

**DATES:** Effective December 11, 2000.

**FOR FURTHER INFORMATION CONTACT:** Victoria M. McCauley, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Memorandum Opinion and Order, MM Docket No. 99-75, adopted October 11, 2000, and released October 20, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

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, 336.

##### § 73.202 [Amended]

2. Section 73.202(b) the FM Table of Allotments under New Mexico is amended by removing Milan, Channel 264A and adding Channel 264A at Grants.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 00-28689 Filed 11-8-00; 8:45 am]

**BILLING CODE 6712-01-P**

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 73

[DA 00-2373; MM Docket No. 99-195; RM-9563, RM-9958]

##### Radio Broadcasting Services; Wheatland and Wright, WY

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Mountain West Broadcasting, allots Channel 293C1 at Wheatland, Wyoming, as the community's second local FM transmission service (RM-9563) See 64 FR 29979, June 4 1999. At the request of Mount Rushmore

Broadcasting, Inc., we also allot Channel 289A at Wheatland and Channel 224A at Wright, Wyoming, as each community's third local FM transmission service (RM-9958). Channel 293C1 can be allotted at Wheatland in compliance with the Commission's minimum distance separation requirements with a site restriction of 41 kilometers (25.5 miles) north; and Channel 289A can also be allotted to Wheatland at city reference coordinates. Additionally, Channel 224A can be allotted to Wright in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.7 kilometers (6.0 miles) north to avoid a short-spacing to the allotment reference site for Channel 223C1, Douglas, Wyoming. The coordinates for Channel 293C1 at Wheatland are 42-25-32 North Latitude and 104-57-21 West Longitude; and the coordinates for Channel 289A at Wheatland are 42-03-16 North Latitude and 104-57-08 West Longitude. Additionally, the coordinates for Channel 224A at Wright are 43-50-02 North Latitude and 105-28-29 West Longitude.

**DATES:** Effective December 11, 2000. A filing window for Channels 289A and 293C1 at Wheatland, Wyoming, and Channel 224A at Wright, Wyoming, will not be opened at this time. Instead, the issue of opening filing windows for these channels will be addressed by the Commission in a subsequent order.

**FOR FURTHER INFORMATION CONTACT:** Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 99-195, adopted October 11, 2000, and released October 20, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

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. 54, 303, 334, 336.

##### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Channels 289A and 293C1 at Wheatland; and by adding Wright, Channel 224A.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 00-28687 Filed 11-8-00; 8:45 am]

**BILLING CODE 6712-01-P**

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 73

[MM Docket No. 00-44; FCC 00-343]

##### Extension of the Filing Requirement for Children's Television Programming Reports (FCC Form 398)

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Commission's rules to continue indefinitely the requirement that commercial broadcast television licensees file with the Commission their quarterly Children's Television Programming Reports (FCC Form 398). The document also requires that the reports be filed quarterly, when they are prepared, rather than annually. In addition, the document also makes a number of revisions to FCC Form 398 to make the information contained in the form clearer and more useful to the public and the FCC. The intended effect of these actions is to assist the Commission in continuing to enforce the Children's Television Act of 1990 ("CTA") and our rules implementing the CTA by facilitating monitoring of the amount and quality of educational television programming for children and industry compliance with the Commission's children's educational programming requirements.

**DATES:** These rules contain information collection requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date. Written comments by the public on the new and/or modified information collections are due January 8, 2001.

**ADDRESSES:** In addition to filing comments with the Office of the Secretary, a copy of any comments on the information collection(s) contained

herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW, Washington, D.C. 20554, or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** Kim Matthews, Policy and Rules Division, Mass Media Bureau, at (202) 418-2130, TTY (202) 418-2989. For additional information concerning the information collection(s) contained in this document, contact Judy Boley at 202-418-0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Report and Order* ("R&O") in MM Docket No. 00-44, FCC 00-343, adopted on September 14, 2000, and released on October 5, 2000. The full text of this decision is available for inspection and copying during regular business hours in the FCC Reference Center, 445 Twelfth Street, SW, Room CY-A257, Washington DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 445 Twelfth Street, SW, Room CY-B402, Washington DC. The complete text is also available under the file name [fcc00343.pdf](http://www.fcc.gov) on the Commission's Internet site at [www.fcc.gov](http://www.fcc.gov).

