

(related to the PERM and MEQC programs); §§ 433.312 through 433.322 of this chapter (related to Overpayments); § 433.38 of this chapter (Interest charge on disallowed claims of FFP); §§ 430.40 through 430.42 of this chapter (Deferral of claims for FFP and Disallowance of claims for FFP); § 430.48 of this chapter (Repayment of Federal funds by installments); §§ 433.50 through 433.74 of this chapter (sources of non-Federal share and Health Care-Related Taxes and Provider Related Donations); and § 447.207 of this chapter (Retention of Payments) apply to State's CHIP programs in the same manner as they apply to State's Medicaid programs.

\* \* \* \* \*

Dated: April 7, 2016.

**Andrew M. Slavitt,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

Dated: June 3, 2016.

**Sylvia M. Burwell,**

*Secretary, Department of Health and Human Services.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 73 and 76

[MB Docket No. 16-161; FCC 16-62]

#### Revisions to Public Inspection File Requirements—Broadcaster Correspondence File and Cable Principal Headend Location

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) proposes to eliminate two public inspection file requirements—the requirement that commercial broadcast stations retain in their public inspection file copies of letters and emails from the public and the requirement that cable operators maintain for public inspection the designation and location of the cable system's principal headend. Because of potential privacy concerns associated with putting the correspondence file online and because many cable operators prefer not to post online the location of their principal headend for security reasons, removing these requirements would enable commercial broadcasters and cable operators to make their entire public inspection file available online and obviate also maintaining a local public file.

Eliminating these public file requirements thus would reduce the regulatory burdens on commercial broadcasters and cable operators.

**DATES:** Comments may be filed on or before July 22, 2016, and reply comments may be filed August 22, 2016. Written comments on the proposed information collection requirements, subject to the Paperwork Reduction Act (PRA) of 1995, Public Law 104-13, should be submitted on or before August 22, 2016.

**ADDRESSES:** You may submit comments, identified by MB Docket No. 16-127, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web site:* <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.

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

*People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: (202) 418-0530 or TTY: (202) 418-0432.

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act proposed information collection requirements contained herein should be submitted to the Federal Communications Commission via email to [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov) and also to Nicholas A. Fraser, Office of Management and Budget, via email to [Nicholas-A.-Fraser@omb.eop.gov](mailto:Nicholas-A.-Fraser@omb.eop.gov). For detailed instructions for submitting comments and additional information on the rulemaking process, see the supplementary information section of this document.

**FOR FURTHER INFORMATION CONTACT:** Kim Matthews, Media Bureau, Policy Division, 202-418-2154, or email at [kim.matthews@fcc.gov](mailto:kim.matthews@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), FCC 16-62, adopted on May 25, 2016 and released on May 25, 2016. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., Room

CY-A257, Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW., Room CY-B402, Washington, DC 20554. This document will also be available via ECFS at <http://fjallfoss.fcc.gov/ecfs/>. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format) by sending an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

#### Paperwork Reduction Act of 1995 Analysis

This NPRM contains proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the modified information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. 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; (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; and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the Web page called "Currently Under Review", (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box,

(5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

*OMB Control Number:* 3060–0214.

*Title:* Sections 73.3526 and 73.3527, Local Public Inspection Files; Sections 73.1212, 76.1701 and 73.1943, Political Files.

*Form Number:* None.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for profit entities; Not for profit institutions; State, local or Tribal government.

*Number of Respondents/Responses:* 41,695 respondents; 63,364 responses.

*Estimated Hours per Response:* 1–52 hours per response.

*Frequency of Response:* On occasion reporting requirement, Recordkeeping requirement, Third party disclosure requirement.

*Total Annual Burden:* 2,073,048 hours.

*Total Annual Cost:* \$3,667,339.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 151, 152, 154(i), 303, 307, and 308 of the Communications Act of 1934, as amended.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Privacy Act Assessment:* No impact(s).

