under the CAA. The Burn Cleaner Incentive Measure obligates the District to achieve quantifiable, surplus, permanent, and enforceable $PM_{2.5}$ emission reductions through the Burn Cleaner Fireplace and Woodstove Change-out Program, fund projects that achieve these emission reductions, and track the progress of these emission reductions. The Burn Cleaner Incentive Measure does not alter any existing SIP requirements. Our approval of the Burn Cleaner Incentive Measure into the SIP would strengthen the SIP and would not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements, consistent with the requirements of CAA section 110(l). Section 193 of the CAA does not apply to this action because this measure does not modify any SIP control requirement that was in effect before November 15, 1990.

We are proposing to find that the Burn Cleaner Incentive Measure meets CAA requirements for enforceability, SIP revisions, and nontraditional emission reduction programs as interpreted in EPA guidance documents. The TSD has more information on our evaluation.

C. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted measure because it fulfills all relevant requirements. We are proposing to codify this measure as additional material in the Code of Federal Regulations, rather than through incorporation by reference, because, under its terms, the measure contains commitments enforceable only against the District and because the measure is not a substantive rule of general applicability. We will accept comments from the public on this proposal until May 15, 2023. If we take final action to approve the submitted measure, our final action will incorporate this measure into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.''

The State did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. If finalized, due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 6, 2023.

Kerry Drake,

Acting Regional Administrator, Region IX.

[FR Doc. 2023–07724 Filed 4–13–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 23–126; FCC 23–23; FR ID 134736]

In the Matter of Implementation of the Low Power Protection Act

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) implements the Low Power Protection Act (LPPA or Act), as enacted on January 5, 2023. The LPPA provides certain low power television (LPTV) stations with a limited window of opportunity to apply for primary spectrum use status as Class A television stations. The LPPA sets forth eligibility criteria for stations seeking

Class A designation that are similar to the eligibility criteria under the Community Broadcasters Protection Act of 1999 (CBPA), which permitted certain LPTV stations to convert to Class A status. This document seeks comment on how to implement the LPPA consistent with Congressional direction, including, *inter alia,* which stations are eligible to apply for Class A status under the LPPA, the application period and application filing requirements, and ongoing eligibility requirements.

DATES: Comments may be filed on or before May 15, 2023, and reply comments may be filed on or before June 13, 2023.

ADDRESSES: You may submit comments and reply comments, identified by MB Docket No. 23–126, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Website: 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* or phone: (202) 418–0530 or TTY: (202) 418–0432.

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, at (202) 418–2154, or by email at *Kim.Matthews@fcc.gov,* or Joyce Bernstein, Media Bureau, Video Division, at (202) 418–1647, or by email at *Joyce.Bernstein@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking* (*NPRM*), FCC 23–23, adopted on March 29, 2023 and released on March 30, 2023. 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* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

Background

1. The Commission created the LPTV service in 1982 to bring television service, including local service, to viewers ''otherwise unserved or underserved'' by existing full power service providers. From its creation, the LPTV service has been a secondary service, meaning LPTV stations may not cause interference to, and must accept interference from, full power television stations as well as certain land mobile radio operations and other primary services. As a result of their secondary status, LPTV stations can also be displaced by full power stations that seek to expand their service area, or by new full power stations seeking to enter the same area as the LPTV station.

2. Currently, there are approximately 1,912 licensed LPTV stations. These stations operate in all states and territories, and serve both rural and urban audiences. LPTV stations were required to complete a transition from analog to digital operation in 2021 and all such stations must now operate in digital format. As the name suggests, LPTV stations have lower authorized power levels than full power TV stations. Because they operate at reduced power levels, LPTV stations serve a much smaller geographic region than full power stations and can be fit into areas where a higher power station cannot be accommodated in the Table of TV Allotments.

3. In 2000, the Commission established a Class A television service to implement the Community Broadcasters Protection Act of 1999 (CBPA), codified at 47 US.C 336(f). The CBPA allowed certain qualifying LPTV stations to become Class A stations, which provided those television stations primary status, and thereby a measure of interference protection from full service television stations.

4. Congress sought in the CBPA to provide certain LPTV stations a limited window of opportunity to apply for primary status. Among other matters, the CBPA set out certain certification and application procedures for LPTV licensees seeking Class A designation and prescribed the criteria for eligibility for a Class A license. Specifically, under the CBPA, an LPTV station could qualify for Class A status if, during the 90 days preceding the date of enactment of the statute, the station: (1) broadcast a minimum of 18 hours per day; (2) broadcast an average of at least 3 hours per week of programming produced within the market area served by the station, or the market area served by a group of commonly controlled low-power stations that carry common local programming produced within the market area served by such group; and (3) was in compliance with the Commission's requirements for LPTV stations. In addition, the CBPA required that, from and after the date of its application for a Class A license, the station must be in compliance with the Commission's operating rules for full power television stations. As directed by the CBPA, within 60 days of the date of enactment of the CBPA, stations seeking Class A status were required to submit to the Commission a certification of eligibility based on the applicable qualification requirements. In addition, the Commission required LPTV licensees seeking Class A designation to submit an application to the Commission within 6 months after the effective date of the rules adopted in the Class A proceeding.

5. In addition to these qualifying requirements, the CBPA gave the Commission discretion to determine that the public interest, convenience, and necessity would be served by treating a station as a qualifying LPTV station under the CBPA, or that a station should be considered to qualify for such status for other reasons, even if it did not meet the qualifying requirements in the statute discussed above. In implementing the CBPA, the Commission concluded, however, that it would not accept applications under the CBPA from LPTV stations that did not meet the statutory criteria and that did not file a certification of eligibility by the statutory deadline, absent compelling circumstances.

6. Like the CBPA, the Low Power Protection Act (LPPA), Public Law 117–344, 136 Stat. 6193 (2023), is intended ''to provide low power TV stations with a limited window of opportunity'' to apply for primary status as a Class A television licensee. The Act gives LPTV stations one year to apply for a Class A license, from the date that the Commission's rules become effective.

