

EPA APPROVED CONTROL MEASURES IN THE LOUISIANA SIP—Continued

Control measures	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approval date	Comments
Contingency Plan	Baton Rouge, LA	01/02/97	[July 2, 1999 and Federal Register cite].	Submitted as part of the 15% ROP Plan on 12/14/95 and, subsequently, as part of the Post-1996 ROP Plan submitted on 12/22/95 and revised 1/2/97.
1999 Motor Vehicle Emission Budgets.	Baton Rouge, LA	01/02/97	[July 2, 1999 and Federal Register cite].	
Revised 1990 Base Year VOC Emissions Inventory.	Baton Rouge, LA	01/02/97	[July 2, 1999 and Federal Register cite].	See also 52.993.

5. Section 52.993 is amended by adding paragraphs (d) and (e) as to read as follows:

52.993 Emissions inventories.

* * * * *

(d) On December 15, 1995, the Governor of the State of Louisiana submitted a revision to the 1990 base year volatile organic compound (VOC) emissions inventory for the Baton Rouge, Louisiana ozone nonattainment area. The revised inventory was submitted as part of the revised Baton Rouge 15 Percent Rate-of-Progress Plan. This revision to the base year inventory modified the point source VOC emissions. The revisions satisfy the requirements of section 182(a)(1) of the Clean Air Act, as amended in 1990.

(e) On January 2, 1997, the Governor of the State of Louisiana submitted a revision to the 1990 base year volatile organic compound (VOC) emissions inventory for the Baton Rouge, Louisiana ozone nonattainment area. The revised inventory was submitted as part of the revised Baton Rouge Post-1996 Rate-of-Progress Plan. This revision to the base year inventory modified the point, area, non-road mobile, on-road mobile, and biogenic sources of VOC emissions. The revisions satisfy the requirements of section 182(a)(1) of the Clean Air Act, as amended in 1990.

[FR Doc. 99-16927 Filed 7-1-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 079-1079; FRL-6370-9]

Approval and Promulgation of Implementation Plans and Approval Under Section 112(l); State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; withdrawal.

SUMMARY: Because EPA received adverse comments, EPA is withdrawing the direct final rule for the approval of revisions to the Iowa State Implementation Plan. EPA published the direct final rule on May 13, 1999 (64 FR 25825). This approval pertained to a set of state rules recently submitted by the Iowa Department of Natural Resources. EPA stated in the direct final rule that if EPA received adverse or critical comments by June 14, 1999, EPA would publish a timely notice of withdrawal in the **Federal Register**. Therefore, due to receiving adverse comments within the comment period, EPA is withdrawing the direct final rule and will summarize and respond to the comments received and take final rulemaking action in a subsequent final rule. EPA will not institute a second comment period on this document.

DATES: The direct final rule published at 64 FR 25825 is withdrawn as of July 2, 1999.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551-7603.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 24, 1999.

Dennis Grams,

Regional Administrator, Region VII.

[FR Doc. 99-16929 Filed 7-1-99; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97-138; FCC 99-118]

Main Studio and Local Public Inspection Files for Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document revises and clarifies the Commission's rules regarding the main studio and local public inspection files of broadcast television and radio stations. The intended effect of this action is to amend the retention requirements as well as other required changes to the Commission's rules.

EFFECTIVE DATE: August 2, 1999.

FOR FURTHER INFORMATION CONTACT: Victoria McCauley, Policy and Rules Division, Mass Media Bureau (202) 418-2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *MO&O*, FCC 99-118, adopted May 25, 1999; released May 28, 1999. The full text of the Commission's *MO&O* is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room TW-A306), 445 12th St. S.W., Washington, D.C. 20554. The complete text of this *MO&O* may also be purchased from the Commission's copy contractor, International Transcription Services (202) 857-3800, 1231 20th St., N.W., Washington, D.C. 20036.

Synopsis of Memorandum Opinion and Order

1. In the *Report and Order* ("R&O"), 63 FR 49487 (September 16, 1998), in this proceeding, we amended our rules regarding the main studio and local public inspection file for broadcast stations. In doing so, our goals were twofold: to strike an appropriate balance between ensuring that the public has

reasonable access to each station's main studio and public file while minimizing regulatory burdens on licensees, and to adopt clear rules that are easy to administer and understand. Consistent with these goals, we provided broadcast licensees additional flexibility in locating their main studios, required the collocation of public files and main studios, and clarified and updated our rules regarding the required contents of the public inspection files. In addition, we adopted an accommodation that requires stations to make available, by mail upon telephone request, photocopies of documents in the public file, including our revised version of "The Public and Broadcasting."

2. We have received five partial or limited petitions for reconsideration of the *R&O* in this proceeding and one opposition to the petitions for reconsideration. In response to these petitions for reconsideration, we take this opportunity to affirm, revise, or clarify certain of our actions. We will modify the rules by amending the scope of the accommodation and by revising slightly and clarifying the document retention requirements. We also address other requested changes.