*Needs and Uses:* In the NPRM, the Commission proposes to eliminate the requirement in sections 73.1202 and 73.3526(e)(9) of its rules that commercial broadcast stations retain in their public inspection file copies of letters and emails from the public. We tentatively conclude that this component of our public inspection file rules involves documents that do not need to be made available to the general public and that eliminating this requirement would reduce the burden of maintaining the public inspection file on commercial broadcasters. Our goal is also to permit commercial television and radio broadcasters to cease maintaining a local public inspection file if they post all public file material to the online public file database and provide online access via their own Web site to back-up political file material. The Commission has previously adopted this option for other entities subject to our online public inspection file requirements. Because the correspondence file cannot be made available online for privacy reasons,

removing this requirement would permit commercial broadcasters to elect to make their entire public inspection file available online and cease maintaining a local public file, thereby further reducing overall regulatory burdens on these entities.

*OMB Control Number:* 3060–0316.

*Title:* 47 CFR 76.5, Definitions, 76.1700, Records to Be Maintained Locally by Cable System Operators; 76.1702, Equal Employment Opportunity; 76.1703, Commercial Records on Children's Programs; 76.1707, Leased Access; 76.1711, Emergency Alert System (EAS) Tests and Activation.

*Form Number:* Not applicable.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for profit entities.

*Number of Respondents/Responses:* 3,000 respondents; 3,000 responses.

*Estimated Hours per Response:* 18 hours.

*Frequency of Response:* Recordkeeping requirement.

*Total Annual Burden:* 54,000 hours.

*Total Annual Cost:* \$591,840.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573 of the Communications Act of 1934, as amended.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Privacy Act Assessment:* No impact(s).

*Needs and Uses:* In the NPRM, the Commission proposes to revise its rules to eliminate the requirement in sections 76.5(pp) and 76.1700(a)(6) of its rules that cable systems retain the location and designation of the principal headend in their public file, which would reduce public inspection file requirements for these entities. However, the NPRM also proposes to revise its rules to require that cable systems provide this information to the FCC. In addition, the NPRM recognizes that information regarding the designation and location of the principal headend must continue to be made available to television stations and possibly other entities, and seeks comments on options for ways to accomplish this.

*OMB Control Number:* 3060–0649.

*Title:* Section 76.1601, Deletion or Repositioning of Broadcast Signals;

Section 76.1617, Initial Must-Carry Notice; Section 76.1607, Principal Headend.

*Form Number:* Not applicable.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for profit entities; Not for profit institutions.

*Number of Respondents/Responses:* 3,300 respondents; 3,950 responses.

*Estimated Hours per Response:* 0.5 hours.

*Frequency of Response:* On occasion reporting requirement, Third party disclosure requirement, Recordkeeping requirement.

*Total Annual Burden:* 2,050 hours.

*Total Annual Cost:* No cost.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this information collection is contained in section 4(i) of the Communications Act of 1934, as amended.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Privacy Act Assessment:* No impact(s).

*Needs and Uses:* The Commission's rules currently require the operator of every cable television system to maintain for public inspection the designation and location of its principal headend (47 CFR 76.1708). If an operator changes the designation of its principal headend, that new designation must be included in its public file. The NPRM proposes to remove and reserve this rule section.

## Synopsis

### I. Introduction

1. In this NPRM, we propose to eliminate two public inspection file requirements: (i) The requirement that commercial broadcast stations retain in their public inspection file copies of letters and emails from the public; and (ii) the requirement that cable operators maintain for public inspection the designation and location of the cable system's principal headend. Because of potential privacy concerns associated with putting the correspondence file online and because many cable operators prefer not to post online the location of their principal headend for security reasons, removing these requirements would enable commercial broadcasters and cable operators to make their entire public inspection file available online and obviate also maintaining a local public file. Eliminating these public file requirements thus would reduce the regulatory burdens on commercial broadcasters and cable operators.