7. The LPPA sets forth eligibility criteria for stations seeking Class A designation that are similar to the eligibility criteria under the CBPA, as discussed above. Specifically, the statute provides that the Commission ''may approve'' an application submitted by an LPTV station if the station meets the following eligibility criteria:

- during the 90-day period preceding the date of enactment of the LPPA (*i.e.,* between October 7, 2022 and January 5, 2023), the station satisfied the same requirements applicable to stations that qualified for Class A status under the CBPA, ''including the requirements . . . with respect to locally produced programming;''
- the station satisfies the requirements of 47 CFR 73.6001(b) through (d) or any successor regulation;
- the station demonstrates that it will not cause any interference as described in the CBPA;
- during that same 90-day period, the station complied with the Commission's requirements for LPTV stations; and
- as of January 5, 2023, the station operated in a Designated Market Area with not more than 95,000 television households;

Finally, the LPPA requires that a station accorded Class A status must (1) be subject to the same license terms and renewal standards as a license for a full power television broadcast station (except as otherwise expressly provided in the LPPA) and (2) remain in compliance with paragraph (c)(2)(B) of the statute during the term of the license.

Discussion

8. In this *Notice of Proposed Rulemaking (NPRM),* we propose rules to provide LPTV stations with a limited opportunity to apply for primary spectrum use status as Class A television stations, consistent with Congress's directive in the LPPA.

A. Application Period

9. The LPPA provides LPTV stations a period of one year to apply for Class A status. We tentatively conclude that the application window will be limited to the one year application window specified in the Act. We note that the LPPA provides that the Commission may approve an application for Class A status if the application satisfies § 336(f)(2) of the Communications Act of 1934, as amended (which codifies the CBPA). This provision sets forth the eligibility criteria for stations qualifying for Class A status, and gives the Commission discretion to determine whether a station not satisfying such criteria should otherwise qualify. In the *Class A Order,* the Commission declined either to expand these eligibility criteria or to allow ongoing conversion to Class A status beyond the 6 month window contemplated in the CBPA. The Commission reasoned that the basic purpose of the CBPA was to afford existing LPTV stations a window of opportunity to convert to Class A stations. The Commission also determined that the intent of Congress in enacting the CBPA was to establish the rights of a specific, already-existing group of LPTV stations, and that the public interest would not be served by the ongoing conversion of LPTV stations to Class A status under the CBPA in the future. The Commission noted that LPTV stations were originally licensed on a secondary basis and allowed to convert to Class A status only under limited eligibility criteria established in the CBPA based upon their beneficial past service to the public, and that it was not appropriate to expand generally the group of LPTV stations eligible to convert to Class A beyond that established by Congress. The Commission did, however, state that, where potential applicants ''face circumstances beyond their control that prevent them from filing'' a Class A application within the 6-month time frame that applied to Class A conversions, the Commission ''would examine those instances on a case-by-case basis to determine their eligibility for filing.''

10. Similar to the CBPA, we tentatively find that the purpose of the LPPA is to provide for a one-time conversion of a discrete pool of eligible LPTV stations that meet the specific criteria set forth in the LPPA. We tentatively find that the public interest would not be served by providing for conversion to Class A status beyond the one year period contemplated in the LPPA, nor do we find anything in the LPPA to suggest that Congress intended anything more than a limited window of opportunity. Although we tentatively conclude that the application window will be limited to the one year application window specified in the Act, we propose that if a potential applicant faces circumstances beyond its control that prevents them from filing by the application deadline, we will examine those instances on a case-by-case basis to determine the potential applicant's eligibility for filing. We invite comment on this approach.

B. Eligibility Requirements

1. Definition of Low Power TV Station

11. We propose to apply the Commission's recently updated definition of an LPTV station for purposes of determining which stations are eligible for Class A status under the LPPA. The LPPA provides that the term ''low power TV station'' has the meaning given the term ''digital low power TV station'' in § 74.701 of our rules, or any successor regulation. Section 74.701 formerly contained a definition of the term ''digital lower power TV station'' but we recently revised that rule to remove references to digital and analog television service, as all LPTV stations have now ceased analog operations and there is no further need to differentiate between digital and analog in the rules. In place of the prior § 74.701 definition, § 74.701(k) of our current rules defines a low power TV station as: ''[a] station . . . that may retransmit the programs and signals of a television broadcast station, may originate programming in any amount greater than 30 seconds per hour . . . and, subject to a minimum video program service requirement, may offer services of an ancillary or supplementary nature, including subscription-based services.'' We propose to apply this recently updated definition of an LPTV station for purposes of determining which stations are eligible for Class A status under the LPPA. We invite comment on this approach.

12. Consistent with this definition, we tentatively conclude that eligibility for Class A status under the LPPA should be limited to LPTV stations, and that television translator stations should not be eligible. Translator stations ''operate for the purpose of retransmitting the programs and signals of a television broadcast station, without significantly altering any characteristic of the original signal other than its frequency and amplitude,'' and thus, are not permitted to ''originate programming'' as defined in the rules. Given this limitation, for the following reasons we tentatively conclude that ''television broadcast translator stations'' as defined under our rules would not be able to satisfy the locally produced programming eligibility requirement of the LPPA. While the LPPA does not expressly require that the locally produced content aired by a low power station be produced by that station itself, we tentatively conclude that translators would be unlikely to qualify under the locally produced programming provisions of the LPPA due to the manner in which translators operate.

Translator stations are generally located outside their primary station's noise limited contour in order to bring service to remote areas. Thus, while a translator's primary station(s) may be airing programming produced in the primary station's noise limited contour, it is unlikely that programming was locally produced within the noise limited contour of the translator. For similar reasons, the Commission specifically found that translator stations were not eligible for Class A status under the CBPA, and there is no indication that Congress intended to be more inclusive in the LPPA. In addition, we tentatively conclude that the LPPA's inclusion of reference to ''low power'' stations and failure to specifically reference ''translator'' stations can be read as an intentional inclusion of the former and exclusion of the latter and is the best reading of the statute. We invite comment on this tentative conclusion that translator stations should not be eligible for Class A status under the LPPA.

