at 2–3. We believe that our proposed language makes this clear, in that LPTV/translator stations are required to utilize a virtual channel which does not create an overlap with a station that is required to follow ATSC A/65C, Annex B, which includes full power and Class A stations. See revised § 74.790(n). See also ATSC A/65C,

Annex B.1.8, which indicates that the virtual channel number used by a broadcaster should “be different from those used by any other broadcaster with an overlapping DTV service area.” Should the contour of a full-power and Class A station come into conflict with that of an LPTV, since the LPTV station has secondary status, it is required to change its virtual channel. For example, the Commission recently announced winning bidders in the Commission’s auction of construction permits for full power television stations (Auction 112), and awarded a total of eighteen construction permits. *Auction of Construction Permits for Full Power Television Stations Closes, Winning Bidders Announced for Auction 112*, AU Docket No. 21–449, Public Notice, DA 22–659 (OEA/MB 2022). These new full power stations will determine their virtual channels using ATSC A/65C, Annex B, as required by § 74.682(d) of the Commission’s rules. If that virtual channel number overlaps with that of an LPTV station, the LPTV station will be required to change its virtual channel. As a result, we do not believe it is necessary to amend the proposed language to affirm SBE’s assertion.

In light of the comments, we find that it is in the public interest to codify the Bureau’s practice of requiring LPTV stations to transmit with a virtual channel that avoids conflicts with any full power or Class A station’s virtual channel in cases where a contour overlap would arise, or with virtual channels previously chosen by other LPTV stations. *2004 Order*, 19 FCC at 19413, para. 243, n.505. See revised § 74.790(n). Absent this rule change, LPTV stations could potentially create contour overlap with full power and Class A stations, leading to virtual channel conflicts. We reiterate that LPTV licensees are not required to comply with the virtual channel assignment methodology found in ATSC A/65C, Annex B, as full power and Class A stations are required to do. *2004 Order*, 19 FCC Rcd at 19413, para. 243 (noting that the Commission will not at the time require digital LPTV stations to comply with the ATSC A/65B standard). See also ATSC A/65C, Annex B (2006) (ATSC A/65C, Annex B); 47 CFR 73.682(d) (TV transmission standards) (The Commission later incorporated the 2006 version of Annex B into the Commission’s rules by reference for full power and Class A stations).

LPTV/Translator Call Sign Assignment Protocol. In this *Report and Order*, we adopt our tentative conclusion from the *NPRM* that we should add a new § 74.791(d) (Call signs) to reflect the staff’s current call

sign assignment protocol for LPTV/translator stations. *NPRM* at para. 19 and Appendix B. Section 74.783(d) (Station identification) provides that an LPTV/translator station call sign will be made up of the letters K or W, the station’s channel number, and “two additional letters.” See 47 CFR 74.783(d) (Station identification). For certain channel numbers, however, all two letter combinations have been exhausted for several years, and consistent with the Commission’s policy that all stations have a unique call sign, stations have been assigned a three letter call sign beginning with “AAA,” continuing sequentially through the alphabet for the third letter. This three letter protocol is built into the Commission’s LMS system. ATBA supports this proposal, and no entity opposed it. ATBA Comments at 3. Considering the necessity of modifying the two letter protocol due to the exhaustion of such combinations, and the fact that any change would affect the staff’s ability to continue timely processing applications, we adopt the proposal and amend § 74.791 to add paragraph (d).

Technical Modifications

Processing Priority. We adopt the processing priority proposal put forth in the *NPRM*. Section 74.708(b) (Class A TV and digital Class A TV station protection) requires LPTV/translator stations to protect previously filed Class A applications, and § 74.710(a) (Digital low power TV and TV translator station protection) requires LPTV/translator stations to protect previously filed LPTV/translator applications. 47 CFR 74.708(b) (Class A TV and digital Class A TV station protection) and 74.710(a) (Digital low power TV and TV translator station protection). These subsections reference the Bureau’s practice that if two applications are filed on different days and otherwise have equal processing priority, the filing earlier in time will receive priority. In the *NPRM*, we tentatively concluded that these requirements should be maintained in the rules, but moved into the Commission’s digital rules in § 74.787(c) (Licensing). *NPRM* at para. 20. No commenters opposed this proposal. We therefore adopt the proposal, maintain the rules, and move them into the Commission’s digital rules in § 74.787(c). 47 CFR 74.787(c).

Vertical Polarization Considerations. We adopt our proposal in the *NPRM* to remove references to antennas with solely vertical polarization in certain part 74 rules. Sections 74.735(c) (Power limitations) and 74.750(f) (Transmission system facilities) of the rules reference

vertically polarized transmitting antennas. 47 CFR 74.735(c) (Power limitations) and 74.750(f) (Transmission system facilities). We noted in the *NPRM* that despite the reference, the Commission's LMS filing system does not and has not allowed stations to specify a vertically polarized antenna. Further, we noted that television viewers' home receive antennas are generally horizontally, not vertically, polarized. In the *NPRM*, we therefore proposed to modify the language in § 74.735(c) and in revised § 74.750(f) to remove the reference to antennas with solely vertical polarization. *NPRM* at para. 21. We also proposed to clarify, consistent with the similar rule applicable to full power stations, that the horizontally polarized power is to be higher than or equal to the vertically polarized power in all directions, and require documentation that antennas meet this requirement. *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). *NPRM* at para. 21 and n.57.

OMI and NTA believe we should retain the reference to antennas with solely vertical polarization and OMI requests that we modify LMS to allow them. OMI's comments do not argue in favor of antennas with solely vertical polarization so much as they make a case for the use of a vertical polarization component. OMI Comments. We note that a vertical polarization component is already permitted via elliptically- and circularly-polarized antennas, and that these types of antennas would not be implicated by the rule change proposed. 47 CFR 74.735(c). While there may be future applications where a vertically polarized component is helpful, use of antennas with solely vertical polarization would require television viewers to change their home receive antennas from horizontal to vertical polarization, which we do not believe viewers should be required to do. Thus, we do not believe that permitting the use of antennas with solely vertical polarization makes sense. We therefore decline to retain this reference for unknown future applications, but will address such applications when and if they materialize.