## II. Background

### A. Correspondence File

2. Section 73.3526(e)(9) of the Commission's rules provides that commercial broadcast stations must retain in their public inspection file "[a]ll 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 the licensee believes the letter should be excluded from public inspection because of the nature of its content," such as a situation in which a letter contains content that is defamatory or obscene. The rule also expressly applies to email messages transmitted to station management or to an email address publicized by the station. In addition, section 73.1202 requires commercial radio and television broadcasters to retain written comments and suggestions from the public regarding the station operation in their local public inspection file. The language of this rule differs from section 73.3526 in that it does not specifically address emails received from the public and requires that letters received by TV and Class A TV licensees be separated into two categories—programming and non-programming.

3. The Commission first required commercial radio and television broadcasters to retain written comments and suggestions from the public and make them available for public inspection in 1973. That public file obligation, set forth in section 73.1202 of the Commission's rules, was adopted together with a requirement that commercial broadcast stations air regular announcements "informing the public of the licensee's obligation to the public and of the appropriate method for individuals to express their opinions of the station's operation." The purpose of the correspondence file was "to permit a member of the public to better determine the nature of community feedback being received by the licensees and the extent to which his or her opinions regarding community problems and needs and/or the licensee's station operation might be shared by other members of the community." The Commission later removed the requirement in section 73.1202 that licensees air announcements regarding their obligations to the public, noting that section 73.3580 of the rules requires that both commercial and noncommercial stations make announcements in connection with the filing of their license renewal applications and concluding that these renewal application announcements were

sufficient to inform the public of the "Commission's oversight functions and the availability of public recourse." The Commission, however, retained the requirement that licensees keep all written comments and suggestions received from the public in their public inspection files. In 1998, the Commission removed rule section 73.1202, and moved the requirement governing the retention of communications from the public to section 73.3526, the public file rule section for commercial broadcast stations. The removal of section 73.1202 has yet to be reflected in the Code of Federal Regulations.

4. The correspondence file requirement applies only to commercial broadcasters; there is no similar requirement for noncommercial broadcasters. There is also no correspondence file requirement for cable operators, DBS providers, or satellite radio licensees, all of which have other public inspection file obligations.

### B. Principal Headend Location

5. Section 76.1708 of the Commission's rules requires operators of all cable television systems to "maintain for public inspection the designation and location of [the system's] principal headend. If an operator changes the designation of its principal headend, that new designation must also be included in its public file." The Commission first adopted the principal headend public file requirement in 1993 in an order implementing the must-carry and retransmission consent provisions of the Cable Television Consumer Protection and Competition Act of 1992 ("Cable Act"). Pursuant to the Cable Act, commercial television stations must deliver a good quality signal to a cable system's "principal headend" in order to be eligible for must-carry rights on that system. The Cable Act's provisions regarding eligibility for must-carry rights for noncommercial and low power television stations also refer to a cable system's "principal headend." In the Must-Carry Order, the Commission required cable systems to retain various records relating to must-carry obligations in their public file, including, as noted above, the designation and location of the system's principal headend.

### C. Online Public Inspection File

6. In 2012, the Commission adopted online public inspection file rules for television broadcasters that required them to post public file documents to a central, FCC-hosted online database

rather than maintaining files locally at their main studios. *See Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Second Report and Order, 77 FR 27631, May 11, 2012 (Television Online Public File Order). However, in the Television Online Public File Order, the Commission determined that letters and emails from the public should not be uploaded to the online file but should instead continue to be maintained at the station's main studio. The Commission concluded that including letters and emails from the public in the online file could risk exposing personally identifiable information and that requiring stations to redact such information prior to uploading these documents would be overly burdensome.

7. In January 2016, the Commission adopted the Expanded Online Public File Order, in which it added cable operators, DBS providers, broadcast radio licensees, and satellite radio licensees to the list of entities required to post their public inspection files to the FCC-hosted online database. *See Expansion of Online Public File Obligations To Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, Report and Order, 81 FR 10105, February 29, 2016 (Expanded Online Public File Order). With respect to commercial radio licensees, the Commission concluded, consistent with the decision reached in the Television Online Public File Order, that it would exempt letters and emails from the public from the online file and instead require stations to continue to retain such material at the station. The Commission also concluded that it would not require cable operators to include principal headend location information in the online public file and instead gave operators the option to continue instead to retain this information in their local public file.