A. Accommodation

3. In the *R&O*, we amended section 73.1125 of our rules to allow a station to locate its main studio at any location that is within either the principal community contour of any station, of any service, licensed to its community of license or 25 miles from the reference coordinates of the center of its community of license, whichever it chooses. We also amended sections 73.3526 and 73.3527 of our rules to require all stations to locate their public files, which include their political files, at their main studios. Because these rule changes could result in a station's public file being located a greater distance from its community of license than previously permitted, as an accommodation, we also amended sections 73.3526 and 73.3527 to require all stations to make available, by mail upon telephone request, photocopies of documents in the public and political file. As adopted, the rules continue to provide that the station may require the person requesting the copies to pay the reasonable cost of photocopying in advance and require the station to pay postage. To facilitate requests for public file documents over the telephone, the new rules also require stations to provide callers, if they wish to receive one, a copy of the new edition of "The Public and Broadcasting" free of charge. We did not amend the requirements regarding program origination

capability, staff presence or toll-free service.

4. One petitioner argues that some of the newly adopted provisions are unduly burdensome and should be substantially modified or deleted and that the Administrative Procedure Act, the Paperwork Reduction Act and the Regulatory Flexibility Act bar the Commission from lawfully adopting any of the new requirements. Another petitioner argues that the accommodation should be retained as adopted, and apply to all broadcasters stations equally.

5. *Discussion.* We will retain the accommodation with modifications as discussed below. We continue to believe that the accommodation is necessary and reasonable now that broadcasters have much more flexibility in locating their public files. We disagree with State Broadcasters that our *R&O* in this proceeding was contrary to the APA, the PRA or the RFA. The *R&O* was based on a thorough record developed after a full opportunity for comment on the proposed changes to the rules in question. Our decision reasonably met our stated goals of "balancing between ensuring that the public has reasonable access to each station's main studio and public file and minimizing the regulatory burdens on licensees." Our decision was also based on the "bedrock obligation" of each broadcast licensee to serve the needs and interests of its community of license. The PRA and RFA require agencies to ensure that they do not impose unnecessary burdens on members of industry, including small businesses and the public. However, neither the PRA nor the RFA requires any administrative agency to reduce burdens if to do so would undermine the agency's ability to fulfill the obligations of its originating statute. Pursuant to the PRA and RFA, we sought comment on the paperwork burdens and the regulatory burdens on small businesses in the *Notice of Proposed Rule Making* and received no comments. We also analyzed these burdens in the *R&O* and found that our actions properly balanced the needs of the entities involved and the public, and imposed no unnecessary burdens. In addition, the rules were approved by the Office of Management and Budget, which specifically analyzed any paperwork burdens.

6. At the time we adopted the *R&O*, we considered several different methods of accommodation and weighed the comparative burdens and public benefits associated with each. Our determination struck a reasonable balance among the competing proposals raised in the record. We considered

such proposals as requiring courier, fax or e-mail delivery, or requiring stations to make their studio available at non-business hours by appointment and found that such proposals were not reasonable either because they would not serve the public universally or would unduly burden stations. We also considered a proposal to require stations either to provide transportation to requesters, or to transport the public file to them, and determined that such accommodations would be unreasonably burdensome to station owners. On the other hand, we considered such suggestions as allowing a licensee to choose the actual method of public access, and concluded that this approach would not assure reasonable accommodations for the public. We found that the accommodation furthers our stated goals of balancing public access with regulatory burden and ease and clarity of administration. We considered comments arguing, as does State Broadcasters in its Petition, that the accommodation could discourage stations from locating outside the community, and that it could, if not limited, result in frivolous or harassing requests. As we noted in the *R&O*, we believe that the rules as adopted address many of these concerns. For example, a requestor is entitled to "The Public and Broadcasting," which should provide adequate guidance to make an intelligent request for information. In addition, the rules regarding public file contents, as revised, will be much easier to understand and administer for both licensees and the public seeking information. Again, as we stated in the *R&O*, the person seeking documents from a station's public file will continue to be required to pay the reasonable expenses of photocopying, which should reduce the possibility for abusive and frivolous requests.

7. In response to concerns raised by various petitioners, we will nonetheless modify the accommodation in several respects as discussed. The modifications we adopt will more narrowly tailor the accommodation, and thereby lessen regulatory burdens without undermining the public's ability to acquire reasonable access to relevant information about a broadcast station.

8. *Geographic Limitation.* On reconsideration, we will revise sections 73.3526(c)(2) and 73.3527(c)(2) to require that only those stations whose public file is located at a main studio outside the city limits of the community of license be required to provide the accommodation. We believe that this narrowing of the accommodation is justified. Stations that remain in the

community of license should be reasonably accessible to the public they serve. Indeed, we adopted the accommodation in the *R&O* in order to compensate for the fact that broadcasters may now move their public files to more distant locations outside the community of license. If a station chooses to locate its main studio and public file in its community of license under the new rules, the public file will be reasonably accessible just as before, and there should be no need for the accommodation. We will not, however, exempt from the accommodation stations whose public files are outside the community at the main studio pursuant to a waiver granted prior to our *R&O* in this proceeding. Under the new rule, these stations no longer require a waiver and thus should be treated in the same manner as other stations in the same circumstances.