As NAB notes, station assignments and analysis parameters assume the use of horizontal polarization, U.S. bilateral agreements with Canada and Mexico do not permit solely vertical polarization, and NAB suggests that "[a] loss of standardization in this regard will adversely affect the entire broadcast television industry." NAB Reply at 4. We agree with NAB's concerns, and we

therefore adopt the proposal in the *NPRM* and modify the language in § 74.735(c) and in revised § 74.750(f) to remove the reference to antennas with solely vertical polarization. NTA cites a single case of a TV translator station in Mink Creek, Idaho (Mink Creek) which takes advantage of a polarity shift caused by reflecting the signal of a vertically-polarized station off a mountain in order to achieve horizontal polarity at the receive antennas in the community targeted by the station. NTA Comments at 11–12. While we acknowledge this example, we do not believe it is evidence of a commonly-used method or cause for the Commission to contemplate use of vertical-only operations in its licensing or record keeping. We are not aware of any other examples of scenarios like Mink Creek. Given the burdens associated with changing equipment, we direct the Media Bureau to consider requests for waiver of the rule. Mink Creek and any other existing similar situations where stations are currently operating with vertical-only polarization should promptly, upon the effective date of these rules, submit a waiver request to the Video Division, Media Bureau.

With respect to our proposal to require that vertical power not exceed horizontal power, commenters agree that the our proposal might be overly prescriptive in that an antenna could be designed to comply with the rule, but after installation be found to have a slightly higher vertical than horizontal power. In that scenario the rule as proposed could require the antenna to be removed and replaced. *See, e.g.*, NAB Comments at 6; Letter from Robert Weller, Vice-President, National Association of Broadcasters, to Marlene H. Dortch, Secretary, FCC (Nov. 18, 2022) (*NAB Ex Parte*) (requesting that some clarification may be needed to ensure that proposed rule changes do not adversely affect the operation of existing stations or impose new requirements); Reply Comments of Hammett & Edison, Inc., Consulting Engineers, MB Docket Nos. 03–185 and 22–261 (filed Nov. 7, 2022) (H&E Reply) at 1. We agree with commenters and note that this outcome was not the intent of the proposal. Thus, we clarify that the amended rule requires that an antenna should be *designed* such that the horizontal power is intended to be higher than or equal to the vertical power in all directions. This new requirement is consistent with stations being primarily horizontal, with a possible vertical component intended to be less than or equal to the horizontal

component. *See* revised § 74.735(c). NAB and SBE also suggest that our wording in the proposed revised § 74.735(c)(2)—to require submission of documentation that the antenna is designed such that the horizontal power is intended to be higher than or equal to the vertical power in all directions—may have been unclear. NAB Comments at 9; SBE Reply at 6. NAB put forth a suggested revision to provide additional clarity. NAB Comments at 9 (suggesting that the modified text should read instead: "Relative field azimuth plane pattern (patterns for both horizontal and vertical polarization should be included if elliptical or circular polarization is used) of the proposed antenna. A value of 1.0 should be used for the maximum radiation in the horizontal polarization."). We agree that NAB's formulation contains a clearer statement of the intent of our original proposal. We therefore adopt the proposal in the *NPRM* using the modified, clearer language proposed by NAB.

Antenna Pattern Plots. We adopt our proposal in the *NPRM* to update our requirements for submitting antenna pattern plots in applications, with minor adjustments. Section 74.735(c)(4) (Power limitations) currently requires that horizontal plane patterns be plotted "to the largest scale possible on unglazed letter-size polar coordinate paper." 47 CFR 74.735(c)(4). The *NPRM* suggested that this requirement is outdated and not consistent with current licensee and Commission staff practices. We proposed in the *NPRM* to require licensees to submit patterns in the form of a .pdf attachment to an application filed in LMS, and clarify that similar plots are required for elevation (§ 74.735(c)(6)) or matrix patterns (§ 74.735(c)(7)) submitted in the LMS form. *NPRM* at para. 22. *See* revised §§ 74.735(c)(6) and 74.735(c)(7). No commenter disagreed with our assessment, but NAB points out, and SBE agrees, that the terminology we used in the proposed text for the revised rule could be modified to more accurately reflect our intent. NAB Comments at 9; SBE Reply at 6. NAB urges that the proposed § 74.735(c)(4) should read: "All azimuth plane patterns be plotted in a PDF attachment to the application in a size sufficient to be easily viewed." *Id.* We agree that NAB's formulation contains a clearer statement of the intent of our original proposal and therefore adopt it. We note that one goal of this proposal 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. NAB also proposes that matrix patterns should be submitted as spreadsheets rather than PDFs. We agree that this approach would provide flexibility to applicants and conform to modern practices and include that option in the revised rule. Having received no comments on the *NPRM's* proposal to clarify that similar plots are required for elevation or matrix patterns submitted in the LMS form, we adopt that proposal, as well.

Modification of Transmission Systems. We adopt our proposal in the *NPRM* to amend § 74.751 (Modification of transmission systems) with a modification proposed by commenters. Section 74.751(b)(4)(i) states: “(b) [f]ormal application (FCC Form 2100, Schedule C) is required for any of the following changes: (4) [a]ny horizontal change of the location of the antenna structure which would (i) be in excess of 152.4 meters (500 feet).” 47 CFR 74.751(b)(4)(i) (Modification of transmission systems). Therefore, the section on its face appears to permit a licensee to relocate its antenna structure less than 500 feet (152.4 meters) without requesting authorization. *See id.* We note that this rule, as written, only addresses relocations of the entire “antenna structure,” which is a tower or building. We note that, scenarios where an antenna structure moves less than 500 feet are highly unlikely to occur in the real world. Additionally, we note a change of location at distances under 500 feet without submission of an application, is not consistent with standard licensing practices.