This document contains modified information collection(s) 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 Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collections contained in this proceeding.

#### Electronic Access and Filing Addresses

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form, <your e-mail address>." A sample form and directions will be sent in reply.

#### Paperwork Reduction Act

This document contains either new or modified information collection(s). The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection(s)

contained in this *R&O*, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due January 8, 2001. 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) ways to enhance the quality, utility, and clarity of the information collected; (c) 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 Control Number: 3060-XXXX

Title: Children's Television

Programming Report

Form No: FCC Form 398

Type of Review: revision of existing collection

Respondents: business or other for-profit

Number of respondents: 1,250

Estimated Time Per Response: 6 hours/quarter

Total Annual Burden: 30,000 hours

Total Annual Costs: \$489,600

*Needs and Uses:* The *R&O* continues indefinitely the requirement that commercial broadcast television licensees file with the Commission their quarterly Children's Television Programming Reports (FCC 398). The *R&O* also requires that the reports be filed quarterly, when they are prepared, rather than annually. In addition, the *R&O* makes a number of revisions to FCC 398 to make the information contained in the form clearer and more useful to the public and the FCC. These revisions include a new preemption report to be completed for each preempted core program during the quarter. This information collection will assist in efforts by the public and the Commission to monitor compliance with the Children's Television Act.

#### Synopsis of Report and Order

1. In this *Report and Order* ("*R&O*"), the Commission makes a number of changes to the children's educational television reporting requirements of commercial broadcast television licensees. First, we extend indefinitely the requirement that commercial broadcast television licensees file with the Commission their quarterly Children's Television Programming Reports (FCC Form 398). The Commission's rules currently state that such reports shall be completed quarterly and filed on an annual basis for an experimental period of three years, from January 1998 through January 2000. These reports are required

to be filed electronically. Second, we require broadcasters in the future to file these reports on a quarterly basis, at the time they are prepared, rather than annually. Finally, we also announce herein a number of revisions to be made to FCC Form 398 to make the information contained in the form clearer and more useful to the public and the FCC. The actions we take herein will assist the Commission in continuing to enforce the Children's Television Act of 1990 ("CTA") and our rules implementing the CTA by facilitating monitoring by the FCC and the public of the amount and quality of educational television programming for children and industry compliance with the Commission's children's educational programming requirements.

2. Data indicate that children spend, on average, almost three hours a day watching television. In view of the significant impact this medium has on children, Congress has concluded that television should be contributing to children's development. The CTA requires the Commission, in its review of each television broadcast license renewal application, to "consider the extent to which the licensee . . . has served the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs." In enacting the CTA, Congress found that, while television can benefit society by helping to educate and inform children, there are significant market disincentives for commercial broadcasters to air children's educational and informational programming. The objective of Congress in enacting the CTA was to increase the amount of educational and informational programming available on television. The CTA places on every licensee an obligation to provide such programming, including programming specifically designed to educate and inform children, and requires the FCC to enforce that obligation.

3. In August 1996, the Commission adopted its current educational programming rules to strengthen its enforcement of the CTA. *See Policies and Rules Concerning Children's Television Programming*, 61 FR 43981 (Aug. 27, 1996). The Commission's rules include several measures to increase the availability of programming "specifically designed" to serve children's educational needs (otherwise known as "core" programming) and to facilitate public access to information about such programming. These measures include a requirement the licensees identify core programming at

the time it is aired and in information provided to publishers of television guides. Licensees are also required to designate a children's liaison at the station responsible for collecting comments on the station's compliance with the CTA. Furthermore, the rules establish a definition of "core" programming as well as a three-hour-per-week processing guideline pursuant to which broadcasters airing at least three hours per week of programming that meets the definition of "core" will receive staff-level approval of the CTA portion of their renewal applications.