8. The Commission determined in the Expanded Online Public File Order that entities that upload all public file material to the FCC's online database and that also provide online access to back-up political file documents via the entity's own Web site when the FCC's online database is temporarily unavailable will not be required to maintain a local public file. The Commission noted, however, that this option is not available to commercial broadcast licensees, which must continue to retain a correspondence file that cannot be made available online for privacy reasons. The Commission indicated in the Expanded Online Public File Order that it would initiate

a proceeding to consider whether to eliminate the correspondence file requirement for commercial broadcasters. As requested by NCTA, we also consider herein whether we should eliminate the requirement that cable operators retain information regarding the location of their principal headend in the public inspection file. As NCTA has observed, under our current rules, operators who feel the need to avoid posting this information online for security reasons are required to retain this information locally and therefore are unable to transition to a fully online public inspection file.

### III. Discussion

#### A. Correspondence File

9. We tentatively conclude that we should eliminate the requirement that commercial broadcasters retain letters and emails from the public in their public inspection files and invite comment on this tentative conclusion. The goal of this requirement was to ensure that broadcasters comply with their public interest obligation to air programming that is responsive to the needs and interests of their community of license. As the Commission recognized in the 1981 Renewal Applications Order, however, most of the Commission's scrutiny of all but the most egregious licensee conduct occurs in conjunction with consideration of a station's license renewal application. *See Radio Broadcast Services; Revision of Applications for Renewal of License of Commercial and Noncommercial AM, FM, and Television Licensees*, Report and Order, 46 FR 26236, May 11, 1981. Any interested listeners and viewers may file comments and/or petitions concerning licensee performance at the time the station files its renewal application. Interested parties also may file a complaint with the Commission regarding a station's performance at any time during the license period. While listeners and viewers may communicate directly with the station via letters, emails, or other forms of communication at any time during the license term, we do not believe it is necessary to require that stations retain and make available to the public the letters and emails they receive regarding operation of the station to ensure that the station meets its obligation to serve its local community. Eliminating these public inspection file requirements would reduce the burden on commercial broadcasters without affecting the public's ability to communicate directly with the station or to file petitions, comments, and

complaints regarding the station with the FCC.

10. Eliminating the correspondence file requirement would have the added benefit of providing commercial television and radio broadcasters with the same option as noncommercial broadcasters and other entities subject to our online public inspection file requirements to cease maintaining a local public inspection file if they post all public file material to the online public file database and provide online access via their own Web site to back-up political file material. Extending this option to commercial broadcasters would allow them to realize the full benefits in terms of cost savings and reduced regulatory burdens of moving their public files online, and would also create greater regulatory parity among entities subject to public file obligations.

11. We invite comment on these views and our proposal to eliminate the correspondence file requirement, including responses to the following questions. Are there other benefits to eliminating the requirement? On the other hand, are there benefits to maintaining local correspondence file obligations we should consider? How frequently do local consumers or others make use of the correspondence file? Does it contain information that continues to be useful to local viewers or listeners, or other interested parties, that cannot be obtained through other means? What impact does the use of social media by broadcast stations have on viewers' ability to communicate with the stations and others regarding the stations' programming and other issues? We request that commenters explain how any benefits of either eliminating or retaining local correspondence rules would outweigh any potential costs.

#### B. Headend Location Information

12. We also propose to eliminate the requirement that cable operators retain information about the designation and location of their principal headends in their public inspection files. In the Expanded Online Public File Order, we reserved judgement as to whether there are valid security concerns associated with posting the location of the principal headend online. We observed, however, that the general public is unlikely to be interested in this information and therefore permitted operators who prefer to retain this information locally rather than posting it online to do so. In that Order, our focus was on adapting our existing public file requirements to an online format rather than considering substantive changes to the public file rules. NCTA subsequently requested

that we consider eliminating the requirement that cable operators retain information regarding the location of the principal headend in the public inspection file. In this proceeding, we propose to eliminate this public inspection file requirement because we do not believe that the general public has any need for or interest in this information. Eliminating this requirement would permit all cable operators to transition to a fully online public inspection file, obviating the need for them to also maintain local files, and address the concerns of those operators who believe there may be a potential security risk associated with disclosing the location of the principal headend online.

