help to facilitate the protection of passive sensors used for weather forecasting and scientific research in the 23.6 GHz–24.0 GHz band, while continuing to promote flexible commercial use of the 24.25–24.45 GHz and 24.75–25.25 GHz bands (collectively, 24 GHz band). The Commission also seeks comment on alternatives to the proposals it makes, and on other related issues.

DATES: Comments are due on or before February 28, 2024; reply comments are due on or before March 14, 2024. Written comments on the Initial Regulatory Flexibility Analysis (IRFA) in this document must have a separate and distinct heading designating them as responses to the IRFA and must be submitted by the public on or before February 28, 2024.

FOR FURTHER INFORMATION CONTACT: Simon Banyai of the Wireless Telecommunications Bureau, Broadband Division, at 202–418–1443 or *Simon.Banyai@fcc.gov*.

SUPPLEMENTARY INFORMATION: The Commission is correcting the Preamble and Regulatory Flexibility Act sections of proposed rule FR Doc. 2024–01681 by correcting the docket number.

Correction

In FR Doc. 2024–01681 appearing on page 5440 in the **Federal Register** of Monday, January 29, 2024, the following corrections are made:

ET Docket No. 21–186 [Corrected]

1. On page 5440, in the first column, in the Preamble, the Agency Docket Number is corrected to read as ''[ET Docket No. 21–186; FCC 23–114; FR ID 198341]''.

2. On page 5440, in the third column, in **SUPPLEMENTARY INFORMATION**, the Regulatory Flexibility Act section is corrected to read as ''The Commission seeks comment on potential rule and policy changes contained in the NPRM, and accordingly, has prepared an IRFA. The IRFA for this NPRM in ET Docket No. 21–186 is set forth below in this document and written public comments are requested. Comments must be filed by the deadlines for comments on the NPRM indicated under the **DATES** section of this document and must have a separate and distinct heading designating them as responses to the IRFA. The Commission reminds commenters to file in the appropriate docket: ET Docket No. 21–186.''

Federal Communications Commission

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2024–02598 Filed 2–7–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 24–14; FCC 24–1; FR ID 198888]

Priority Application Review for Broadcast Stations That Provide Local Journalism or Other Locally Originated Programming

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) issues a Notice of Proposed Rulemaking to prioritize processing review of certain applications filed by commercial and noncommercial radio and television broadcast stations that provide locally originated programming. The Commission's goal is to provide additional incentive to stations to provide programming that responds to the needs and interests of the communities they are licensed to serve. In 2017, the Commission eliminated the rule that required broadcast stations to maintain a main studio located in or near their community of license, as well as the associated requirement that the main studio have program origination capability. We propose this processing priority in order to further encourage radio and TV stations to serve their community of license with local journalism or other locally originated programming. Such prioritization would be granted to renewal applicants, as well as applicants for assignment or transfer of license, that certify they provide locally originated programming, thereby advancing our efforts to promote localism and serve local communities across the nation.

DATES: Comments may be filed on or before March 11, 2024, and reply comments may be filed on or before April 8, 2024.

ADDRESSES: You may submit comments and reply comments, identified by MB Docket No. 24–14, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://apps.fcc.gov/ecfs/*.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- 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.
- 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.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- 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*.

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.

FOR FURTHER INFORMATION CONTACT: Kim Matthews, Media Bureau, Policy Division, at (202) 418–2154, or by email at *Kim.Matthews@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (*NPRM*), in MB Docket No. 24–14; FCC 24–1, adopted on January 10, 2024 and released on January 17, 2024. The full text of this document is available for download at *https://docs.fcc.gov/public/attachments/FCC-24-1A1.pdf*.