In the *NPRM*, we noted that the Commission staff's standard processing practice is to require a licensee to file a minor modification application whenever a station seeks to relocate its antenna. *NPRM* at para. 23. We explained in the *NPRM* that because the most precise antenna location provides the most accurate results when using OET Bulletin No. 69 (OET–69 Bulletin), the staff has consistently required a minor modification application for all antenna relocations, and the industry has routinely submitted such minor modification applications. *Id.* We

therefore proposed in the *NPRM* to revise the language of the rule to codify current staff practice and the application filing requirements of LMS, related to the movement of the station antenna specifically, and modify § 74.751(b)(4) to require LPTV/translator licensees and permittees to file an application in LMS on FCC Form 2100, Schedule C, requesting authorization for all antenna relocations. *Id.*

In filed comments, ATBA requests that we “preserve [the Commission's] existing rule that permits a licensee to relocate facilities less than 500 feet (152.4 meters) without requesting prior authorization and to incorporate this rule into its processing practices.” ATBA Comments at 3. The rule, however, appears to apply only to relocation of the entire antenna structure and not generally to other relocations of antennas. *See supra.* NTA asserts that changes in location of less than 500 feet should not make a material difference to the result of the OET–69 Bulletin analyses, and additionally cites to the fact that a 1.0 kilometer cell size is the default in such analyses for LPTV/translator stations, noting that means each cell is “approximately 3,900 feet” on a side. NTA Comments at 19. The OET–69 Bulletin is referenced in § 74.793 of the Commission's rules and provides guidance on the use of Longley-Rice methodology for evaluating TV service coverage and interference in accordance with the Commission's rules. NTA Comments at 19. We calculate that 1.0 kilometer is approximately 3,280 feet, not 3,900 feet. NTA further states that “[r]ather [than] having to file a minor change to move your antenna 20 feet, or adjust a small error in coordinates, LPTV and translator owners should be able to continue to use an informal procedure, such as letter notifications, just like their full service counterparts.” NTA Comments at 20. Neither LPTV/TV translator nor full power stations are permitted to follow such a procedure; for example, full power stations are required to formally file such changes in LMS on Form 2100, Schedule B. We find that there is good cause to amend the rule to require the filing of a minor modification application for moves of less than 500 feet and that such moves can make a material difference to the result of the OET–69 Bulletin. Specifically, we note that stations have the option of selecting both a smaller cell size than the 1.0 kilometer default in the OET–69 Bulletin (0.5 kilometers) and an option to select a smaller path profile spacing increment, as small as 0.05 kilometers or 164 feet, when the

path loss calculations are conducted. A station which has used a smaller path profile spacing increment than the default 1.0 kilometer value can thus change the terrain paths used in the calculation of interference with a relatively small change of coordinates. Additionally, in particularly rough terrain, 500 feet can be, for instance, the difference between the peak of a mountain and a point significantly down the slope of that mountain. Because LPTV/translator stations are more likely than full power stations to operate from very short antenna heights and also because they do so in mountainous areas where significant changes in terrain height can occur over short distances, these differences can be meaningful. While the fact that the Commission uses the radiation center above mean sea level to determine antenna height for interference calculations should limit the impact of some cases, we remain concerned that such moves could cause changes to interference calculations, particularly when smaller path profile spacing increments are used as described above, since it could cause changes in the impact of terrain shielding near the transmitter site. We therefore disagree with ATBA and NTA, and conclude that it serves the public interest for such changes to be evaluated via an application for a construction permit.

NAB argues that “LPTV and TV Translator stations should not be held to a higher standard than full power stations, which are generally allowed to change geographic coordinates by three seconds of latitude and/or longitude as a matter of right” and compares our proposal to the requirements applicable to full power stations contained in § 73.1690 (Modification of transmission systems). NAB Comments at 7 (internal references omitted). We agree with NAB that it is reasonable to conform the LPTV/translator rule to more closely match this full power rule. Section 73.1690(b)(2) and the associated § 73.1690(c)(11) apply only to coordinate corrections and not to relocations. Section 73.1690(c)(11) explicitly requires that a station may correct its coordinates in a streamlined manner “provided there is no physical change in location and no other licensed parameters are changed.” 47 CFR 73.1690(c)(11) (Modification of transmission systems). We therefore amend § 74.751 to permit LPTV/translator stations as well to correct station coordinates in the absence of any such physical change in location or other licensed parameters, where the change is not more than three seconds

latitude and/or three seconds longitude. See revised § 74.751(b)(4) and (c). See *infra*. Limiting streamlined processing only to coordinate corrections improves the accuracy of the coordinates of the facility already in operation, and thus such a correction cannot cause a change in real world interference, even if the predictions change slightly, and therefore we believe this change serves the public interest. As minor modifications do not require a filing fee, and because the staff practice is to process such modifications as rapidly as possible, we do not believe the two-step process is a significant burden. However, to mitigate the concern expressed by NAB related to cost, we direct the Media Bureau to waive any LMS-imposed filing fee associated with the LPTV/translator station's FCC Form 2100 filing, consistent with the current practice for full power stations. See NAB Comments at 8.

We also adopt the proposal in the *NPRM* to delete two subsections of § 74.751 as irrelevant and unnecessary. *NPRM* at para. 24. Section 74.751(b)(6) permits relocation of a station's transmitter without authorization in only certain instances. 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 § 74.751(b)(6) entirely regarding the transmitter's location, as it is not relevant in this analysis. The *NPRM* also proposed to delete § 74.751(c), which requires LPTV/translator licensees to notify the Commission in writing of any other equipment changes they make that are not specifically referenced in paragraphs (a) and (b) of the section. We noted that we do not believe this information is relevant to the Commission's application decision-making processes, and that staff does not routinely receive such notifications. We received no comments opposing these proposed changes, and so we adopt the proposal in the *NPRM*, and delete the subsections.

Minimum Service Standards. We adopt our proposal in the *NPRM* to update the video quality standard. Section 74.790(g)(3) (Permissible service of TV translator and LPTV stations) provides that "LPTV station[s] must transmit at least one over-the-air video program signal at no direct charge to viewers at least comparable in resolution to that of its associated analog (NTSC) LPTV station or, in the case of an on-channel digital conversion, that of its former analog LPTV station." 47 CFR 74.790(g)(3); see also 2004 Order, 19 FCC Rcd at 19348–

9, para. 51. We proposed in the *NPRM* to update the quality standard set forth in the rule to reflect that 480i video resolution is "comparable in resolution to analog television programming," consistent with the update the Commission made to its full power station rules in § 73.624(b). See *NPRM* at para. 25; see also *Promoting Broadcast Internet Innovation through ATSC 3.0*, MB Docket No. 20–145, Report and Order, 35 FCC Rcd 14492, 14507, para. 30 (2020). We received no comments opposing this proposal. We conclude that this quality standard is an appropriate standard for LPTV stations and therefore adopt it. Furthermore, we adopt the proposal in the *NPRM* that the desired-to-undesired (D/U) ratios for ATSC 3.0 into TV and vice versa for predicting interference to stations are assumed to be similar and need not be differentiated in the rules beyond TV service. See *NPRM* at para. 25.