4. One of the most important public information measures adopted by the Commission in 1996 was the requirement that licensees complete a Children's Television Programming Report, on FCC Form 398, each calendar quarter and place the report in the station's public inspection file. Broadcasters are required to separate the children's programming reports from other materials they maintain in their public files. The Commission required that these quarterly reports be filed jointly with the Commission on an annual basis for an experimental period of three years. Among other things, these reports identify the educational and informational programs aired by the licensee over the previous quarter and the days and times these programs were regularly scheduled, the age of the target audience for each program, and the average number of hours per week of core programming broadcast over the past quarter. Licensees must include in the reports an explanation of how each core program meets the definition of "core" programming adopted by the Commission. Stations must also identify in their reports the core programs the station plans to air during the next calendar quarter. The Commission makes the reports available at its website.

5. The public information initiatives, including the Children's Television Programming Reports, are an integral part of the children's programming rules. These measures are designed to ensure that the public, and especially parents, has access to information regarding the educational programming being aired by broadcasters so that parents and others can help achieve the goal of the CTA to increase the amount of educational programming available on television. Facilitating public access to the information contained in the Children's Television Programming Reports helps achieve the goals of the CTA in a number of ways. Parents who have access to information about educational programming, such as the titles of programs, the times they are

regularly scheduled to air, and the age for which the programs are intended, can select such programming for their children to watch, thereby increasing the audience for such programs and the incentive of broadcasters to air, and producers to supply, more such programs. The information contained in the reports can also be used by parents, educators, and others interested in educational programming to monitor a station's performance in complying with the CTA and the Commission's rules. In this way, the public can play an active role in helping to enforce children's programming requirements. Finally, requiring broadcasters to identify programming they rely upon to meet their obligation to air educational programming makes broadcasters more accountable to the public. Improving broadcaster accountability minimizes the need for government involvement to enforce the CTA and helps to ensure that broadcasters, with input from the public, rather than the Commission determine which television programs serve children's educational needs.

6. In its August 1996 Children's Programming Report and Order, the Commission also required that a children's program be "regularly scheduled" to be counted as core programming for purposes of meeting the three-hour-per-week processing guideline, i.e.,—a core children's program must "be scheduled to air at least once a week" and "must air on a regular basis." The Commission stated that television series typically air in the same time slot for 13 consecutive weeks, although some episodes may be preempted for programs such as breaking news or live sports events. The Commission noted that programming that is aired on a regular basis is more easily anticipated and located by viewers, and can build loyalty that will improve its chance for commercial success. The Commission stated that it would leave to the staff to determine, with guidance from the full Commission as necessary, what constitutes regularly scheduled programming and what level of preemption is allowable. Subsequent to the adoption of the Children's Programming Report and Order, and in response to requests from the ABC, CBS, and NBC networks that local stations be given flexibility to reschedule episodes of core programs that are preempted by live network sports events without adversely affecting the program's status as "regularly scheduled," the Mass Media Bureau has allowed the networks limited flexibility in preempting core children's programming. Specifically, within certain limitations, the Bureau

advised that preempted core programs could count toward a station's core programming obligation if the program were rescheduled. The Bureau also indicated that it would revisit this limited flexibility regarding preempted core programming based on the level of preempted programs, the rescheduling and broadcast of the preempted programs, and the impact of promotions and other steps taken by the stations to make children's educational programming a success.