13. We tentatively conclude that LPTV stations that have not completed their digital transition are not eligible to apply for Class A designation. A small number of analog LPTV stations have not yet completed construction of their digital facilities and have been granted additional time to do so. Since analog television operations are no longer permitted, these LPTV stations are silent and must remain silent until such time as they complete construction of their digital facilities. The LPPA requires that, to be eligible to convert to Class A status, an LPTV station must meet the statutory programming requirements for the 90-day period preceding the date of enactment of the LPPA. As any LPTV station that was silent during this period would not meet these requirements, we tentatively conclude that such stations would not be eligible to apply for Class A designation under the LPPA. We invite comment on this interpretation.

2. Eligibility Criteria

14. We propose to codify in our rules the eligibility criteria set forth in the LPPA. As noted above, the LPPA sets forth eligibility criteria for stations seeking Class A designation that are similar to the eligibility criteria under the CBPA. Specifically, the LPPA provides that the Commission ''may approve'' an application submitted by an LPTV station under the LPPA if the station, during the 90-day period preceding the date of enactment of the LPPA, meets the same requirements in 47 U.S.C. 336(f)(2) applicable to stations that qualified for Class A status under the CBPA, ''including the requirements . . . with respect to locally produced programming.'' Thus, to qualify for Class A status in the 90 days preceding the LPPA's January 5, 2023 effective date, an LPTV station must have met the following requirements between October 7, 2022 and January 5, 2023 (the 90 day eligibility period): (1) the station must have broadcast a minimum of 18 hours per day; (2) the station must have broadcast an average of at least 3 hours per week of programming that was produced within the market area served by such station, or the market area served by a group of commonly controlled LPTV stations that carry common local programming produced within the market area served by such group; and (3) the station must have been in compliance with the Commission's requirements applicable to LPTV stations. In addition, from and after the date of its application for a Class A license, the station must be in compliance with the Commission's operating rules for full power television stations.

15. *Locally Produced Programming.* In implementing the LPPA, we propose to define ''locally produced programming'' in the same manner as our rules that apply to stations that converted to Class A status pursuant to the CBPA. As noted above, the LPPA requires that, during the 90 day eligibility period, LPTV stations must have broadcast an average of at least 3 hours per week of programming produced within the market area served by the station. Section 73.6000 of our rules contains a definition of ''locally produced programming'' applicable to Class A stations. In the *Part 73 Amendment NPRM,* the Commission has proposed to update its definition of locally produced programming for Class A stations in § 73.6000 of the rules, as ''programming produced within the predicted noise-limited contour . . . of a Class A station broadcasting the program or within the contiguous predicted noise-limited contours of any of the Class A stations in a commonly owned group.'' We propose to apply the definition in § 73.6000 of the rules, including any future changes, to define ''programming produced within the market area served by the station'' for purposes of determining eligibility for Class A status under section 2(c)(2)(B)(i)(I) of the LPPA and invite comment on this approach.

16. *Operating Requirements.* We tentatively conclude that all applicants seeking to convert to Class A status under the LPPA be required to certify that they have complied with the Commission's requirements for LPTV stations, during the 90 day eligibility period. As noted above, to qualify for Class A status under the LPPA, an LPTV station must have been in compliance with the Commission's requirements for LPTV stations during the 90 day eligibility period. We seek comment on this tentative conclusion.

17. The LPPA requires that a station ''be in compliance with the Commission's operating rules for full-power stations'' beginning on the date of its application for a Class A license and thereafter. In the *Class A Order* that implemented the CBPA, the Commission determined certain part 73 rules would apply to applicants for Class A status and to stations awarded Class A licenses. For example, existing Class A stations must comply with children's programming and online public inspection file regulations. We propose to take this same approach with respect to stations that seek to convert to Class A status pursuant to the LPPA. We propose that applicants for Class A designation pursuant to the LPPA, and Class A stations awarded licenses pursuant to that statute, will be required to comply with the same part 73 rules applied in implementing the CBPA. We invite comment on this approach.

18. We also propose that all stations that receive a Class A license under the LPPA must comply with all Class A regulations. LPPA section (2)(c)(3)(B) provides that a Class A license granted pursuant to the rules established under the LPPA shall ''require the low power TV station to remain in compliance with [§ (2)(c)(2)(B) of the LPPA] during the term of the license.'' This includes, among other things, the requirements to broadcast a minimum of 18 hours per day and to broadcast an average of at least three hours per week of locally produced programming each quarter. Beyond the requirements specified in § (2)(c)(2)(B) of the LPPA, we also tentatively conclude there is no reason to exempt LPTV stations converting to Class A status under the LPPA from other rules applicable to LPTV stations converting to Class A status under the CBPA, given that the service requirements in the LPPA closely track those in the CBPA and that the stations will be converting to Class A status and so it makes sense for Class A rules generally to apply. We seek comment on this approach.

19. We also seek comment on whether the requirement to comply with the Class A eligibility requirements set forth in LPPA section (2)(c)(2)(B) should run from when an LPTV station's application is submitted. To that end, we note that LPPA section 2(c)(2)(B)(i)(II) states that the ''Commission may approve an application [for Class A status] if the

low power TV station *submitting the application—satisfies*—paragraphs (b), (c), and (d) of 73.6001,'' which contains the requirements that Class A stations broadcast a minimum of 18 hours per day and broadcast an average of at least three hours per week of locally produced programming each quarter. We seek comment on how to interpret the statutory language providing that the station ''submitting the application'' must ''satisfy'' these requirements. We note that this requirement is distinct from the separate statutory obligation to meet the eligibility requirements during the 90 day eligibility period of October 7, 2022 to January 5, 2023. Should this language be interpreted to require the applicant for a Class A license to satisfy the requirements of 47 CFR 73.6001(b) through (d) from the time it submits its application? Indeed, because LPPA section (2)(c)(3)(B) applies these requirements after a Class A license is granted, would LPPA section 2(c)(2)(B)(i)(II) be rendered superfluous if we did not interpret it to apply these requirements from the time the Class A application is submitted?