LMS Filing Procedures. We adopt our proposal in the *NPRM* to update certain rules to require electronic filing. Certain rules specify the filing of a letter or similar submission for relief with the Commission. We proposed in the *NPRM* to update such rules to instead require submission in LMS, the Commission's broadcast licensing and management database. *NPRM* at para. 26. We also proposed to require email submission of certain specified information in the event LPTV/TV translator stations rebroadcast the programs of other TV broadcast stations. See *NPRM*, Appendix B at proposed § 74.784(b). Doing so is consistent with current licensee and Commission staff practices not just for LPTV/translators, but also full power and Class A licensees and permittees. We received no comments opposing these proposed updates. Therefore, we amend our rules to require LPTV/translator licensees and permittees to file written reports, submissions, letters, notifications, or other required filings in LMS. 47 CFR 74.703(h) (Interference); 74.734(a)(4) (Attended and unattended operation); and 74.763(b) (Time of operation). We also note that we amend § 74.784(b) (Rebroadcasts) as proposed to require email submission. We believe that this amendment is in the public interest because it will streamline application submission, processing, and record keeping, and provide a centralized location for public inspection of all licensing-related matters.

Additional Questions and Proposals Raised by Commenters

We decline to adopt several proposals raised by commenters. In doing so, we note that the *NPRM's* scope was limited

to amendments to the part 74 rules to reflect the current operating environment, including the termination of analog operations in the LPTV/translator service. Specifically, the *NPRM* proposed to adopt rules previously applicable to analog operations for digital operations, update geographic coordinates to the current NAD standard, modify station identification requirements, require LPTV stations to transmit with a virtual channel that avoids conflicts with other stations, update the process for filing applications with the Commission, and make other technical modifications. See *NPRM* at para. 9. We received several proposals that seek to make material changes to our rules, or changes outside of part 74. Comments of Scripps Broadcasting Holdings LLC, MB Docket Nos. 03–185 and 22–261 (filed Oct. 24, 2022) (Scripps Comments) at 1, 4 (proposing to adopt a "90-day shot clock" for resolving channel substitution petitions for rulemaking in part 73); ATBA Comments at 4–6 (proposing that the freeze on major modifications of LPTV stations be lifted and requesting that the Commission "provide greater certainty for LPTV operators planning to invest in new and innovative digital technologies."); Comments of Mountain Broadcasting Corporation, MB Docket Nos. 03–185 and 22–261 (filed Oct. 24, 2022) (Mountain Broadcasting Comments) at 2; see also Reply Comments of Mountain Broadcasting Corporation, MB Docket Nos. 03–185 and 22–261 (filed Nov. 7, 2022) (Mountain Broadcasting Reply) at 5–6 (proposing that the Commission apply Annex B of the ATSC A/65C to both full power and LPTV stations and allow any virtual channel designation that does not result in a contour overlap; and require LPTV stations to file items similar to those maintained by full power stations in a public file). We therefore decline to adopt these proposals as outside the scope of this proceeding.

Aside from the proposals that were outside the scope of this proceeding, CDE asked whether the wording in § 74.701(c) (Definitions) adopted in the *Part 74 Order* ("analog to digital replacement translator (DRT)") is correct given that the analog sunset date was July 13, 2021 at 11:59 p.m. Comments of Cohen, Dippell and Everist, P.C., MB Docket No 22–261 (filed Oct. 24, 2022) (CDE Comments) at 2; see also 47 CFR 74.701(c) (Definitions). We take this opportunity to clarify that the wording is correct. In this instance, we do require reference to the word "analog" despite completion

of the digital transition. In 2009, the Commission adopted a new, replacement digital translator service to permit full power television stations to continue to provide service to viewers within their existing analog coverage areas where the viewers would otherwise lose service after the station transitioned to digital. *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Replacement Digital Low Power Television Translator Stations*, MB Docket No. 08–253, Report and Order, 24 FCC Rcd 5931 (2009). While the definition of the DRT service includes the word “analog” because it is replacing service to the analog coverage area, the replacement translator service is digital.

Finally, the LPTV Broadcasters Association proposes replacing the term “low power television” in the Commission’s rules with “local power television.” Comments of the LPTV Broadcasters Association, MB Docket Nos. 03–185 and 22–261 (filed Oct. 24, 2022) (LPTV Broadcasters Association Comments) at 1–3. While we recognize the local service that LPTV can provide, we decline to adopt this change. As discussed above, the purpose of this proceeding is to eliminate confusion within our rules. Because several of our rules stem from statutory requirements, and because Congress has used the term “low power television,” we believe that changing this term would result in inconsistencies between the statute and the rules and would create, not eliminate, confusion within our rules. See, e.g., 47 U.S.C. 336(h) (Provision of Digital Data Service by Low-Power Television Stations); *Low Power Protection Act* (Pub. L. No. 117–344, S. 3405 (Jan. 5, 2023) (defining “low power TV station” with respect to § 74.701 of the Commission’s rules); *Community Broadcasters Protection Act of 1999*, Public Law No. 106–113, 113 Stat. Appendix 1 at pp. 1501A–594–1501A–598 (1999), codified at 47 U.S.C. 336(f).