#### *Filing Requirement Extension*

7. The Commission has reviewed all of the reports filed since commencement of the FCC filing requirement, and has used the information in the reports to evaluate industry practices in connection with preemption of children's programming. In addition, the Commission staff is currently preparing an analysis based on the data reflected in reports filed over the past three years. In adopting the children's programming rules, the Commission stated it would monitor the broadcast industry's children's educational programming performance for three years based upon the Children's Television Programming Reports filed with the Commission, and would review the reports at the end of the three-year period and take appropriate action as necessary to ensure that stations are complying with the rules and guidelines.

#### *Quarterly Filing*

8. In addition to extending the filing requirement, we will require broadcasters to file their Children's Television Programming Reports with the Commission on a quarterly basis, at the time the reports are prepared, rather than annually. Section 73.3526(e)(11)(iii) currently requires that the report for each calendar quarter be filed in the station's public inspection file by the tenth day of the succeeding calendar quarter. Beginning January 10, 2001, we will require that reports for each quarter be filed electronically with the Commission by the same date the report is due to be placed in the station's public inspection file.

9. We agree with CME et al. that quarterly filing with the Commission will provide the public and the Commission with more current information on the educational and informational programming offered by broadcasters to meet their obligation under the CTA and our rules. Among other things, the reports include information on the core educational and informational programs the licensee

plans to air during the next calendar quarter. The purpose of requiring licensees to report this information is to permit parents, teachers, and others to better anticipate and plan for the viewing of educational programs by children. Facilitating timely public access to the station's schedule of core educational and informational programs for the succeeding calendar quarter will permit parents and others to use this information more effectively to plan their children's television viewing. CME et al. suggests that quarterly filings will be more helpful to parents, and argues that they will also allow researchers to report more timely on programming trends for the annual television season, which could influence programming for the subsequent television season.

10. NAB opposes a quarterly filing requirement, arguing that licensees appear to be complying with the children's television programming rules and that there is no demonstrated need for increased reporting requirements. While we agree that the reports filed since our revised children's television programming rules became effective indicate that virtually all licensees claim to be airing at least 3 hours per week of programming that meets our definition of programming "specifically designed" to meet the educational and informational needs of children, we believe that improving public access to the information contained in the reports will assist parents and others interested in selecting programs for children to watch. As noted, assisting parents in choosing educational programming for their children may possibly increase the commercial success of such programming and thereby prompt broadcasters to increase the amount of educational and informational broadcast television programming available to children—one of the underlying goals of our children's programming public information initiatives. More timely information will also assist those interested in monitoring station performance under our rules, thus assisting the Commission in its enforcement role.

11. As reports must now be prepared and placed in the station's public inspection file on a quarterly basis, we continue to believe that requiring these quarterly reports to be transmitted electronically to the Commission on a quarterly basis, rather than once a year, will not impose a significant additional burden on licensees. In this regard, we note that more than seventy percent of licensees already voluntarily file their reports quarterly. Reports are currently required to be filed electronically with the Commission, and the Commission

makes an electronic version of a blank FCC Form 398 available on its website to be used by licensees to prepare their quarterly submissions. As CME et al. suggests, transmitting the reports to the Commission quarterly rather than annually should require very little additional time and effort on the part of licensees. In view of the benefits of quarterly filing with the FCC and the minimal additional burden this will impose on licensees, we believe that quarterly filing is warranted.

#### *Changes to FCC Form*

12. CME et al. suggested that FCC Form 398 be revised to provide more information regarding (1) why a broadcaster has preempted a children's educational program, (2) which program guide publishers are not printing the programming information provided by local broadcasters, and (3) what efforts broadcasters are making to publicize the existence and location of their Reports (question 8). CME et al. also suggests that broadcasters be required to post their reports on their website, that the FCC's own children's television webpage be made more user-friendly, and that Form 398 be revised to reflect the station's license renewal date.