13. At the time the original public inspection file requirement was adopted, the Commission's focus was to ensure that information was provided to television stations and the Commission regarding the location of a cable system's principal headend for purposes of determining carriage rights and enforcement. There was no discussion in the implementing order about the general public's need to access this information. We are unaware of any reason that the general public would need to know the location of a cable system's principal headend, but we recognize that television stations must have access to this information in order to exercise their must-carry rights. In addition, the Commission must have this information in order to enforce its signal leakage rules and to respond to must-carry and signal leakage complaints. We also recognize that local franchising authorities may need access to it in connection with their oversight of local cable systems and operations. Accordingly, if we eliminate the requirement to retain principal headend location information in the public inspection file, we would adopt means for this information to remain available to those entities that need it.

14. We invite comment generally on our proposal to eliminate the principal headend public file requirement. Are there benefits to retaining this requirement? Would the benefits of eliminating the requirement outweigh the cost if we were to make information regarding the principal headend available to the Commission, television stations and/or local franchising authorities by other means?

15. We also seek comment on how the FCC should collect principal headend information from cable operators if we eliminate the requirement that it be maintained in the public file. One possibility would be to have cable operators submit this information to the

Commission upon request. Another possibility would be to have cable operators submit this information using one or more existing FCC forms that could be revised for this purpose, such as FCC Form 322 (Cable Community Registration), 324 (Cable Operator, Mail Address, and Operational Status Changes), and/or 325 (Annual Cable Operator Report). We invite comment generally on this approach and on any alternative means we should consider to collect this information. Should we keep headend location information filed with the FCC confidential and not make this information routinely available to the general public?

16. As noted above, if we eliminate the principal headend public file requirement, we propose to require that cable operators provide information regarding the designation and location of the system's principal headend to television stations. Should we also require that this information be provided to local franchising authorities? Are there any other entities that should be able to access it? How should this information be provided? If we update our existing Form 322, 324, or 325 to include principal headend information, should we also provide a means for broadcasters to access that information for purposes related to their must-carry rights? Should we also make it accessible to franchising authorities or any other entities? What methods should we use to make the information accessible? Alternatively, should we require cable operators to provide this information to entities that need it upon request? If so, what requirements should we impose regarding the format of these requests and the format and timing of the cable system's response? We note that our existing rules require cable operators to provide written notice by certified mail to all stations carried on its system pursuant to the must-carry rules at least 60 days prior to any change in the designation of its principal headend. If we require that cable operators provide principal headend information upon request, should we require that this information be provided in writing by certified mail? Should we require any requests for that information also to be submitted in writing by certified mail? Should we instead permit the request and response to be made electronically? Should we require broadcast stations to keep information regarding the location of a cable system's principal headend confidential, or do broadcasters have a valid reason at times to disclose this information, such as in pleadings related to a cable carriage dispute?

#### IV. Procedural Matters

##### A. Initial Regulatory Flexibility Act Analysis

17. As required by the Regulatory Flexibility Act of 1980, as amended ("RFA"), the Commission has prepared this Initial Regulatory Flexibility Analysis ("IRFA") concerning the possible significant economic impact on small entities of the policies and rules proposed in the Notice of Proposed Rulemaking ("NPRM"). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration ("SBA"). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

18. The NPRM proposes to eliminate two public inspection file requirements—the requirement that commercial broadcast stations retain in their public inspection file copies of letters and emails from the public and the requirement that cable operators maintain for public inspection the designation and location of the cable system's principal headend. We tentatively conclude that these two components of our public inspection file rules involve documents or information that does not need to be made available to the general public and that eliminating these rules would reduce the burden of maintaining the public inspection file on commercial broadcasters and cable operators. Our goal is also to permit commercial television and radio broadcasters and cable operators to cease maintaining a local public inspection file if they post all public file material to the online public file database and provide online access via their own Web site to back-up political file material. The Commission has previously adopted this option for other entities subject to our online public inspection file requirements. Because the correspondence file cannot be made available online for privacy reasons and because many cable operators prefer not to post the location of their principal headend online for security reasons, removing these requirements would permit commercial broadcasters and cable operators to elect to make their entire public inspection file available online and cease maintaining a local public file, thereby further reducing overall regulatory burdens on these entities.