Cost Benefit and Diversity, Equity and Inclusion Analysis

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. *NPRM* at para. 27 (seeking comment on the benefits and costs associated with adopting the proposed changes). A few commenters explicitly

addressed the costs and benefits of the proposed rules or provided specific data and analysis supporting claimed costs and benefits in response to the *NPRM*. For example, Canyon TV/Cannaliato asserts that our proposal to use TSIDs would impose a significant financial burden to community translators. See Canyon TV/Cannaliato Comments at 1. NTA in its comments cites an estimate by one translator owner and operator of Montana translator stations of the cost to update equipment to enable translators to insert data into the PSIP of the received data for each translator. See NTA Comments at 5. Canyon TV/Cannaliato also noted with respect to our frequency measure requirement proposal that replacing certain equipment in order to comply would be a financial burden for translator stations. See Canyon TV/Cannaliato Comments at 1. As described *supra*, the revisions to the rules codify the staff’s current practices or better reflect technological advancements in the industry and take into consideration potential financial burdens on LPTV/translators. We did not adopt the TSID- and PSIP-related rules that could have led to increased costs, and we clarified in the *Report and Order* that we do not believe the frequency measurement requirement will lead to increased cost. The revised rules reflect an effort to simplify, streamline, and modernize existing rules and procedures that will enable LPTV/translator stations to more easily comply with licensing requirements through familiar and low cost measures. Thus, we expect any costs imposed by the updated rules will be minimal and outweighed by the public benefits of clarity and modernization.

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. *NPRM* at para. 28. 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 LPTV/translator 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.

Procedural Matters

Paperwork Reduction Analysis. The *Report and Order* contains either new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA). Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under § 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 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.

Congressional Review Act. 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).

Regulatory Flexibility Analysis. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” See 5 U.S.C. 603 and 605(b).

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.

Final Regulatory Flexibility Act Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Initial Regulatory Flexibility Act Analysis (IRFA) was incorporated into the *Notice of Proposed Rulemaking (NPRM)* released in July 2022. 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), Public Law 104–121, Title II, 110 Stat. 857 (1996). 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, Order and Sixth Notice of Proposed Rulemaking, FCC 22–58 (rel. July 13, 2022) (NPRM); Erratum, FCC 22–58 (rel. Sept. 9, 2022). 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. See 5 U.S.C. 604.

Need for, and Objectives of, the Report and Order

The *Report and Order* reflects the Commission's effort to update its rules following the termination of analog operations in the low power television (LPTV) and TV translator services (collectively LPTV/translator). The Commission adopts certain rules previously applicable to analog operations for digital operations and considers requests and comments received on subjects not included in the NPRM proposals, including analysis of the cost and benefits of the proposed rules.

In the *Report and Order*, the Commission retains the rule requiring LPTV stations that avail themselves of the provisions set forth in the LPTV Pilot Project Digital Data Services Act (DDSA) digital data service pilot project to comply with the Commission's rule implementing the DDSA. The *Report and Order* amends the Commission's rules for LPTV/translator alphanumeric call signs to account for exhaustion of all two letter call sign combinations for some channel numbers, and consistent with the Commission's policy that all stations have a unique call sign, the *Report and Order* codifies the current practice of assigning a call sign ending in three letters beginning with "AAA" and continuing sequentially through the alphabet ("AAB", "AAC", etc.) in such cases. The *Report and Order* also requires digital LPTV stations to comply with the station identification provisions in § 74.783 applicable to analog operations, updated to reflect digital operations. Additionally, the Commission adopts its proposal to include an option for LPTV stations to use the Program and System Information Protocol (PSIP) to transmit the station's call sign as the "short channel name" on at least one stream of programming that the LPTV station transmits, and mandates the broadcast of the station's assigned TSID (or BSID, which is the Advanced Television Systems Committee (ATSC) 3.0

functional equivalent), assuming one is assigned.

The *Report and Order* adopts a modified version of the Commission's proposal to require a minor modification application on FCC Form 2100, Schedule C for all station relocations, including those under 500 feet, but allows for coordinate corrections of under 3 seconds latitude and/or longitude without paying a filing fee. The *Report and Order* also codifies the staff's practice of requiring LPTV stations to transmit with a virtual channel that avoids conflicts with any full power or Class A station's virtual channel in cases where a contour overlap would arise, or with virtual channels chosen by other LPTV stations. Further, the *Report and Order* updates various filing requirements that currently specify submission by letter or other means to the FCC to instead require submission in the Commission's Licensing and Management System (LMS), or otherwise through electronic submission, and clarifies what documentation is required when applications are submitted with various kinds of directional patterns. In addition, the *Report and Order* removes references in the rules to the use of antennas with solely vertical polarization, and requires that the design of broadcast antennas is such that horizontal power is intended to be higher than or equal to the vertical power in all directions.

The *Report and Order* also adopts updates to the coordinates found throughout § 74.709 from NAD 27 to NAD 83 and otherwise conforms the values in § 74.709(a) with those found in § 90.303. These coordinates are used only to determine where the Commission will or will not grant applications. Section 74.703(e) still requires the resolution of actual interference, so the adjustments to § 74.709(a) will not change the required amount of interference protection between LPTV/translator stations and land mobile operations. Finally, the *Report and Order* adopts updates to the quality standard set forth in § 74.790(g)(3) to reflect that 480i video resolution is "comparable in resolution to analog television programming," consistent with the update the Commission made to its full power station rules.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

There were no comments filed that specifically addressed the rules and policies proposed in the IRFA.

Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

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. *Id.* 604(a)(3).

The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

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

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. *Id.* 604(a)(4). The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." *Id.* 601(6). In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act (SBA). *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.* 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. 15 U.S.C. 632.

The rules adopted herein 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.

Television Broadcasting. This industry is comprised of "establishments primarily engaged in broadcasting images together with sound." See U.S. Census Bureau, 2017 NAICS Definition, "515120 Television Broadcasting," <https://www.census.gov/naics/?input=515120&year=2017&details=515120>. These establishments operate television broadcast studios and facilities for the programming and transmission of

programs to the public. *Id.* 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. See 13 CFR 121.201, NAICS Code 515120 (as of Oct. 1, 2022 NAICS Code 516120). 2017 U.S. Census Bureau data indicate that 744 firms in this industry operated for the entire year. 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. Of that number, 657 firms had revenue of less than \$25,000,000. *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. Based on this data, we estimate that the majority of television broadcasters are small entities under the SBA small business size standard.