#### *Preemption Report*

13. The Commission required that programming must be "regularly scheduled" to qualify under the three-hour guideline. This requirement was based on the fact that programming that is aired on a regular basis is more easily anticipated and located by viewers, and therefore more likely to be seen by its intended audience. Although acknowledging that preemption might occur, the Commission expected that preemption of core programming would be rare. The Mass Media Bureau staff has recently reviewed a random sample of the Children's Television Programming Reports, and determined that the average preemption rate by stations affiliated with the largest networks during the past two years is nearly 10%, and has been as high as 25% during a quarter when a large number of sports programming commitments. Given this level of preemption, and the difficulty that some members of the public and the Commission staff have experienced in interpreting the information set forth in Form 398, we wish to gather more information about the circumstances of preemption to ensure that our preemption policy does not thwart the CTA.

14. To make the information in the Children's Television Programming Reports clearer and to improve public

access to information about educational and informational programming and licensee compliance with the CTA and our rules, we will make a few revisions to FCC Form 398. Currently, question 5 of FCC Form 398 requires broadcasters to list, among other information, the title of each core educational and informational program aired by the station during the past calendar quarter, the days and times the program is regularly scheduled, the total times the program aired, the number of preemptions and, if the program was preempted and rescheduled, the date and time the program was aired. From the way this question is currently worded and formatted, it is difficult to determine from the responses to this question exactly how many times each core program was preempted during the calendar quarter, whether the preempted episode was eventually aired and, if so, when the program was aired. In addition, as CME suggests, it would be useful to know the reason for each preemption. Although we encourage stations to reschedule core programming preempted for breaking news, even if programs preempted for breaking news are not rescheduled they can count toward the three-hour-per-week core programming guideline. We cannot currently determine whether a program was preempted for breaking news or another reason, and thus whether the program must have been rescheduled and aired in order to count toward the three-hour guideline. Finally, we would also like to know if licensees made efforts to notify viewers and publishers of program guides of the date and time their rescheduled programs would air. To address these issues, we will revise question 5 of FCC Form 398 to gather more information about preempted core programs during the quarter and add as an addendum to the form a "Preemption Report" to be completed for each preempted core program during the quarter. The Preemption Report will request information on the date of each preemption, if the program was rescheduled the date and time the program was aired, and the reason for the preemption (e.g., we will ask the licensee to pick a reason from among several options, including breaking news). We will also ask licensees to indicate whether promotional efforts were made to notify the public of the time and date the rescheduled program would air. This data will provide more complete information regarding the level of preemption of core programs and station practices in rescheduling such programs. This information will in turn allow the FCC and interested

members of the public to continue to monitor the impact of preemptions generally on the availability of core programs.

#### *Program Guide Information*

15. We will also revise question 4 of FCC Form 398 in order to collect more extensive data about the information furnished by licensees to publishers of program guides regarding core programming aired by the station. Section 73.673(b) of our rules requires commercial television station licensees to provide information identifying core programming, and the age group for which the program is intended, to publishers of program guides. In adopting this requirement, we noted that program guides are an effective means of providing parents with advance notice of scheduling of educational programs, and that such information can assist both parents in finding suitable programs for their children and others who wish to monitor station performance in complying with the CTA. While we noted that we cannot require guides to print this information, we stated that the information is more likely to be included in program listings if broadcasters routinely provide it.

16. Question 4 as currently written asks whether licensees have provided information to publishers of program guides as required by our rules, with the licensee indicating "yes" or "no." We will revise this question to ask licensees to identify by name the program guides to which information was provided, but decline to require broadcasters to indicate in their reports whether the program guides to which the information was provided actually published this information. Our purpose in making this change is twofold. First, we agree with CME et al. that requiring broadcasters to list the publishers to whom information was submitted will provide parents, the public and the Commission useful data by which to judge a broadcasters good-faith efforts to comply with our goal of facilitating public access to information about educational programming. Second, and perhaps more important, requiring broadcasters to provide this information will help in identifying those publishers that decline to include information about educational programming in their program guides. Studies examining the impact of the children's programming rules have concluded that many parents still do not know which programs carry educational labels, and that the widespread failure of program guides to include information identifying core educational programming contributes to