9. We also will revise sections 73.3526(c)(2) and 73.3527(c)(2) to limit the required mailing area for documents requested by phone to the geographic service area of the station in question. Stations will not be required to provide this accommodation to persons outside this area. For a TV station, this area is defined by the area encompassed by the station's Grade B contour; for a radio station, it is the area within the station's protected service contour. This will clarify the scope of the accommodation requirement and minimize disputes over who is eligible for the accommodation. We nonetheless encourage, but will not require, stations to make the accommodation to persons living outside that immediate service area who may be able to view or listen to the station. We urge stations to act in good faith to accommodate viewers and listeners who reasonably claim to receive their signal even though they reside outside the relevant service contour.

10. We believe that narrowing the accommodation in this fashion is consistent with the underlying goals of this proceeding which focused on ensuring the continued access of local viewers and listeners of each station, even where a station relocates its main studio outside of its community of license. Given the limited purpose of the accommodation, we believe the accommodation should be tailored to the listeners and viewers that are served by the station. We acknowledge that, as *MAP, et. al.*, have pointed out, the accommodation, if not limited to a station's geographic service area, could offer collateral benefits, such as mail access to local citizens' attorneys who happen to be located outside the service area, or allowing citizens to compare

performance of local broadcasters with distant broadcasters, or enabling national organizations and academics to collect information from broadcasters nationwide. Such considerations, however, are beyond the scope of this process and we do not address them here.

11. *Specific Guidelines.* In the *R&O* we granted stations the ability to require payment for copies prior to mailing them and noted that stations would be required to send a copy of "The Public and Broadcasting" free of charge to anyone requesting it. We declined to impose a numerical limit on accommodation requests a member of the public could make.

12. We decline to adopt the petitioners' proposals that we further delineate the types and amount of information stations are to give over the telephone. We reiterate our determination in the *R&O*. Therein, we gave an example of the type of telephone service we envisioned: stations, if asked, should describe to a caller the number of pages and time periods covered by a particular ownership report or children's television programming report, or the types of applications actually maintained in the station's public file and the dates they were filed with the FCC. As we stated, we also encourage stations to place the descriptions of their public files on the Internet. Again, we will not set a numerical limit on telephone requests. Particularly with the modifications we make to the accommodation today, we do not expect licensees to be unduly burdened by this requirement. Nor are we convinced that citizen requests for information will be made in bad faith to any significant extent, or that stations will be overwhelmed by such requests. A licensee, may, of course, seek a waiver or special relief from the Commission in the event such circumstances arise.

13. We also decline to adopt or recommend a specific form to be used by stations when fulfilling telephone requests. Stations may, of course, at their discretion, use forms to streamline the processing of requests and collection of associated charges. In addition, we will retain our original requirement that stations pay the cost of postage for mailing the documents requested by telephone. We believe this cost is reasonable considering the flexibility that the new rules grants to stations and the additional cost to the public of travelling to the more distant main studio location in order to view the file in person.

14. *Exempt Political File.* The *R&O* made no substantive change to the

political file rules. The only change in procedure regarding the political file was that requests for the political file's contents were included in the accommodation just as any other aspect of the public file would be. Prior to the effective date of the rules, we granted a temporary and partial stay of the effective date of the accommodation provision only as it applied to requests to gain access to the contents of stations' political files. This effective date was stayed only until the end of the Fall 1998 election season, which occurred only days after the actual effective date of the rules.

15. We will grant petitioners' request and not require that stations extend the accommodation to requests for the political file. We believe that this change balances the needs of broadcasters with the needs of the public. A petitioner states that its experience shows that candidates or their representatives are the heaviest visitors to a station's public file. These persons may make daily or even more frequent requests for political file information during a campaign, because the information is in flux throughout each day of the campaign. As we recognized at the time we granted the temporary stay, a heavy volume of telephone calls could unduly disrupt a station's operations. This volume of telephone requests could occur in any election season. In exempting the political file from the accommodation, we also expect that candidates or their representatives, when seeking political file information in their professional capacities, are more likely to have greater resources and be more able to access the main studio and public file in person than would an average citizen. Since candidates or their representatives, rather than the general public, are the persons most likely to be affected by this exemption, we do not believe that the exemption will adversely affect the public interest.

B. Document Retention Requirements

16. *Applications.* In the *R&O*, the Commission amended sections 73.3526 and 73.3527 to provide that all applications be retained in a station's public file during the period each application is pending or, if granted pursuant to a waiver, during the period that the waiver remains in effect. Those rules had previously contained confusing requirements for retention which many parties requested we revise. In the *R&O* we revised the rule to include *all* applications, but we clarified and shortened the period of retention to the period during which an application remains pending. We also

changed the retention period of applications granted pursuant to a waiver to the period during which the waiver is in effect.