As of December 31, 2022, there were 1,375 licensed commercial television stations. *Broadcast Station Totals as of December 31, 2022*, Public Notice, DA 23–21 (rel. Jan. 11, 2023) (*December 2022 Broadcast Station Totals PN*), <https://www.fcc.gov/document/broadcast-station-totals-december-31-2022>. Of this total, 1,282 stations (or 93.2%) had revenues of \$41.5 million or less in 2021, according to Commission staff review of the BIAKelsey Media Access Pro Online Television Database (MAPro) on January 13, 2023, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates as of December 31, 2022, there were 383 licensed noncommercial educational (NCE) television stations, 383 Class A TV stations, 1,912 LPTV stations and 3,122 TV translator stations. BIA Advisory Services, BIAKelsey Media Access Pro Online Television Database, <http://www.biakelsey.com/data-platforms/media-access-pro> (last visited

on Jan. 13, 2023). *Broadcast Station Totals PN*. 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.

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

In this section, we identify the reporting, recordkeeping, and other compliance requirements adopted in the *Report and Order* and consider whether small entities are affected disproportionately by any such requirements. While the Commission is not in a position to determine whether small entities will have to hire professionals to comply with our decisions and cannot quantify the cost of compliance for small entities, the approaches we have taken to implement the requirements have minimal or *de minimis* cost implications for impacted entities.

The Commission concludes it will modify § 74.751(b)(4) to require LPTV/translator licensees and permittees to file a minor modification application requesting authorization for all station relocations, including those moving the antenna or the antenna structure less than 500 feet (152.4 meters), but will permit stations seeking to correct coordinates by less than 3 seconds of latitude and/or longitude to do so without paying a filing fee. See revised § 74.751(b)(4) and (c) (Modification of transmission systems). The rule as currently written exempts relocations of the station's antenna structure by less than 500 feet from the application process. These requirements will result in a modified paperwork obligation for small entities and other licensees. The *Report and Order* adopts a new § 74.762 regarding frequency measurements, which would require small and other LPTV/translator stations to measure the frequency of their output channel as often as necessary, but not exceeding 14 months, to ensure operation consistent with the ATSC standard in § 73.682 of the rules. The Commission also adopts LPTV station identification proposals to comply with § 74.783, updated to reflect digital operations, including the option to transmit the station's "short channel name" on at least one stream of

programming. Further, the *Report and Order* amends our rules to require LPTV/translator licensees and permittees to file written reports, submissions, letters, notifications, or other required filings in LMS, or otherwise by electronic submission, thereby streamlining application submission, processing, and record keeping for small and other entities. The Commission will seek approval and the corresponding burdens, such as those require to comply with the Paperwork Reduction Act of 1995 (PRA), to account for this modified reporting requirement. Public Law 104–13.

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

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." 5 U.S.C. 604(a)(6).

The actions taken by the Commission in the *Report and Order* were considered to be the least costly and minimally burdensome for small and other entities impacted by the rules. As such, 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 *Order* to minimize any significant economic impact on small entities and some alternatives that were considered.

The *Report and Order* adopts a number of proposals that would codify the staff's current practices or better reflect technological advancements in the industry that may benefit small entities. For example, the *Report and Order* codifies the staff's practice of requiring LPTV stations that voluntarily transmit with a virtual channel to choose one that avoids conflicts with any full-power or Class A station's virtual channel in cases where a contour overlap would arise, or with virtual channels chosen by other LPTV stations. We considered alternatives by the Society of Broadcast Engineers (SBE) that would require small and other LPTV licensees to enter these channels in LMS, but decline this option because LPTV virtual channel assignments do not need Commission approval. Moreover, the *Report and Order* removes references in the rules to the use of antennas with solely vertical

polarization, and requires that the horizontal power is intended to be higher than or equal to the vertical power in all directions, consistent with the requirements for full-power stations. We considered proposals from the National Association of Broadcasters (NAB) and SBE that we modify the wording of the proposed rules, and adopted the clearer language proposed by NAB. These revisions simplify, streamline, and modernize existing rules and procedures that will enable small and other LPTV/translator stations to more easily comply with licensing requirements through familiar and low cost measures. We also adopted a rule for LPTV stations allowing the option of identifying by using PSIP to transmit the station's call sign as the "short channel name" on at least one stream of programming that the LPTV station transmits. *NPRM* at para. 16 and n.48. The rule we adopted is simpler and less expensive than other methods of identification for stations that are already using PSIP.

The *Report and Order* also updates the coordinates in § 74.709 from NAD 27 to NAD 83 in order to conform the values with those found in Part 90 of the Commission's rules. These coordinates are used only to determine whether the Commission will or will not grant applications. Section 74.703(e) still requires the resolution of actual interference, and so the Commission would not need to balance the interference protection afforded to land mobile operation with the updated, streamlined benefits for small entities as a result of this revision. While NAB encourages us to add a note to Part 90 regarding land mobile assignments, we decline to do so due to a pending petition for rulemaking on that subject. Further, the *Report and Order* updates various filing requirements that currently specify submission by letter or other means to the FCC to instead require submission in LMS or electronically. The Commission anticipates that this option will lessen the physical burden on small entities.

A few commenters explicitly addressed the costs and benefits of the proposed rules or provided specific data and analysis supporting claimed costs and benefits in response to the *NPRM*. Specifically, Canyon TV/Cannaliato noted the financial burden TSIDs would impose to community translators, and that replacing equipment to comply with the rules would be a financial burden for translator stations. NTA cited similar cost concerns in its comments. In assessing the impact on small entities, we took into consideration potential financial burdens on small and

other LPTV/translators, and in adopting the TSID- and PSIP-related rules we had proposed, we clarified that we did not intend to impose a requirement that could have led to increased cost. Additionally, Canyon TV/Cannaliato raised the possibility of additional costs due to our proposed requirement to regularly conduct frequency measurements. However, in adopting this proposed rule, we believe small and other LPTV/translator stations can comply without replacing existing equipment. Specifically, stations can comply with the rule by reviewing the station's signal on a spectrum analyzer and determining that the pilot carrier (for ATSC 1.0) and the overall signal (for ATSC 1.0 and ATSC 3.0) appear correctly and are properly contained within their assigned spectrum, consistent with the standard in use and our rules. We also clarified in the *Report and Order* that we do not believe the frequency measurement requirement will lead to increased cost, and identified specific portions of § 73.682 that contain the information needed to conduct frequency measurements, easing the burden on small and other entities in comparison to citing the entire broadcast standard.