19. The proposed action is authorized pursuant to sections 1, 2, 4(i), 4(j), 303, 601, 614 and 615 of the Communications Act, 47 U.S.C. 151, 152, 154(i), 154(j), 303, 601, 614, and 615.

20. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under 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. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

21. *Television Broadcasting.* This economic Census category "comprises establishments primarily engaged in broadcasting images together with sound." The SBA has created the following small business size standard for such businesses: Those having \$38.5 million or less in annual receipts. The 2007 U.S. Census indicates that 808 firms in this category operated in that year. Of that number, 709 had annual receipts of \$25,000,000 or less, and 99 had annual receipts of more than \$25,000,000. Because the Census has no additional classifications that could serve as a basis for determining the number of stations whose receipts exceeded \$38.5 million in that year, we conclude that the majority of television broadcast stations were small under the applicable SBA size standard.

22. Apart from the U.S. Census, the Commission has estimated the number of licensed commercial television stations to be 1,387 stations. Of this total, 1,221 stations (or about 88 percent) had revenues of \$38.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on July 2, 2014. Based on these data, we estimate that the majority of television broadcast stations are small entities.

23. *Class A TV Stations.* The same SBA definition that applies to television broadcast stations would apply to licensees of Class A television stations, as well as to potential licensees in these television services. As noted above, the SBA has created the following small business size standard for this category:

those having \$38.5 million or less in annual receipts. The Commission has estimated the number of licensed Class A television stations to be 405. Given the nature of these services, we will presume that these licensees qualify as small entities under the SBA definition.

24. We note, however, that in assessing whether a business concern qualifies as “small” under the above definition, business (control) affiliations must be included. Because we do not include or aggregate revenues from affiliated companies in determining whether an entity meets the revenue threshold noted above, our estimate of the number of small entities affected is likely overstated. In addition, we note that one element of the definition of “small business” is that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, our estimate of small television stations potentially affected by the proposed rules includes those that could be dominant in their field of operation. For this reason, such estimate likely is over-inclusive.

25. *Radio Broadcasting.* The SBA defines a radio broadcast station as a small business if such station has no more than \$38.5 million in annual receipts. Business concerns included in this industry are those “primarily engaged in broadcasting aural programs by radio to the public.” According to review of the BIA Publications, Inc. Master Access Radio Analyzer Database as of November 26, 2013, about 11,331 (or about 99.9 percent) of the then number of commercial radio stations (11,341) have revenues of \$35.5 million or less and thus qualify as small entities under the SBA definition. The Commission has estimated the number of licensed noncommercial radio stations to be 4,095. We note that in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included. This estimate, therefore, likely overstates the number of small entities that might be affected, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

26. As noted above, an element of the definition of “small business” is that the entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific radio station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any

radio station from the definition of a small business on this basis and therefore may be over-inclusive to that extent. Also, as noted, an additional element of the definition of “small business” is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

27. *Cable Companies and Systems.* The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission’s rules, a “small cable company” is one serving 400,000 or fewer subscribers nationwide. Industry data shows that there were are currently 660 cable operators. Of this total, all but ten cable operators nationwide are small under this size standard. In addition, under the Commission’s rate regulation rules, a “small system” is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,537 cable systems nationwide. Of this total, 3,965 cable systems have less than 20,000 subscribers, and 572 systems have 20,000 or more subscribers, based on the same records. Thus, under this standard, we estimate that most cable systems are small entities.

28. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is “a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000.” There are approximately 53 million cable video subscribers in the United States today. Accordingly, an operator serving fewer than 540,000 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate. Based on available data, we find that all but ten incumbent cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000, we are unable at this time to estimate with greater precision the number of

cable system operators that would qualify as small cable operators under the definition in the Communications Act.

29. The rule change proposed in the NPRM would reduce reporting, recordkeeping, and other compliance requirements for commercial broadcast stations which are currently required to retain letters and emails from the public in their local public inspection file. The NPRM proposes to eliminate this requirement, which would reduce recordkeeping burdens on these entities. In addition, eliminating the correspondence file requirement would permit commercial radio and television stations to fully transition to the online public file and to cease maintaining a local public file, allowing them to realize the long-term cost savings associated with the online public file.

30. The overall effect of the rule changes proposed in the NPRM on cable operators is less clear. The NPRM proposes to eliminate the requirement that cable systems retain the location and designation of the principal headend in their public file, which would reduce public inspection file requirements for these entities. However, the NPRM recognizes that this information must continue to be made available to the FCC and to television stations and seeks comments on options for ways to accomplish this. Some of these options could result in greater reporting, recordkeeping, or other compliance requirements than the existing public inspection file requirement. Cable operators may support more burdensome requirements, however, if they prefer to transition to a fully online public inspection file and are concerned about security risks associated with placing headend location information online.

31. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standard; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

32. The NPRM proposes to eliminate two current public file obligations—one applicable to commercial radio and television broadcasters and one applicable to cable operators.

Eliminating these obligations which would reduce overall public inspection file burdens on these affected entities. The NPRM seeks comment on these proposals, including any comments that might oppose eliminating these requirements. In addition, eliminating the correspondence file requirement would permit commercial radio and television stations to fully transition to the online public file and to cease maintaining a local public file, allowing them to realize this cost savings associated with the online public file.

33. With respect to cable operators, eliminating the headend location public inspection file requirement would necessitate establishing a different requirement to ensure that headend location information continues to be made available to the FCC and to television stations. The NPRM seeks comments on various ways to accomplish this. Some of these options could result in greater reporting, recordkeeping, or other compliance requirements than the existing public inspection file requirement. Cable operators may support more burdensome requirements, however, if they prefer to transition to a fully online public inspection file and are concerned about security risks associated with placing headend location information online.

#### Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

None.

#### B. Paperwork Reduction Act Analysis

34. This document contains proposed new or modified information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements proposed in this document, as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

#### C. Ex Parte Rules

35. The proceeding this NPRM initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum

summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable.pdf). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules.

#### D. Comment Filing Procedures

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

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for

each additional docket or rulemaking number.

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

- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

**People with Disabilities:** To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

37. **Additional Information:** For additional information on this proceeding, please contact Kim Matthews of the Media Bureau, Policy Division, [Kim.Matthews@fcc.gov](mailto:Kim.Matthews@fcc.gov), (202) 418–2154.

#### V. Ordering Clauses

38. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 4(i), 303(r), 614, and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303(r), 534, and 535, this Notice of Proposed Rulemaking *is adopted*.

39. *It is further ordered* that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects

47 CFR Part 73

Broadcast Radio.

47 CFR Part 76

Cable television.

Federal Communications Commission.

Marlene H. Dortch, Secretary.

Proposed Rules

For the reasons stated in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 73 and 76 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, and 339.

§ 73.1202 [Removed and Reserved].

2. Section 73.1202 is removed and reserved.

3. Section 73.3526 is amended by revising paragraphs (a)(1) and (2), (b)(1), and (b)(2)(i); removing paragraph (e)(9) and redesignating (e)(10) through (e)(17) as (e)(9) through (e)(16).

§ 73.3526 Local public inspection file of commercial stations.

(a) \* \* \*

(1) Applicants for a construction permit for a new station in the commercial broadcast services shall maintain a public inspection file containing the material, relating to that station, described in paragraphs (e)(2) and (e)(9) of this section. A separate file shall be maintained for each station for which an application is pending. If the application is granted, paragraph (a)(2) of this section shall apply.