20. *License Application and Documentation.* In order to assist with the orderly processing of all applications received under the LPPA, we propose that an applicant will be required to certify that its station meets the operating and programming requirements of the LPPA. Specifically, with respect to the statutory requirement that stations air 18 hours of programming each day during the 90 day eligibility period, we propose to require applicants to certify that the station was fully operational for at least 18 hours on each day during the 90 day eligibility period. In addition, with respect to the requirement that stations air three hours of locally produced programming, we propose to require an applicant to certify that it was providing such programming during each day during the 90 day eligibility period. We invite comment generally on this approach.

21. We tentatively conclude that an applicant be required to submit, as part of its application, documents to support its certification that it meets the operating and programming requirements of the LPPA. We seek comment on the kind of documentation that we should require stations to submit in support of their application in order to ensure orderly processing. Should we require specific documents or categories of documentation or should we provide examples of the kinds of documentation that stations could provide thereby giving stations more latitude with respect to the types of documentation they may use to support their application? To support its certification that the station was on the air at least 18 hours each day during the eligibility period, a station could, for example, submit electric power bills from a third party vendor that specify the station or station's broadcast facility location for the designated period, and/or copies of any program guides, EAS logs, or agreements to purchase and air programming on the specified station in an amount sufficient to satisfy this programming requirement. If the station was silent during any portion of this period of time, we will require the station to identify any silent periods and the reasons why the station was silent. To support its certification that a station aired three hours of locally produced programming, the station could, for example, submit copies of any agreements to purchase and air such programming and/or identify the producer of any programming it claims is locally produced, the location where the programming was produced, and records of advertisements aired during locally produced programming showing that the programming was in fact aired. We invite commenters to provide examples of other kinds of documentation a station could provide to support its certifications that it meets the eligibility requirements of the LPPA. In order to expedite processing, and ensure the Commission maximizes opportunities for applicants, Commission staff may request additional documentation if necessary during consideration of the application.

22. *Alternative Eligibility Criteria.* As discussed above, the LPPA provides that the Commission may approve an application for Class A status if the application satisfies § 336(f)(2) of the Communications Act of 1934, codified as part of the CBPA. The CBPA provided the Commission with additional discretion in evaluating applicants for Class A status if ''the Commission determines that the public, interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission.'' In the *Class A Order,* the Commission determined that it would allow deviation from the strict statutory eligibility criteria in the CBPA ''only where such deviations are insignificant or when we determine that there are compelling circumstances, and that in light of those compelling circumstances, equity mandates such a deviation.'' The Commission gave as an example of such compelling circumstances ''a natural disaster or interference conflict which forced the station off the air during the 90 day period before enactment of the CBPA.''

23. We tentatively conclude that we should apply this same approach in the context of the LPPA. Accordingly, we propose to allow deviation from the strict statutory eligibility criteria under the LPPA only where deviations are insignificant or where there are compelling circumstances such that equity mandates a deviation. We tentatively conclude that the LPPA provides precise and limited eligibility criteria and, except in very limited circumstances, we are not inclined to expand the specific qualifying criteria beyond that identified in the statute. We invite comment on this approach.

3. Interference Requirements

24. We tentatively conclude that LPTV stations proposing to convert to Class A status under the LPPA must demonstrate compliance with the interference protection standards set forth in § 336(f)(7) of the Communications Act of 1934, with the exception of those provisions that are now obsolete given the transition of all television stations from analog to digital operations. The LPPA provides that the Commission may approve an application by an LPTV station if it ''demonstrates to the Commission that the Class A station for which the license is sought will not cause any interference described in § 336(f)(7) of the Communications Act of 1934 . . . .'' Section 336(f)(7) describes the interference protection requirements for LPTV stations that sought Class A status under the CBPA vis-à-vis full power television, LPTV, TV translator, and land mobile stations. Because the CBPA was adopted in 1999, § 336(f)(7) refers to a number of interference protection standards that are now obsolete.

25. We tentatively conclude that LPTV stations proposing to convert to Class A status must satisfy the requirement in section 2(c)(2)(B)(ii) of the LPPA by demonstrating compliance with the same operating rules and policies, including interference requirements, applicable to existing digital Class A licensees, including requirements that were adopted subsequent to the enactment of § 336(f)(7). When LPTV stations converted to Class A status pursuant to the CBPA in 2000, they began their primary status operations as analog stations. In 2004, the Commission adopted rules and policies to allow LPTV and Class A stations to operate with digital facilities. In 2011, the Commission established a hard deadline

of September 1, 2015 for all Class A stations to terminate analog operations. With very limited exceptions, all existing LPTV stations are now operating in digital format. Our rules applicable to Class A stations set forth the interference protection Class A stations now must provide to digital full power, Class A, LPTV, and TV translator stations, and supersede certain interference requirements referenced in the CBPA, as that statute was adopted prior to the digital transition. We recognize that the LPPA specifically referenced the interference requirements ''described in § 336(f)(7).'' Nonetheless, we tentatively find that this does not evince an intent on the part of Congress to compel applicants, in fulfilling the requirements under the LPPA, to demonstrate compliance with outdated and superseded interference rules referenced in § 336(f)(7). Rather, we tentatively find that by requiring applicants to demonstrate compliance with current interference requirements applicable to Class A stations, we will ensure that the purpose of the statutory provision—*i.e.,* to ensure that a Class A station will not cause interference—will be served because the licensed or previously proposed facilities of full power, low power and TV translator, and land mobile stations will be afforded interference protection when LPTV stations convert to Class A status pursuant to the LPPA. Accordingly, we tentatively conclude that our rules applicable to existing Class A stations, including interference requirements, will apply to stations that convert to Class A status pursuant to the LPPA. We seek comment generally on this analysis and tentative conclusion.

26. *Protection of Full Power Television Stations.* We tentatively conclude that Class A-eligible LPTV stations need not comply with certain CBPA interference showings that are obsolete due to the completion of the digital transition. These obsolete provisions would include the following: (1) prohibition on causing interference to the predicted Grade B contour of an analog full power television station or a modification application filed on or before November 1, 1999; (2) protection of the original DTV Table of Allotments, which has now been superseded and deleted from the Commission's rules; and (3) two additional requirements that are both obsolete due to the passage of time. We seek comment on our tentative conclusion.