Report to Congress

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, 5 U.S.C. 801(a)(1)(A). 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**. 5 U.S.C. 604(b).

Ordering Clauses

Accordingly, *it is ordered*, pursuant to the authority contained in §§ 1, 4, 301, 303, 307, 308, 309, 310, 316, 319, 336, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 301, 303, 307, 308, 309, 310, 316, 319, 336, 403, this Report and Order *is adopted*.

It is further ordered that the Commission's rules *are hereby amended* as set forth in the appendix and such amendments shall be effective 30 days after publication in the **Federal Register**, except for §§ 74.703, 74.734, 74.735, 74.751, 74.763, and 74.784, 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.

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, 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.

It is further ordered, that pursuant to § 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.

List of Subjects in 47 CFR Part 74

Low Power TV, TV translator stations.
Federal Communications Commission.

Marlene Dortch,
Secretary, Office of the Secretary.

Final Regulations

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

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

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

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

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

§ 74.702 Channel assignments.

* * * * *

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

* * * * *

- 3. Delayed indefinitely, amend § 74.703 by revising paragraph (h) to read as follows:

§ 74.703 Interference.

* * * * *

(h) In each instance where suspension of operation is required, the licensee shall submit a full report to the FCC after operation is resumed containing details of the nature of the interference, the source of the interfering signals, and the remedial steps taken to eliminate the interference. This report shall be filed

via a Resumption of Operations notice in the FCC's Licensing and Management System (LMS).

* * * * *

§ 74.708 [Removed and Reserved]

■ 4. Remove and reserve § 74.708.

■ 5. Amend § 74.709 by:

■ a. In paragraph (a) revising table 1; and

■ b. In paragraph (b)(2), revising table 2. The revisions read as follows:

§ 74.709 Land mobile station protection.

(a) * * *

TABLE 1 TO PARAGRAPH (a)

Table with 4 columns: City, Channels, Latitude, Longitude. Lists cities like Boston, Chicago, Cleveland, Dallas, Detroit, Houston, Los Angeles, Miami, New York, Philadelphia, Pittsburgh, San Francisco, Washington with their respective channel numbers and coordinates.

(b) * * *

(2) * * *

TABLE 2 TO PARAGRAPH (b)(2)

Table with 4 columns: City, Channel, Latitude, Longitude. Lists cities like San Diego, Waterbury, Washington, Champaign, Jacksonville, Ft. Wayne, South Bend, Salisbury, Mt. Pleasant, Hanover, Canton, Cleveland, Oxford, Zanesville, Elmira-Corning, Harrisburg, Johnstown, Lancaster, Philadelphia, Pittsburgh, Scranton, Parkersburg, Madison with their respective channel numbers and coordinates.

* * * * *

§ 74.710 [Removed and Reserved]

■ 6. Remove and reserve § 74.710.

■ 7. Delayed indefinitely, amend § 74.734 by revising the first sentence of paragraph (a)(4) to read as follows:

§ 74.734 Attended and unattended operation.

(a) * * *

(4) A notification must be filed with the FCC via a Change of Control Point Notice in LMS providing the name, address, and telephone number of a person or persons who may be called to secure suspension of operation of the

transmitter promptly should such action be deemed necessary by the FCC. * * *

* * * * *

■ 8. Delayed indefinitely, amend § 74.735 by revising the first and second sentences of paragraph (c) introductory text, the first and second sentences of paragraph (c)(2) and paragraph (c)(4),

and adding paragraphs (c)(6) and (7) to read as follows:

§ 74.735 Power limitations.

* * * * *

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

* * * * *

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

* * * * *

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

* * * * *

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

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

■ 9. Revise § 74.737 to read as follows:

§ 74.737 Antenna location.

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

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

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

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

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

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

■ 10. Revise § 74.750 to read as follows:

§ 74.750 Transmission system facilities.

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

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

(c) through (d) [Reserved]

(e) The following procedures shall apply:

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

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

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

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

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

(g) Low power TV or TV translator stations installing new certificated transmitting apparatus incorporating modulating equipment need not make equipment performance measurements and shall so indicate on the station

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

■ 11. Delayed indefinitely, amend § 74.751 by:

■ a. Revising paragraph (b)(4);

■ b. Removing and reserving paragraph (b)(6); and

■ c. Revising paragraph (c).

The revisions read as follows:

§ 74.751 Modification of transmission systems.

* * * * *

(b) * * *

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

* * * * *

(c) Notwithstanding the requirements in paragraph (b) of this section, a station may file in LMS a correction of geographic coordinates where the change is 3 seconds or fewer in latitude and/or 3 seconds or fewer in longitude, provided there is no physical change in location and no other licensed parameters are changed. An exhibit should be attached to the application(s) specifying that it is a coordinate correction.

■ 12. Revise § 74.762 to read as follows:

§ 74.762 Frequency measurements.

(a) The licensee of a low power TV station or a TV translator station must measure the frequency of its output channel as often as necessary to ensure operation consistent with the Advanced Television Systems Committee (ATSC) standard (see § 73.682 of this chapter; for ATSC 1.0, § 73.682(d), ATSC A/53 Part 2, and for ATSC 3.0, § 73.682(f)(2)), and at least once each calendar year at intervals not exceeding 14 months.

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

■ 13. Delayed indefinitely, amend § 74.763 by revising paragraph (b) to read as follows:

§ 74.763 Time of operation.

* * * * *

(b) In the event that causes beyond the control of the low power TV or TV translator station licensee make it impossible to continue operating, the licensee may discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC via a Suspension of Operations Notice filing in LMS, not later than the 10th day of discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30 day period, the FCC shall be notified via a Resumption of Operations Notice filing in LMS of the date normal operations resumed. If causes beyond the control of the licensee make it impossible to comply within the allowed period, a request for Special Temporary Authority (see § 73.1635 of this chapter) shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary via LMS.

* * * * *

■ 14. Revise § 74.783 to read as follows:

§ 74.783 Station identification.