17. We affirm sections 73.3526 and 73.3527 as revised in the *R&O*. We are not persuaded by the argument that we should adhere to the spirit of the original public file proceeding in 1965 to require retention only of those applications that require local public notice. Members of the public may very well have an interest in reviewing all of a licensee's pending applications, even those not placed on local public notice. Moreover, our amendment to this rule to include all applications in the public file simplifies this rule greatly. We believe that the addition of some applications will not burden stations, because the number of additional applications is small, and inclusion of all applications relieves licensees and permittees of the need to seek counsel regarding the question of which applications need be kept. In addition, we amended this rule to change the retention period of applications to the period during which they are pending before the Commission or the courts. This shortens and clarifies the retention period which previously had required that applications be retained throughout the renewal period during which they were filed.

18. With respect to retaining applications granted pursuant to a waiver, we reaffirm our decision to require retention of all applications granted pursuant to a waiver for the duration of the waiver's applicability. As we stated in the *R&O*, we believe these applications must remain available to the public for the entire period the waiver is in effect to ensure the public can assist the FCC in evaluating licensee performance in light of the representations made in the application and waiver request. We also believe that the burden of retaining the application is outweighed by the need to keep an accurate and complete record of a station's operations. We decline to apply this requirement only to particular types of waivers. To do so could undermine the public's ability to examine licensee performance under the waiver, and could also unduly complicate what should be a straightforward and easy-to-apply requirement.

19. *Electronic Mail*. In the *R&O*, we amended our rules to require licensees to retain e-mail messages as well as traditional printed communications. We will modify this requirement. Section 73.3526(e)(9) was modified to extend the retention requirements to the same sort of e-mail communications as have

historically applied to traditional mail communications. We recognize that personal e-mails in the workplace have become quite common, much more so than letters, and that our requirement may have had an overbroad result. To ensure that only e-mails regarding the operation of the station be retained, we will limit the e-mail retention requirement to e-mails sent to a publicly advertised e-mail address, or to station management, and we will specifically exclude the personal e-mails of staff members. We expect this exclusion of personal e-mail to avoid the possible overbroad effect of including e-mail sent to a lower level employee that might contain an inconsequential reference to station operation. We encourage stations to advertise e-mail addresses to which comments and suggestions may be sent, but we do not require this.

20. *Donors' Lists*. Section 73.3527(a)(8) of our rules requires that noncommercial educational stations maintain the lists of donors supporting specific programs. In the *R&O*, we considered but denied a petition asking us to delete this requirement from the public file. That petition argued that this provision was obsolete because it is rooted in the program log requirements that were deleted in 1980. This issue was again raised on reconsideration.

21. We disagree that this provision is obsolete. As we stated in the *R&O*, the donor list requirement is tied to our sponsorship identification requirements under Section 317 of the Act and section 73.1212 of our rules, which require noncommercial educational stations to acknowledge donors. The basic premise of these provisions is that the public is entitled to know by whom they are being persuaded. The donor list requirement for noncommercial licensees is related to the Commission's determination that noncommercial educational stations are permitted to limit their on-air program sponsorship announcements to major donors or underwriters only, but must maintain a complete donor list in their public files. Although donor lists originated as an optional alternative to logging, they were deliberately retained when the logging requirements were deleted, and stations retained their obligations to identify donors in accordance with section 73.1212. Parties had ample notice and opportunity to comment on this provision in this Docket, and their positions were given full consideration. The donor lists provide the only complete information regarding program sponsorship on noncommercial stations, and therefore will be retained. We note that the list for each program must be

maintained for two years after broadcast of the program.

22. With respect to the definition of "donors supporting specific programs," we will apply the same definition as applies to "sponsors" under the sponsorship identification provisions. That is, we expect licensees under Section 317(a)(2)(c) of the Act to exercise "reasonable diligence" to obtain the requisite information to assure that a proper identification is made. We note in this regard that section 73.1212(e) requires licensees to disclose the "true identity" of those on whose behalf a payment is made. In making this determination, unless furnished with "credible, unrefuted evidence" that a sponsor is acting on behalf of a third party, the broadcaster may rely on the plausible assurances of the person paying for the time that they are the true sponsor.

23. *Letters concerning violent programming*. Section 73.1202 of our rules requires that licensees of commercial AM, FM and Television broadcast stations retain in their public files for three years all written comments and suggestions received from the public regarding station operation. Section 73.3526 implements this provision with similar language. There is no similar provision requiring licensees of noncommercial educational stations to retain such written correspondence. In the *R&O* we nonetheless required that all noncommercial television licensees include in their renewal applications a summary of any letters they receive regarding violent programming even though these licensees are not required to retain such letters themselves under our rules. We based this determination on Section 204(b) of the Telecommunications Act of 1996 ("1996 Act"). This section amended Section 308(d) of the Communications Act of 1934 to require that

[e]ach applicant for the renewal of a commercial or noncommercial television license shall attach as an exhibit to the application a summary of written comments and suggestions received from the public and maintained by the licensee (in accordance with Commission regulations) that comment on the applicant's programming, if any, and that are characterized by the commenter as constituting violent programming.