27. Further, we tentatively conclude that Class A-eligible stations seeking primary status under the LPPA must demonstrate that they do not cause interference to areas protected under our rules, including any future updates to those rules. Section 336(f)(7)(A)(ii)(II) of the CBPA required LPTV stations to demonstrate that they did not cause interference ''to the areas protected in the Commission's digital television regulations (47 CFR 73.622(e) and (f)).'' We recently proposed updates to these requirements. Accordingly, we tentatively conclude that these rule changes to §§ 73.622(e) and 73.622(f), if adopted, will also apply to Class A-eligible LPTV stations seeking primary status under the LPPA and seek comment on this tentative conclusion.

28. *Protection of Low Power and Television Translator Stations.* We tentatively conclude that an LPTV station that files an application to convert to Class A status under the LPPA will be required to protect LPTV and TV translator stations. The LPPA references the CBPA in requiring the protection of previously authorized LPTV/TV stations, as well as previously filed applications for these facilities. We note that when the CBPA was implemented, the Commission required Class A stations to protect ''the LPTV and TV translator protected contours on the basis of the standards given in § 74.707, *i.e.,* on the basis of compliance with certain desired-to-undesired signal strength ratios of the LPTV rules.'' We recently deleted this provision. The digital-to-digital interference protection standards are now found in §§ 74.792 and 74.793. We tentatively conclude that LPTV stations that file applications to convert to Class A station under the LPPA will be required to make an absence of interference showing using these updated digital-to-digital rules, and seek comment on this tentative conclusion.

29. *Protection of Land Mobile Stations.* We tentatively conclude that an LPTV station that converts to a Class A station under the LPPA will continue to be required to protect land mobile stations. LPTV stations are currently required to protect land mobile stations. Section 336(f)(7)(C) of the CBPA provides that the Commission may not grant a Class A license or modification of license where the Class A station will cause interference within the protected contour of land mobile stations. This protects land mobile radio services which have been allocated the use of TV channels 14–20 in certain urban areas of the country, as well as channel 16 in the New York City metropolitan area. In implementing the CBPA, the Commission implemented these protections in the manner prescribed in § 74.709 of the LPTV rules. These rules have not changed. Thus, we tentatively conclude that LPTV stations that file applications to convert to Class A station under the LPPA will be required to make an absence of interference showing using these land mobile protection rules.

4. Designated Market Area

30. We seek comment on multiple issues involving the LPPA's requirements related to Designated Market Areas (DMAs). The LPPA requires that an LPTV station must demonstrate that as of January 5, 2023, the station ''operates in a Designated Market Area with not more than 95,000 television households.'' The LPPA further states that DMA means ''(A) a [DMA] determined by Nielsen Media Research or any successor entity; or (B) a [DMA] under a system of dividing television broadcast station licensees into local markets using a system that the Commission determines is equivalent to the system established by Nielsen Media Research . . .'' We seek comment on: (1) the meaning of the word ''operates'' in the LPPA, and (2) whether we should adopt the Nielsen Local TV Station Information Report (Local TV Report) for determining DMAs or an equivalent alternative local market system.

31. In limiting eligibility to LPTV stations operating in a DMA or an equivalent with not more than 95,000 television households (a ''qualifying DMA''), Congress apparently intended to convey the benefits of primary Class A status under the LPPA to small market LPTV stations that reach a relatively small number of potential viewers. ''Operate'' in the LPPA could mean that an LPTV station's protected contour extends into the geographic area of a qualifying DMA. It could also mean that the station's transmission facilities, which includes the tower or building on which its antenna is mounted, are located within the qualifying DMA. We tentatively conclude that the LPTV station applying for Class A status under the LPPA must demonstrate that its transmission facilities are located within the qualifying DMA. We believe this interpretation is consistent with the apparent Congressional intent to limit Class A status to stations currently operating in small markets. We also propose that in order to make the necessary demonstration, applicants be required to provide the following information, as it existed as of the enactment date of the LPPA, January 5, 2023: (1) the coordinates of the station's transmission facilities (*i.e.,* the tower or building on which its antenna is mounted); (2) the city/town/village/or other municipality and county in which the transmission facilities are located;

and (3) the qualifying DMA in which the station's transmission facilities are located. We seek comment on this proposal.

32. We propose to use the Nielsen Local TV Station Information Report (Local TV Report) in determining the DMA where the LPTV station's transmission facilities were located as of January 5, 2023 consistent with the Commission's recent *Nielsen DMA Determination Update Order,* and seek comment on this proposal. In November 2022, we adopted Nielsen's monthly Local TV Report as the successor publication to Nielsen's Annual Station Index and Household Estimates and determined that the Local TV Report should be used to define ''local market'' as stated in other statutory provisions and rules relating to carriage, including retransmission consent, distant signals, significantly viewed, and field strength contour. The record in that proceeding indicated that the Local TV Report is the sole source of information regarding DMA determinations and that there is no company currently accredited to determine the local market area of broadcast television stations.

33. As noted above, the LPPA also permits the Commission to adopt an equivalent alternative local market system to Nielsen's DMA. The LPTV Broadcasters' Association (LPTVBA) requests that the Commission use, for purposes of the LPPA, Metropolitan Statistical Areas (MSAs) and Rural Service Areas (RSAs) as defined by the Office of Management and Budget (OMB). The general concept of an MSA is that of a core area containing a substantial population nucleus, together with adjacent communities having a high degree of economic and social integration with that core. The Census Bureau does not actually define ''rural.'' Rather, rural areas include all geographic areas that are not classified as urban. LPTVBA does not specify or explain which areas, which are based on Census Bureau data, it would have us use. We also note that these classifications, which are based on population, appear to have nothing to do with market assignment information or determining television broadcast station markets, unlike Nielsen DMAs. We seek comment on LPTVBA's position and on any alternative means of delineating DMAs using a system of dividing television broadcast station licensees into local markets that is equivalent to the system established by the Nielsen Media Research. Any commenter suggesting an alternative publication to the Nielsen Local TV Report should identify the publication as well as the similarities and differences in assigning stations to television markets, and explain why the alternative publication is preferable.