(2) Every permittee or licensee of an AM, FM, TV or Class A TV station in the commercial broadcast services shall maintain a public inspection file containing the material, relating to that station, described in paragraphs (e)(1) through (e)(9) and paragraph (e)(12) of this section. In addition, every permittee or licensee of a commercial TV or Class A TV station shall maintain for public inspection a file containing material, relating to that station, described in paragraphs (e)(10), (e)(14), (e)(15), and (e)(16) of this section, and every permittee or licensee of a commercial AM or FM station shall maintain for public inspection a file containing the material, relating to that station, described in paragraphs (e)(11), (e)(13), and (e)(15) of this section. A separate file shall be maintained for each station for which an authorization is outstanding, and the file shall be maintained so long as an authorization to operate the station is outstanding.

b) \* \* \*

(1) For radio licensees temporarily exempt from the online public file

hosted by the Commission, as discussed in paragraph (b)(2) of this section, a hard copy of the public inspection file shall be maintained at the main studio of the station, unless the licensee elects voluntarily to place the file online as discussed in paragraph (b)(2) of this section. An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license or at its proposed main studio.

(2)(i) A television station licensee or applicant, and any radio station licensee or applicant not temporarily exempt as described in this paragraph, shall place the contents required by paragraph (e) of this section of its public inspection file in the online public file hosted by the Commission, with the exception of the political file as required by paragraph (e)(6) of this section, as discussed in paragraph (b)(3) of this section. Any radio station not in the top 50 Nielsen Audio markets, and any radio station with fewer than five full-time employees, shall continue to retain the public inspection file at the station in the manner discussed in paragraph (b)(1) of this section until March 1, 2018. However, any radio station that is not required to place its public inspection file in the online public file hosted by the Commission before March 1, 2018 may choose to do so, instead of retaining the public inspection file at the station in the manner discussed in paragraph (b)(1) of this section.

\* \* \* \* \*

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

4. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

5. Section 76.5 is amended by revising paragraph (pp)(2) to read as follows:

§ 76.5 Definitions.

(pp) \* \* \*

(2) In the case of a cable system with more than one headend, the principal headend designated by the cable operator, except that such designation shall not undermine or evade the requirements of subpart D of this part. Each cable system must provide information regarding the designation and location of the principal headend to the FCC. Except for good cause, an operator may not change its choice of principal headend.

\* \* \* \* \*

§ 76.1700 [Amended]

6. Section 76.1700 is amended by removing paragraph (a)(6) and redesignating paragraphs (a)(7) through (a)(10) as (a)(6) through (a)(9).

§ 76.1708 [Removed and Reserved].

7. Section 76.1708 is removed and reserved.

[FR Doc. 2016-14793 Filed 6-21-16; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 269

[Docket No. FRA-2016-0023; Notice No. 1]

RIN 2130-AC60

Competitive Passenger Rail Service Pilot Program

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FRA proposes regulations to implement a pilot program for competitive selection of eligible petitioners in lieu of Amtrak to operate not more than three long-distance routes operated by Amtrak. The proposed rule would develop this pilot program as required by a statutory mandate.

DATES: Written Comments: Written comments on the proposed rule must be received by August 22, 2016. FRA will consider comments received after that date if practicable.

Hearing Request: FRA anticipates resolving this rulemaking without a public, oral hearing. However, if FRA receives a specific request for a public, oral hearing prior to July 22, 2016, then FRA will schedule such a hearing and FRA will publish a supplemental notice in the Federal Register to inform interested parties of the date, time, and location of any such hearing.

ADDRESSES: Comments: Comments related to Docket Number FRA-2016-0023 may be submitted by any of the following methods:

Online: Comments should be filed at the Federal eRulemaking Portal, http://www.regulations.gov. Follow the online instructions for submitting comments.

Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE., W12-140, Washington, DC 20590.

Hand Delivery: Room W12-140 on the Ground level of the West Building,