In the *R&O* we found that this requirement was appropriate in light of Congress' concern with violent programming, and would help ensure that the Commission and the public are kept informed of concerns raised by the public about such programming on both commercial and noncommercial stations.

24. A petitioner argues that since, under the Commission's rules, noncommercial stations are not required to maintain letters from the public, and the Commission has not revised this requirement, Section 308(d) does not contemplate a summary of letters to be filed by any noncommercial educational television licensee at renewal.

25. On reconsideration, we grant petitioner's request. Section 308(d) requires licensees to summarize only those letters maintained by licensees "in accordance with Commission regulations." In the *R&O*, we did not amend section 73.3527 to require noncommercial educational licensees to retain letters from the public regarding violent programming. Since noncommercial educational licensees are not required to maintain these letters under our rules, we will not require them to file a summary of letters received with their renewal, even if they voluntarily retain the letters they receive. Without such a limitation, noncommercial stations would be subject to the more onerous burden of summarizing letters received during the entire renewal term while commercial broadcasters would be required to summarize only those letters received during the last three years of their renewal term. We believe this is consistent with the plain meaning of the statute. We also note that reports regarding violent television programming have raised little concern about the programming aired by noncommercial educational television stations.

26. *Ownership Reports for Noncommercial Educational Stations.* The *R&O* made an editorial amendment to the public file rule for noncommercial educational stations, 47 CFR 73.3527, to add the requirement, previously omitted, that those stations retain in their public files, a copy of their most recently filed complete ownership report (FCC Form 323-E) "together with any subsequent supplemental report or statement filed with the FCC certifying that the current report is accurate. * * *" We made this change to reflect the same requirement in the rule governing ownership reports, 47 CFR 73.3615.

27. We will retain the rule as revised. In the *Mass Media Streamlining R&O*, we amended section 73.3615 to require noncommercial educational stations to file ownership reports with the same frequency as commercial stations are required to file. The requirement in section 73.3527 that noncommercial educational licensees retain in the public file the most recent, complete ownership report on file with the FCC

for the station, and a certification that the current report is accurate, is fully consistent with this amendment to section 73.3615.

C. Miscellaneous Matters

28. *Issuance of "The Public and Broadcasting".* In the *R&O* we stated that the Commission's staff would issue a revised version of the broadcast manual, "The Public and Broadcasting." One petitioner asks that the Commission solicit public comment on this manual prior to issuing it.

29. We do not believe that it is necessary to solicit public comment on "The Public and Broadcasting." The manual is merely a summary of our existing policies and rules relating to broadcast stations, including the changes to the rules enacted in this docket. It will be revised from time to time and issued on the Commission's web page so that stations can keep the most updated version in their public files. We disagree that this document requires notice and comment. The manual will not effectuate any rule change, but merely provides a general summary of our rules and policies for the public.

30. *Official Source for City-Center Coordinates.* In the *R&O* we amended the rule governing main studio location to allow a station to locate its main studio at any location that is within either the principal community contour of any station, of any service, licensed to its community of license or 25 miles from the reference coordinates of the center of its community of license. For Commission licensing purposes as set forth in section 73.208 of our rules, a community's reference coordinates are generally the coordinates listed in the United States Department of Interior publication entitled "Index to the National Atlas of the United States" ("Atlas Index"). An alternative reference point, if none is listed in the Atlas Index, are the coordinates of the main post office. A petitioner argues that the Atlas Index is out-of-date and out-of-print and thus requires replacement.

31. We are not amending section 73.208(a)(1) at this time. We do not believe that this change is necessary at this time and is beyond the scope of this proceeding as it would affect the use of city-center coordinates for other licensing purposes. We do not anticipate many instances involving a discrepancy with city-center coordinates. In the event problems with community coordinates arise, we will address them on a case-by-case basis.

32. *Main Studio Issues.* One petitioner asks that we clarify that stations operating pursuant to a main studio or

public file waiver prior to the *R&O* in this proceeding who are now in compliance with our rules, be relieved of special obligations placed on them as a condition of grant of the waiver. It cites to obligations such as regular visits to the community by station management, establishment of a Citizens Advisory Board to meet with station management twice a year, coverage of local events in programming, maintenance of the public file in the community and providing toll-free telephone service to the community which it admits are a restatement of a licensee's obligation under any circumstances. To address these concerns, we clarify that stations whose waivers are moot because their operations now are in compliance with the Commission's rules with respect to main studio location are no longer subject to any conditions placed on them by a previously granted waiver of the main studio or public file rules. These stations are, however, of course obligated to comply with all Commission rules, including those regarding toll-free telephone service and coverage of local issues, just as all other licensees.