5. License Standards (Ongoing Eligibility Requirements)

34. The LPPA provides that licenses issued to stations that convert to Class A status are subject to full power television station license terms and renewal standards, with certain exceptions, and that such licensees are required to remain in compliance with the LPPA's eligibility requirements for the term of their Class A license. We propose to implement these provisions as discussed below.

35. As discussed above, we propose to require that converting stations comply with the Commission's operating rules for full power stations. We invite comment on this proposal.

36. Next, we propose to require that these converting stations remain in compliance with eligibility requirements set forth above. As described in section III.B.2. above, such stations must continue, during the term of the Class A license, to: (1) broadcast a minimum of 18 hours of programming per day, and (2) broadcast an average of at least 3 hours per week of ''locally produced programming,'' as defined above. In addition, the station must continue to comply with the interference requirements adopted in this proceeding. We invite comment on this proposal.

37. Finally, we believe that in order to fulfill the continuing compliance mandate, stations that convert to Class A status must continue to operate in DMAs with not more than 95,000 television households in order to maintain their Class A status. We invite comment on this proposed interpretation. Also, under our proposal, a station that converted to Class A pursuant to the LPPA would no longer be eligible to retain Class A status if the population in its DMA later grows to more than 95,000 television households and propose to consider compliance with this element during the license renewal process. We seek comment on this proposal. What if Nielsen or another equivalent entity were to merge a qualifying DMA into another DMA such that the combined DMA has more than 95,000 television households? How likely is this to occur? Should a station affected by a decision of Nielsen to combine DMAs for purposes of the station's Class A eligibility under these proposed rules be allowed to file a complaint with the FCC and if so what procedure should be implemented to consider such challenges? What if the boundaries of a DMA are changed such that the number of TV households in the DMA increases to a number above the 95,000 TV household threshold under the LPPA? Should our interpretation of the LPPA DMA requirement depend on whether the station itself initiates a move to a non-qualifying DMA, or whether the change is beyond the station's control?

C. Application Process

38. *Applications for Class A Status.* We propose to evaluate Class A status to eligible LPTV stations as a modification of the station's existing license. We propose that, for purposes of the LPPA, Class A applications be limited to the conversion of existing facilities as they exist at the time of application, without consideration of modifications to those facilities. We tentatively conclude that this approach is consistent with the limited opportunity intended by the LPPA. It will also allow expeditious consideration of all applications, and will eliminate delays that could arise from the possibility of mutual exclusivity between a Class A conversion application and other licensed full power or Class A facilities, were we to entertain license modifications during the application window. A licensed LPTV station holding a construction permit to modify its facilities will either need to license those permitted facilities before applying to convert to Class A status, or may apply for a modification after the Commission has processed the applications from the window. We invite comment on this approach.

39. When implementing the CBPA, the Commission required stations applying for Class A status to provide local public notice of applications for Class A statues ''since the nature of the underlying service is changing from secondary to primary service.'' We tentatively conclude for the same reason that local public notice of applications pursuant to the LPPA should also be required. We seek comment on this tentative conclusion.

40. *Application Form.* We propose that an application for modification of the LPTV station's existing license to convert to Class A status be filed using FCC Form 2100, Schedule F. We propose to require that such applications be filed electronically. Effective March 2, 2023, the filing fee for an application to convert to Class A designation is $425. We invite comment on these matters.

D. TV Broadcast Incentive Auction, Post-Auction Transition, and Reimbursement

41. The LPPA provides that it may not affect the Commission's work related to the Broadcast Incentive Auction. In 2012, Congress passed the Spectrum Act that authorized the Commission to reorganize the ultra-high frequency (UHF) band using a two-sided incentive auction that reallocated broadcast television spectrum for mobile broadband services. The post-incentive auction transition period ended on July 13, 2020, by which time full power and Class A television stations that were reassigned to new channels were required to vacate their pre-auction channels. Although LPTV stations were not eligible to participate in the incentive auction, some LPTV stations were displaced as a result of the reorganization of broadcast spectrum, and the Commission held a special displacement window to allow such LPTV stations to request construction permits for new channels in the smaller broadcast television band. The Spectrum Act also requires the Commission to reimburse full power and Class A broadcast television licensees for costs reasonably incurred in relocating to new channels assigned in the repacking process. In 2018, Congress adopted the Reimbursement Expansion Act (REA), directing the Commission also to reimburse costs reasonably incurred by a eligible LPTV stations consistent with authorizations awarded in the special displacement window. Reimbursement of eligible relocation expenses is ongoing.

42. Given that the transition and reimbursement programs have established rules and procedures and that substantial progress has been made toward completion of the reimbursement process, we tentatively conclude that nothing in the LPPA or in implementation of the LPPA with a change in a station's status from LPTV to Class A, or in the proposals herein, can or will affect the Commission's work related to the Broadcast Incentive Auction. We seek comment on this tentative conclusion.

E. Digital Equity and Inclusion

43. Finally, the Commission, as part of its continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, we seek comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority.

F. Procedural Matters

44. *Ex Parte Rules—Permit-But-Disclose.* The proceeding this *NPRM* initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules.[1] 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.

45. *Filing Requirements—Comments and Replies.* Pursuant to §§ 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).

46. *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*

47. *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

48. Filings can be sent 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.

49. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

50. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

51. Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020), *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

52. During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

53. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, we have prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible impact of potential rule and/or policy changes contained in this *NPRM* on small

[1] 47 CFR 1.1200 et seq.

entities. The IRFA is set forth in Appendix B.

54. *Paperwork Reduction Act.* This document proposes new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens and pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13, invites the general public and the Office of Management and Budget (OMB) to comment on these information collection requirements. 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.

55. *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* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

56. *Additional Information.* For additional information on this proceeding, contact Kim Matthews, *Kim.Matthews@fcc.gov,* of the Policy Division, Media Bureau, (202) 418–2154, or Joyce Bernstein, *Joyce.Bernstein@fcc.gov,* of the Video Division, Media Bureau, (202) 418–1647.

Initial Regulatory Flexibility Analysis

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 by 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**.