(a) Each low power TV station as defined by § 74.701(f) must transmit its station identification using one of the following methods:

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

(2) By transmitting the call sign in the short channel name field of the Program and System and Information Protocol (PSIP) (or its ATSC 3.0 equivalent) for at least one stream on the station. If the station is assigned an alphanumeric call sign consistent with § 74.791(d) and its call sign has more than 7 characters, it may drop the “-D” from the end of the call sign when identifying with this method; or

(3) By arranging for the primary station, whose signal is being rebroadcast, to identify the low power TV station by transmitting an easily readable visual presentation or a clearly understandable aural presentation of the low power TV station’s call letters and location. Two such identifications shall

be made between 7 a.m. and 9 a.m. and 3 p.m. and 5 p.m. each broadcast day at approximately one hour intervals during each time period. Television stations which do not begin their broadcast day before 9 a.m. shall make these identifications in the hours closest to these time periods at the specified intervals.

(b) Licensees of television translator stations may arrange for identification via the method in paragraph (a)(3) of this section. Licensees of television translators who make such arrangements for station identification to be made by the television station whose signals are being rebroadcast by the translator, must secure agreement with this television station licensee to keep in its file, and available to FCC personnel, the translator’s call letters and location, giving the name, address, and telephone number of the licensee or his service representative to be contacted in the event of malfunction of the translator. It shall be the responsibility of the translator licensee to furnish current information to the television station licensee for this purpose.

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

(1) All low power TV stations originating programming shall transmit their assigned odd-numbered TSID, if one has been assigned. All TV translator stations, and low power TV stations not originating programming, shall pass through the assigned TSID of the originating station, unless the translator or low power TV station is modifying the signal of one or more originating stations in such a way that it is not clear which originating station’s TSID should be used. In that case, the station shall transmit its assigned odd-numbered TSID if one has been assigned.

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

■ 15. Delayed indefinitely, amend § 74.784 by revising paragraph (b) to read as follows:

§ 74.784 Rebroadcasts.

* * * * *

(b) The licensee of a low power TV or TV translator station shall not rebroadcast the programs of any other TV broadcast station or other station

authorized under the provisions of this subpart without obtaining prior consent of the station whose signals or programs are proposed to be retransmitted. The FCC shall be notified of the call letters of each station rebroadcast, and the licensee of the low power TV or TV broadcast translator station shall certify it has obtained written consent from the licensee of the station whose programs are being retransmitted. This notification shall be provided by email to *TVRebroadcast@fcc.gov*, the Video Division’s email box.

* * * * *

§ 74.786 [Removed and Reserved]

■ 16. Remove and reserve § 74.786.

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

§ 74.787 Licensing.

* * * * *

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

§ 74.789 [Removed and Reserved]

■ 18. Remove and reserve § 74.789.

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

§ 74.790 Permissible service of TV translator and LPTV stations.

* * * * *

(g) * * *

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

* * * * *

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

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

§ 74.791 Call signs.

* * * * *

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

■ 21. Section 74.795 is amended by:

■ a. Removing “and” at the end of paragraph (b)(4);

■ b. Removing the period at the end of paragraph (b)(5) and adding “;” in its place; and

■ c. Adding paragraphs (b)(6) and (7).

The additions read as follows:

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

* * * * *

(b) * * *

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

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

* * * * *

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 230504-0121]

RIN 0648-BI79

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Fish Aggregating Device Design Requirements in Purse Seine Fisheries, IMO Number Requirements, and Bycatch Restrictions

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: Under authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFC Implementation Act), NMFS issues this final rule establishing fish aggregating device (FAD) design requirements, International Maritime Organization (IMO) number requirements, and bycatch restrictions for sharks and rays. This action is necessary to satisfy the obligations of the United States under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention), to which it is a Contracting Party.

DATES: This rule is effective on June 12, 2023.

ADDRESSES: Copies of supporting documents prepared for this final rule, including the regulatory impact review (RIR), as well as the proposed rule (86 FR 55790, October 7, 2021), are available via the Federal e-rulemaking Portal, at www.regulations.gov (search for Docket ID NOAA-NMFS-2021-0068). Those documents are also available from NMFS at the following address: Sarah Malloy, Acting Regional Administrator, NMFS, Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Building 176, Honolulu, HI 96818.

A final regulatory flexibility analysis (FRFA) prepared under authority of the Regulatory Flexibility Act is included in the Classification section of the **SUPPLEMENTARY INFORMATION** section of this document.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to PIRO at the address

listed above and to www.reginfo.gov/public/do/PRAMain.

FOR FURTHER INFORMATION CONTACT: Rini Ghosh, NMFS PIRO, 808-725-5033.

SUPPLEMENTARY INFORMATION:

Background

On October 7, 2021, NMFS published a proposed rule in the **Federal Register** (86 FR 55790) proposing to establish FAD design requirements, IMO number requirements, and bycatch restrictions for sharks and rays. The 30-day public comment period for the proposed rule closed on November 8, 2021.

This final rule is issued under the authority of the WCPFC Implementation Act (16 U.S.C. 6901 *et seq.*), which authorizes the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Department in which the United States Coast Guard is operating (currently the Department of Homeland Security), to promulgate such regulations as may be necessary to carry out the obligations of the United States under the Convention, including the decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC or Commission). The WCPFC Implementation Act further provides that the Secretary of Commerce shall ensure consistency, to the extent practicable, of fishery management programs administered under the WCPFC Implementation Act and the Magnuson-Stevens Fishery Conservation and Management Act (MSA; 16 U.S.C. 1801 *et seq.*), as well as other specific laws (see 16 U.S.C. 6905(b)). The Secretary of Commerce has delegated the authority to promulgate regulations under the WCPFC Implementation Act to NMFS. A map showing the boundaries of the area of application of the Convention (Convention Area), which comprises the majority of the WCPO, can be found on the WCPFC website at: www.wcpfc.int/doc/convention-area-map.

The United States is also a member of the Inter-American Tropical Tuna Commission (IATTC). The convention areas for IATTC and WCPFC overlap in the Pacific Ocean waters within a rectangular area bounded by 50° S latitude, 4° S latitude, 150° W longitude, and 130° W longitude (“overlap area”). The preamble of the proposed rule provides further detail on United States implementation of WCPFC and IATTC requirements in the overlap area, which are not repeated here.

This final rule implements specific provisions of four recent WCPFC decisions (CMM 2018-01,