33. Another petitioner filed a Petition for Clarification or Declaratory Ruling requesting that noncommercial educational stations that operate as satellite stations pursuant to a main studio waiver be allowed to locate their public files at the main studio of the main "feeder" station. In the *R&O*, we stated that all stations, including those operating pursuant to a main studio waiver, would be required to locate their public files at their main studios, wherever located. We hereby clarify that this includes noncommercial educational satellite stations operating under a main studio waiver. These stations must maintain their public files at the main studios of the stations at which their programming is originated, and must provide the accommodation to listeners or residents as required under the amended rules.

III. Administrative Matters

34. *Paperwork Reduction Act of 1995 Analysis.* The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose no new or modified reporting and recordkeeping requirements or burdens on the public.

35. *Supplemental Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis ("IRFA") was incorporated into the *Notice of Proposed Rulemaking*, 62 FR 32061 (June 12, 1997), in this

proceeding. The Commission sought written public comment on the expected impact of the proposed policies and rules on small entities in the Notice, including comments on the IRFA. Based on the comments in response to the Notice, the Commission included a Final Regulatory Flexibility Analysis ("FRFA") into the *R&O*. While no petitioners seeking reconsideration of the *R&O* raised issues directly related to the FRFA, the Commission is amending the rules in a manner that may affect small entities. Accordingly, this Supplemental Regulatory Flexibility Analysis ("Supplemental FRFA") addresses those amendments and conforms to the RFA.

36. Need for Action and Objectives of the Rule: The need for and objectives of the modifications adopted in this *MO&O* are the same as those discussed in the Final Regulatory Analysis in the *R&O*. The main studio and public inspection file rules seek to ensure that members of the local community have access to the broadcast stations that are obligated under the FCC's rules to serve them. Our goals here are to relieve undue regulatory burdens on licensees while retaining their basic obligations to serve their communities of license, and adopt a rule that is clear and easy to administer.

B. Summary of Significant Issues Regarding FRFA Raised in Petitions for Reconsideration

37. No parties address the FRFA in their petitions for reconsideration, or any subsequent filings. We note, however, that State Broadcasters claim that the Regulatory Flexibility Act bars the Commission from lawfully adopting any of the new requirements. They argue that the burdens of the "new requirements" will violate the RFA, again because they do not provide an exemption for any broadcasters, particularly those who choose not to relocate their public files. Noting how they believe the accommodation provisions will particularly affect small broadcasters, they allege that the Commission has not limited the regulatory burdens placed on small businesses as required by the RFA, and therefore that the public file/political file requirements contradict the intent of the RFA. Our action today modifying the accommodation will alleviate some of the concerns expressed by State Broadcasters. We exempt broadcasters whose main studios and public files are located in the community of license, and narrow the scope of the mailing requirement of the accommodation to persons within the service area of the station. The first exemption will

alleviate the burden on some small broadcasters and the second will relieve all broadcasters, including small broadcasters.

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

38. Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. 5 U.S.C. 601(6). The RFA, 5 U.S.C. 601(3), generally defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. 632. 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 Small Business Administration ("SBA"). Pursuant to 4 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 SBA 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.**"

39. As noted, an FRFA was incorporated into the *R&O*. In that analysis, the Commission described in detail the various kinds of small business entities that may be affected by these rules. In this *MO&O*, we address petitions for reconsideration filed in response to the *R&O*. In this Supplemental FRFA, we incorporate by reference the description and estimate of the number of small entities from the previous FRFA in this proceeding.

D. Description of Reporting, Recordkeeping and Other Compliance Requirements

40. The *MO&O* adopts modifications to the rules adopted in the *R&O*, which further modify existing recordkeeping requirements. The *MO&O* declines to repeal the accommodation. The *MO&O*, however, narrows the accommodation to require that only those stations whose public file is located at a main studio outside the city limits of the community of license provide the accommodation. It also revises the accommodation to limit the required mailing area for documents requested by phone to the geographic service area of the station in question. In addition, the item specifically exempts from the accommodation requests for documents from the political file.

41. Regarding document retention, the *MO&O* declines to adopt a requirement

that stations retain only applications requiring local public notice. It also declines to delete the rules requiring noncommercial educational stations to retain donors' lists and ownership certifications of "no change." The *MO&O* amends the rule requiring retention of all e-mails pertaining to station operation and limits the retention requirement to e-mails pertaining to station operation sent to a publicly advertised e-mail address, or to station management, specifically excluding the personal e-mails of staff members.

42. The *MO&O* also declines to solicit public comment on "The Public and Broadcasting" prior to its issuance, and denies a request that we amend the rule designating the official source for city-center coordinates. In addition, the draft deletes the requirement in the *R&O* that noncommercial educational stations include with their renewal a summary of letters they received through the license term concerning violent programming. It clarifies that stations that were previously granted waivers and that now operate in compliance with the rules are no longer bound by any of the terms of the waiver. It further clarifies that stations operating under a main studio waiver, especially satellite noncommercial educational stations, are required to maintain their public files at their main studio at the station at which their programming originates and must comply with the terms of the accommodation as amended.