A. Need for, and Objectives of, the Proposed Rules

The Commission initiates this rulemaking proceeding to implement the Low Power Protection Act (LPPA or Act), as enacted on January 5, 2023. The LPPA provides certain low power television (LPTV) stations with a ''limited window of opportunity'' to apply for primary spectrum use status as Class A television stations. The *NPRM* also seeks comment on how to implement the window consistent with Congressional direction.

We tentatively conclude that the application window will be limited to the one year application window contemplated by the Act, and that an application filed for Class A status must demonstrate that the LPTV station operated in a Designated Market Area (DMA) with not more than 95,000 television households on January 5, 2023. We also tentatively conclude that LPTV stations that convert to Class A status under the LPPA must comply with the interference protection standards set forth in § 336(f)(7) of the Communications Act of 1934, with the exception of those provisions that are now obsolete given the transition of all television stations from analog to digital operations. We propose to apply the Commission's recently updated definition of an LPTV station for purposes of determining which stations are eligible for Class A status under the LPPA and to codify in our rules the eligibility criteria set forth in the LPPA. We also propose to implement provisions of the LPPA which provide that licenses issued to stations that convert to Class A status are subject to full power television station license terms and renewal standards, with certain exceptions, and that such licensees are required to remain in compliance with the LPPA's eligibility requirements for the term of their Class A license. We propose to evaluate Class A status to eligible LPTV stations as a modification of the station's existing license. We seek comment on our tentative conclusion that nothing in the LPPA, or in the proposals in the *NPRM,* affects the Commission's work related to the Broadcast Incentive Auction. Lastly, we seek comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority.

B. Legal Basis

The proposed action is authorized pursuant to §§ 1, 2, 4(i), 4(j), 303, 307, 309, 311, and 336(f) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 303, 307, 309, 311, 336(f) and the Low Power Protection Act, Pub. L. 117–344, 136 Stat. 6193 (2023).

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

The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the 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.

Television Broadcasting. This industry is comprised of ''establishments primarily engaged in broadcasting images together with sound.'' These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies businesses having $41.5 million or less in annual receipts as small. 2017 U.S. Census Bureau data indicate that 744 firms in this industry operated for the entire year. Of that number, 657 firms had revenue of less than $25,000,000. Based on this data we estimate that the majority of television broadcasters are small entities under the SBA small business size standard.

As of December 31, 2022, there were 1,375 licensed commercial television stations. Of this total, 1,282 stations (or 93.2%) had revenues of $41.5 million or less in 2021, according to Commission staff review of the BIAKelsey Media Access Pro Online Television Database (MAPro) on January 13, 2023, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates as of December 31, 2022, there were 383 licensed noncommercial educational (NCE) television stations, 383 Class A TV stations, 1,912 LPTV stations, and 3,122 TV translator stations. The Commission, however, does not compile and otherwise does not have access to financial information for these television broadcast stations that would permit it to determine how many of these stations qualify as small entities

under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of these television station licensees, we presume that all of these entities qualify as small entities under the above SBA small business size standard.

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

In this section, we identify the reporting, recordkeeping, and other compliance requirements proposed in the *NPRM* and consider whether small entities are affected disproportionately by any such requirements. In assessing the cost of compliance for small entities, at this time the Commission cannot quantify the cost of compliance with the proposed rules that may be adopted. Further, the Commission is not in a position to determine whether, if adopted, the proposals and matters upon which we seek comment in the *NPRM* will require small entities to hire professionals to comply. We expect the information we receive in comments, including cost information where requested, to help the Commission identify and evaluate relevant compliance matters for small entities, including compliance costs and other burdens that may result from potential changes discussed in the *NPRM.*

The LPPA requires that, to be eligible for Class A status, during the 90 days preceding the date of enactment of the LPPA an LPTV station must have broadcast a minimum of 18 hours/day and an average of at least 3 hours per week of programming produced within the ''market area'' served by the station and have been in compliance with the Commission's requirements for LPTV stations. We propose to require that small and other applicants seeking to convert to Class A status under the LPPA be required to certify in their application for Class A status that they have complied with these eligibility requirements during the 90 days preceding the January 5, 2023 enactment of the statute. We also propose to require applicants to provide documentation as part of their application supporting their certifications, and we propose that the Commission staff could also request additional documentation if necessary during consideration of the application.

Beginning on the date of its application for a Class A license and thereafter, a station ''must be in compliance with the Commission's operating rules for full-power stations.'' We propose to apply to small and other applicants for Class A status under the LPPA, and to stations that are awarded Class A licenses under that statute, all part 73 regulations except for those that cannot apply for technical or other reasons. For example, Class A stations must comply with the requirements for informational and educational children's programming, the political programming and political file rules, and the public inspection file rule. The *NPRM* invites comment on this proposed approach.

The LPPA requires that a station that converts to Class A status pursuant to the statute continue to meet the eligibility requirements of the LPPA during the term of the station's Class A license. To be eligible under the LPPA, in addition to other eligibility requirements, section 2(c)(2)(B)(iii) of the Act requires an LPTV station must ''as of the date of enactment'' of the LPPA operate in a DMA with not more than 95,000 television households. Section 2(c)(3)(B) of the Act, however, requires that stations that convert to Class A status under the LPPA ''remain in compliance'' with paragraph (2)(B) ''during the term of the license.'' We propose to interpret section 2(c)(3)(B) to require that stations that convert to Class A status, including small entities, remain in DMAs with not more than 95,000 television households in order to maintain their Class A status, and invite comment on this proposed interpretation. In addition, licensed Class A stations must also continue to meet the minimum operating requirements for Class A status. Licensees unable to continue to meet the minimum operating requirements for Class A television stations, or that elect to revert to low power television status, must promptly notify the Commission, in writing, and request a change in status. The *NPRM* also proposes that stations that convert to Class A status pursuant to the LPPA comply with all rules applicable to existing Class A stations, including interference requirements.

The *NPRM* proposes to require small and other stations seeking to convert to Class A designation pursuant to the LPPA to submit an application to the Commission within one year of the effective date of the rules adopted in this proceeding. The *NPRM* invites comment on whether the Commission should continue to accept applications to convert to Class A status under the LPPA beyond the one-year application period set forth in the statute and/or allow deviation from the strict statutory eligibility criteria under the statute.