this problem. It does not appear that any newspapers or program guides routinely include in their television listings the symbols identifying core programs. Requiring stations to identify publishers to which information about core programs is being provided will allow parents and others to encourage other program guide publishers to include this information in their TV listings. As broadcasters are already required by our rules to provide information to program guide publishers, it should not be difficult for broadcasters simply to identify those publishers on their quarterly programming reports. We disagree with CME et al., however, that broadcasters should be required to indicate in their reports whether the program guides to which information was provided actually published this information. As NAB argues, tracking what was actually published could impose a significant burden on broadcasters. Once publishers that have been provided with information are identified by licensees in their reports, interested members of the public can monitor those publications and urge them to include educational children's program identifiers.

#### *License Renewal Date*

17. Finally, as CME et al. suggests, we will also add a question to FCC Form 398 requiring the station to indicate its license renewal date. This information is readily available to broadcasters and easy to provide, and will be useful to members of the public interested in monitoring station compliance.

#### *Revised Form 398*

18. We will amend § 73.3526 of the Commission's rules as set forth in FCC Form 398, Children's Television Programming Report, to reflect the changes discussed. We direct the Mass Media Bureau to revise FCC Form 398 accordingly and submit it to OMB for approval.

#### **Final Regulatory Flexibility Analysis**

19. The *R&O* amends § 73.3526(e)(11)(iii) of the Commission's rules to continue indefinitely the requirement that commercial broadcast television licensees file with the Commission, on an annual basis, their quarterly Children's Television Programming Reports (FCC Form 398). The Commission's rules currently state that such reports shall be filed on an annual basis for an experimental period of three years, from January 1998 through January 2000. Continuation of the filing requirement will permit the Commission to continue to enforce the Children's Television Act of 1990

("CTA"), and its rules implementing the CTA, by monitoring the amount and quality of educational television programming for children and industry compliance with the Commission's children's educational programming requirements. The *R&O* also requires that the reports be filed with the Commission quarterly, at the time they are prepared, instead of annually, which will make available to the public more timely information about the educational and informational programming aired by the licensee during the preceding calendar quarter and planned to be aired during the succeeding quarter. Finally, the *R&O* also makes a number of revisions to FCC Form 398 to make the information in the reports clearer and more useful to the Commission and the public. Specifically, the *R&O* adds a "Preemption Report" to FCC Form 398 to be completed for each preempted core program during the quarter requesting information on the date of each preemption, if the program was rescheduled the date and time the program was aired, and the reason for the preemption. The revised form also asks whether promotional efforts were made to notify the public of the time and date the rescheduled program would air, and requires licensees to identify the program guide publishers provided information about the licensee's core educational programming. Finally, licensees must indicate on the revised form the station's next license renewal date. These measures are designed to permit us to continue to enforce the CTA and our rules implementing that statute, and to improve public access to information about licensee compliance with their obligations to provide educational and informational programming for children.

#### *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Apply*

20. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under section 3 of the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

21. *Small TV Broadcast Stations.* The SBA defines small television

broadcasting stations as television broadcasting stations with \$10.5 million or less in annual receipts. BIA Research Inc. reports that 784 out of 1221 commercial television stations (64%) have annual revenues less than \$10.5 million. Thus, we estimate that 784 or fewer commercial TV broadcast stations are small businesses, as defined by the SBA.

*Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

22. The *R&O* continues the requirement that commercial broadcast television stations file with the FCC a copy of their quarterly Children's Television Programming Reports on FCC Form 398. In addition, the *R&O* requires that these reports be filed on a quarterly basis, as they are prepared, rather than annually. Finally, the *R&O* makes a number of changes in FCC Form 398 to make the information in the reports clearer and more useful to the FCC and the public. Specifically, the *R&O* adds a "Preemption Report" to FCC Form 398 to be completed for each preempted core program during the quarter requesting information on the date of each preemption, if the program was rescheduled the date and time the program was aired, and the reason for the preemption. The revised form also asks whether promotional efforts were made to notify the public of the time and date the rescheduled program would air, and requires licensees to identify the program guide publishers provided information about the licensee's core educational programming. Finally, licensees must indicate on the revised form the station's next license renewal date.