43. The *MO&O* restricts the application of the accommodation by geographic scope and volume of material. It reduces which materials are required to be kept in the public file, and clarifies the required retention period for public file materials. No special skills will be necessary to comply with these requirements. This reduces the burden on licensees, both by clearly defining what must be retained, and the period during which it must be retained.

Considered:

44. By narrowing the accommodation to require that only those stations whose public file is located at a main studio outside the city limits of the community of license provide the accommodation, the *MO&O* reduces burdens on small entities who choose not to relocate outside their communities of license. By limiting the accommodation to mailing to persons within the geographic service area of the station in question, the *MO&O* reduces burdens on all licensees, including small entities. In addition, the item specifically exempts from the accommodation requests for documents

from the political file, which will reduce burdens.

45. Amending the rule to exclude personal e-mail of employees and restricting the retention requirement to e-mail sent to a publicized box or to station management reduces burdens on small entities. By relieving stations that were previously granted waivers and that now operate in compliance with the rules of the conditions of their waivers we reduce burdens on small entities who previously were required to take specific steps to accomplish community outreach to are no longer bound by any of the terms of the waiver. By clarifying that stations operating under a main studio waiver, especially satellite noncommercial educational stations, are required to maintain their public files at their main studio at the station at which their programming originates and must comply with the terms of the accommodation as amended, we reduce burdens on those stations of maintaining separate public files.

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

46. None.

47. Report to Congress: The Commission will send a copy of the *MO&O*, including this SFRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *MO&O*, including SFRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Main Studio and Public Inspection File MO&O* and SFRFA (or summaries thereof) will also be published in the **Federal Register**. See 5 U.S.C. 604(b).131.

Ordering Clauses

48. Accordingly, *it is ordered that*, pursuant to the authority contained in Sections 154, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303, and 307, 47 CFR 73.3526 and 73.3527 are amended, as set forth in the rule changes.

49. *It is further ordered that*, the rule changes set forth shall be effective 30 days after publication in the **Federal Register**.

50. *It is further ordered that* the Petitions for Reconsideration in this proceeding are granted to the extent described, and are otherwise denied.

51. *It is further ordered that* the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this *MO&O*, including

the Supplementary Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

52. *It is further ordered that* upon release of this *MO&O*, this proceeding is hereby terminated.

List of Subjects in 47 CFR Part 73

Radio broadcasting, Television broadcasting.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

Rule Changes

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

2. § 73.3526 is amended by revising paragraphs (c)(2), and (e)(9) to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

* * * * *
(c) * * *
* * * * *

(2) The applicant, permittee, or licensee who maintains its main studio and public file outside its community of license shall:

(i) Make available to persons within its geographic service area, by mail upon telephone request, photocopies of documents in the file (see § 73.3526(c)(1)), excluding the political file (see § 73.3526(e)(6)), and the station shall pay postage;

(ii) Mail the most recent version of "The Public and Broadcasting" to any member of the public that requests a copy; and

(iii) Be prepared to assist members of the public in identifying the documents they may ask to be sent to them by mail, for example, by describing to the caller, if asked, the period covered by a particular report and the number of pages included in the report.

Note to Paragraph (c)(2): For purposes of this section, geographic service area includes the area within the Grade B contour for TV, 1 mV/m contour for all FM station classes except .7 mV/m for Class B1 stations and .5 mV/m for Class B stations, and .5 mV/m contour for AM stations.

* * * * *
(e) * * *
* * * * *

(9) *Letters and e-mail from the public.*

(i) All written comments and suggestions received from the public regarding operation of the station, unless the letter writer has requested that the letter not be made public or when the licensee feels that it should be excluded from public inspection because of the nature of its content, such as a defamatory or obscene letter. Letters and electronic mail messages shall be retained for a period of three years from the date on which they are received by the licensee.

(ii) For purposes of this section, written comments and suggestions received from the public include electronic mail messages transmitted via the internet to station management or an e-mail address publicized by the station. Personal e-mail messages sent to station employees need not be retained.

Licensees may retain e-mails either on paper or in a computer file. Licensees who choose to maintain a computer file of e-mails may make the file available to the public either by providing the public with access to a computer terminal at the location of the public file, or providing the public with a copy of such e-mails on computer diskette, upon request. In the case of identical communications, licensees and permittees may retain one sample copy of the letter or electronic mail message together with a list identifying other parties who sent identical communications.