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

The RFA requires an agency to describe any significant, specifically small business, 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 and reporting requirements under the rule for such small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

The *NPRM* seeks comment generally on its proposals implementing the LPPA's statutory mandates. In one area that may have a significant impact on small entities, the LPPA gives the Commission discretion to determine that ''the public interest, convenience, and necessity would be served'' by treating a station as a qualifying LPTV station, or that a station should be considered to qualify for such status ''for other reasons determined by the Commission.'' In light of this discretion, the *NPRM* invites comment on whether the Commission should continue to accept applications to convert to Class A status under the LPPA beyond the one-year application period set forth in the statute and/or allow deviation from the strict statutory eligibility criteria set forth in the statute, particularly when potential applicants are not able to file in a timely manner based on circumstances beyond their control. The *NPRM* also considers whether the Commission should require small and other applicants to submit specific documents to support certification or whether we should give stations more latitude with respect to the types of documentation they submit with their application. Providing this flexibility may reduce the economic burden for small entities. Another action we take in the *NPRM* which could reduce the economic impact for small entities is to seek comment on whether the Commission should deviate from our strict statutory eligibility criteria for small and other applicants where deviations of insignificant or compelling circumstance such as equity require a deviation. In determining how an applicant will demonstrate whether they operate within a DMA required by the LPPA, we seek comment on whether we should use the Nielsen Local TV

Station Information Report (Local TV Report) or consider requests to use other reputable alternative data sources to make this determination. In the *NPRM,* we also invite comment on the all the proposed approaches and on any alternatives, which will provide the Commission additional information on possible steps that can be taken to minimize any significant impact on small entities.

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

None.

57. Accordingly, *it is ordered* that, pursuant to the authority found in §§ 1, 2, 4(i), 4(j), 303, 307, 309, 311, and 336(f) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 303, 307, 309, 311, 336(f), and the Low Power Protection Act, Pub. L. 117–344, 136 Stat. 6193 (2023), this *Notice of Proposed Rulemaking is adopted.*

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

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Marlene Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 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, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. Add § 73.6030 to read as follows:

§ 73.6030 Low Power Protection Act.

(a) *Definitions.* For purposes of the Low Power Protection Act, a low power television station's Designated Market Area (DMA) shall be defined as the DMA where its transmission facilities (*i.e.,* the tower or building on which its antenna is mounted) are located. DMAs are determined by Nielsen Media Research and published in the Nielsen Local TV Station Information Report. A low power television station shall be defined in accordance with § 74.701(k).

(b) *Eligibility Requirements.* In order to be eligible for Class A status under the Low Power Television Protection Act, low power television licensees must:

(1) have been operating in a DMA with not more than 95,000 television households as of January 5, 2023;

(2) have been broadcasting a minimum of 18 hours per day between October 7, 2022 and January 5, 2023;

(3) have been broadcasting a minimum of at least three hours per week of locally produced programming between October 7, 2022 and January 5, 2023;

(4) have been operating in compliance with the Commission's requirements applicable to low power television stations between October 7, 2022 and January 5, 2023;

(5) be in compliance with the Commission's operating rules for full-power television stations from and after the date of its application for a Class A license; and

(6) demonstrate that the Class A station for which the license is sought will not cause any interference described in 47 U.S.C. 336(f)(7).

(c) *Application Requirements.* Applications for conversion to Class A status must be submitted using FCC Form 2100, Schedule F within one year beginning on the date on which the Commission issues notice that the rules implementing the Low Power Protection Act takes effect. The licensee will be required to submit, as part of its application, documentation sufficient to support its certification that the licensee meets the eligibility requirements for a Class A license under the Low Power Protection Act.

(d) *Licensing Requirements.* A Class A television broadcast license will only be issued under the Low Power Protection Act to a low power television licensee that files an application for a Class A Television license (FCC Form 2100, Schedule F), which is granted by the Commission.

(e) *Service Requirements.* Stations that convert to Class A status pursuant to the Low Power Protection Act are required to meet the service requirements specified in § 73.6001(b) through (d) of this chapter for the term of their Class A license. In addition, such stations must remain in compliance with the programming and operational standards set forth in the Low Power Protection Act for the term of their Class A license. In addition, such stations must continue to operate in DMAs with not more than 95,000 television households in order to maintain their Class A status.

(f) *Other regulations.* From and after the date of applying for Class A status under the Low Power Protection Act, stations must comply with the requirements applicable to Class A stations specified in §§ 73.6001(b) through (d) and 73.6026 of this chapter for the term of their Class A license.

Except as otherwise provided in this paragraph (§ 73.6030), the regulations in part 73, subpart J of the Commission's rules (§§ 73.6000 through 73.6029) shall apply to stations that apply to convert, and that convert, to Class A status pursuant to the Low Power Protection Act. Stations that convert to Class A status pursuant to the Low Power Protection Act must comply with the requirements applicable to Class A stations specified in § 73.6026 of this chapter for the term of their Class A license.

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AGENCY FOR INTERNATIONAL DEVELOPMENT

48 CFR Parts 727, 742, and 752

RIN 0412–AA90

USAID Acquisition Regulation: United States Agency for International Development (USAID) Acquisition Regulation (AIDAR): Planning, Collection, and Submission of Digital Information as Well as Submission of Activity Monitoring, Evaluation, and Learning Plan to USAID

AGENCY: U.S. Agency for International Development.

ACTION: Notice of availability of supplemental document; request for comments.

SUMMARY: This document advises the public that the U.S. Agency for International Development (USAID) is placing in the public docket a standards document related to USAID's proposed Rulemaking that, in part, proposed to add a new section to the USAID Acquisition Regulations (AIDAR). During the public comment period, USAID received comments requesting public access to the ''USAID Digital Information Technical Guidelines,'' which are referenced in the proposed regulatory language. This document makes those Guidelines available, renames the Guidelines to ''USAID Digital Collection and Submission Standards,'' and solicits public comment.

DATES: Comments on this document must be received by May 15, 2023.