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

23. The *R&O* requires licensees to identify in their Children's Television Programming Reports the program guide publishers to whom information regarding the licensee's educational and informational children's programming was provided. Although commenters also advocated that licensees be required to state whether this information was actually published, the *R&O* declines to impose this additional obligation on licensees because we believe that this might have constituted a significant economic impact without an adequate resulting benefit. In addition, although commenters proposed requiring that licensees be required to identify in their reports the precise efforts made to publicize the existence and location of the reports as

required by 47 CFR 73.3526(e)(11)(iii), this proposal was not adopted in the *R&O*.

**Report to Congress**

24. The Commission will send a copy of the *R&O*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *R&O*, including the certification and FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *R&O*, certification, and FRFA (or summaries thereof) will also be published in the **Federal Register**. See 5 U.S.C. 604(b) and 605(b).

**Ordering Clauses**

25. Pursuant to authority contained in sections 4(i), 303, and 308 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, and 308, and the Children's Television Act of 1990, 47 U.S.C. 303a, 303b, part 73 of the Commission's rules, 47 CFR part 73, is amended as set forth.

26. Pursuant to the Congressional Review Act, 5 U.S.C. 801, *et seq.*, the amendments set forth shall be effective January 1, 2001. Children's Television Programming Reports for the fourth quarter of 2000, due to be filed with the Commission by January 10, 2001, should be completed using the current FCC Form 398. The Commission will revise its electronic version of FCC Form 398 to reflect the changes adopted herein. Reports for the first quarter of 2001, due to be filed by April 10, 2001, should be completed using the revised form.

27. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this *R&O*, including the Initial and Final Regulatory Flexibility Act Analyses, to the Chief Counsel for the Small Business Administration.

28. Pursuant to 47 U.S.C. 155(c), the Chief, Mass Media Bureau, is *granted delegated authority* to implement the changes to Form 398 adopted in this *R&O*.

**List of Subjects in 47 CFR Part 73**

Television broadcasting.  
Federal Communications Commission.  
**Magalie Roman Salas**,  
*Secretary*.

**Rules**

Part 73 of title 47 of the U.S. Code of Federal Regulations is amended to read 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. Section 73.3526 is amended by revising paragraph (e)(11)(iii) to read as follows:

**§ 73.3526 Local public inspection file of commercial stations.**

\* \* \* \* \*

(e) \* \* \*

(11) \* \* \*

(iii) *Children's television programming reports.* For commercial TV broadcast stations, on a quarterly basis, a completed Children's Television Programming Report ("Report"), on FCC Form 398, reflecting efforts made by the licensee during the preceding quarter, and efforts planned for the next quarter, to serve the educational and informational needs of children. The Report for each quarter is to be placed in the public inspection file by the tenth day of the succeeding calendar quarter. By this date, a copy of the Report for each quarter is also to be filed electronically with the FCC. The Report shall identify the licensee's educational and informational programming efforts, including programs aired by the station that are specifically designed to serve the educational and informational needs of children, and it shall explain how programs identified as Core Programming meet the definition set forth in § 73.671(c). The Report shall include the name of the individual at the station responsible for collecting comments on the station's compliance with the Children's Television Act, and it shall be separated from other materials in the public inspection file. The Report shall also identify the program guide publishers to which information regarding the licensee's educational and informational programming was provided as required in § 73.673(b), as well as the station's license renewal date. These Reports shall be retained in the public inspection file until final action has been taken on the station's next license renewal application. Licensees shall publicize in an appropriate manner the existence and location of these Reports.

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