* * * * *

3. § 73.3527 is amended by revising paragraphs (c)(2), and (e)(9), and by revising the first sentence of paragraph (e)(4) to read as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

* * * * *
(c) * * *
* * * * *

(2) The applicant, permittee, or licensee who maintains its main studio and public file outside its community of license shall:

(i) Make available to persons within its geographic service area, by mail upon telephone request, photocopies of documents in the file (see § 73.3527(c)(1)), excluding the political file (see § 73.3527(e)(5)), and the station shall pay postage;

(ii) Mail the most recent version of "The Public and Broadcasting" to any member of the public that requests a copy; and

(iii) Be prepared to assist members of the public in identifying the documents they may ask to be sent to them by mail, for example, by describing to the caller, if asked, the period covered by a

particular report and the number of pages included in the report.

Note to Paragraph (c)(2): For purposes of this section, geographic service area includes the area within the protected service contour in a particular service: Grade B contour for TV, 1 mV/m contour for all FM station classes except .7 mV/m for Class B1 stations and .5 mV/m for Class B stations, and .5 mV/m contour for AM stations.

* * * * *

(e) * * *

* * * * *

(4) *Ownership reports and related materials.* A copy of the most recent, complete ownership report filed with the FCC for the station, together with any subsequent statement filed with the FCC certifying that the current report is accurate, and together with all related material. * * *

* * * * *

(9) *Donor lists.* The lists of donors supporting specific programs. These lists shall be retained for two years from the date of the broadcast of the specific program supported.

* * * * *

[FR Doc. 99-16831 Filed 7-1-99; 8:45 am]

BILLING CODE 6712-01-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 96-85; FCC 99-57]

Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In the *Report and Order*, the Commission implemented provisions of the 1996 Telecommunications Act that reform several parts of Title VI of the Communications Act of 1934, including sections on effective competition to a cable system, small cable operator rules, uniform rate requirements, technical standards, and the sunset of the Commission's role in regulating rates on the cable service programming tier.

DATES: Effective August 31, 1999 except for sections 76.952 and 76.990 which contain information collection requirements that have not been approved by the Office of Management and Budget ("OMB"). The Commission will publish a document in the **Federal Register** announcing the effective date of those sections. Written comments by the public on the information collection requirements are due August 2, 1999.

Written comments must be submitted by OMB on the information collection requirements on or before August 31, 1999.

ADDRESSES: A copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW, Washington, DC 20554, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725-17th Street, NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Peggy Greene or Nancy Stevenson, Cable Services Bureau (202) 418-7200, TTY (202) 418-7172. For additional information concerning the information collections contained in this *Report and Order*, contact Judy Boley at 202-418-0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order* in CS Docket No. 96-85, FCC 99-57, adopted March 25, 1999, and released March 29, 1999. The complete text of the *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center, and may also be purchased from the Commission's copy contractor, International Transcription Service ("ITS, Inc."), (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036. In addition, the complete text of the *Report and Order* is available on the Internet at <http://www.fcc.gov/Bureaus/Cable/Orders/1999/fcc99057.txt>.

Paperwork Reduction Act

This *Report and Order* has been analyzed with respect to the Paperwork Reduction Act of 1995 (the "1995 Act") and found to impose new or modified information collection requirements on the public. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to take this opportunity to comment on the information collection requirements contained in this *Report and Order*, as required by the 1995 Act. Public comments are due August 2, 1999. Written comments must be submitted by OMB on or before August 31, 1999. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents,

including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060-0706.

Title: Cable Act Reform.

Type of Review: Revision of existing collection.

Respondents: Business and for-profit entities; state, local and tribal governments.

Number of Respondents: 950.

Estimated Time per Response: 1-8 hours.

Total Estimated Annual Burden to Respondents: 3,900 hours.

Total Estimated Annual Cost to Respondents: \$4,100.

Needs and Uses: The notice, filing and third-party disclosure requirements accounted for in OMB 3060-0706 serve a variety of purposes for subscribers, cable operators, franchising authorities and the Commission. For example, pursuant to section 76.952, franchising authority contact information is furnished on monthly billing statements and is used by cable subscribers when wanting to inquire about cable matters in their community. Franchising authorities have the option to not have this information furnished on billing statements if they so choose. The filing of a written request to the cable operator facilitates this option. Pursuant to section 76.990, a small cable operator may certify in writing to its franchising authority that it meets the criteria to qualify as a small operator. The information filed as part of the certification is reviewed by the franchising authority to determine whether the operator qualifies for deregulation as a small cable operator. Pursuant to section 76.1404, copies of contract information are filed with the Commission for a determination of whether use of a cable operator's facilities by a local exchange carrier is reasonably limited in scope and duration.

OMB Approval Number: 3060-0549.

Title: Cable Programming Services Complaints (FCC Form 329).

Type of Review: Revision of existing collection.

Respondents: Individuals; state, local and tribal governments.

Number of Respondents: 1,300.

Estimated Time per Response: 45 minutes.

Total Estimated Annual Burden to Respondents: 1,200 hours.

Total Estimated Annual Cost to Respondents: \$3,200

Needs and Uses: The data are used by Commission staff to examine the reasonableness of a cable operator's rates for programming service or