To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to *FCC504@fcc.gov* or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

Synopsis

I. Background

1. One of a broadcaster's fundamental public service obligations is to provide programming that is responsive to the needs and interests of its community of license. The Communications Act requires the Commission to determine, in the case of applications for licenses, ''whether the public interest, convenience, and necessity will be served by granting such application.'' The Commission has consistently interpreted this requirement to mean that licensees must air programming

that serves their local community. The main studio and local program origination rules were originally adopted to ensure that broadcast stations fulfill their local service obligations. In furtherance of section 307(b) of the Communications Act of 1934, as amended (the Act), which requires the Commission to ''make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide for a fair, efficient, and equitable distribution of radio service to each of the same,'' each broadcast radio and television station is assigned to a community of license that it is obligated to serve. The main studio rule required stations to maintain the main studio in or near its community of license to facilitate interaction between the station and the local community it is licensed to serve. The Commission also required that the main studio have a ''meaningful management and staff presence'' to fulfill the main studio's function, and that the main studio be equipped with production and transmission facilities.

2. Locally originated programming was deemed an important element of a station's service obligations from the time location requirements for AM, FM, and TV broadcast stations were first adopted. As the main studio played a key role in the origination of a broadcast station's programming, its location in the community helped to ensure that the station could participate in community activities, that community members could participate in live programs, and that community residents could more easily present complaints or suggestions to the station. The Commission reasoned that interaction between the station and the community would help foster programming responsive to community needs and concerns.

3. In 2017, however, the Commission eliminated the main studio rule and the associated requirements that the main studio have full-time management and staff present during normal business hours, and that it have program origination capability. The Commission found that technological changes have ''rendered local studios unnecessary'' as a means for viewers and listeners to contact or access their local station. The Commission noted that most community members communicate with stations via email, station websites, telephone, or other means, rather than visiting a main studio, and that public inspection files can now be viewed on the Commission's Online Public Inspection File (OPIF) database. The Commission also found that there was no evidence that the physical location of a station's main studio is the reason broadcasters are able to deliver content that meets the needs and interests of the local community.

4. The elimination of the main studio rule and its associated requirements followed other, earlier steps taken by the Commission to reduce or eliminate regulations applicable to TV and radio broadcasters that were intended to reinforce the obligation of stations to provide programming responsive to community needs and interests. In its radio and television deregulation orders, the Commission eliminated its formal ascertainment and program log requirements and quantitative guidelines regarding the duration, type, and time of presentation of nonentertainment programming. While the Commission concluded generally that these requirements were no longer necessary or appropriate means to ensure station operation in the public interest, it reaffirmed the continuing obligation of all licensees to provide issue-responsive programming.

5. Currently, the Commission requires stations to prepare quarterly a list of programs that ''have provided the most significant treatment of community issues.'' The purpose of this requirement is to provide both the public and the Commission with information needed to monitor a licensee's performance in meeting its public interest obligation of providing programming that is responsive to its community. Our current rules require full-power radio and TV and Class A TV broadcasters to post these issues/programs lists on the station's OPIF. Further, as part of the broadcast station license renewal process, the Commission is required to find that ''the station has served the public interest, convenience, and necessity'' during its preceding license term.

II. Discussion

6. To provide an additional incentive to stations to broadcast content responsive to the needs of the local community, particularly news and information, we propose to adopt a change in our application processing procedures that would benefit those radio and TV broadcasters that certify that they provide locally originated content. Specifically, when reviewing applications for renewal, transfer, or assignment of license, we propose to adopt a processing policy to prioritize evaluation of those applications filed by stations that certify that they provide locally originated programming. These applications would be the first to be reviewed, which would likely result in quicker action and, if the application is granted, quicker approval of these applications.

7. We tentatively conclude that our proposal to award priority application review to applicants that provide locally originated programming advances the Commission's longstanding policy goal of encouraging licensees to air programming that serves the needs and interests of their local community. We also tentatively conclude that the provision by a station of locally originated programming serves as a reasonable gauge of whether the station is serving the public interest by providing programming that is responsive to particular local needs. In addition, by focusing on where the programming is created, our proposal avoids having the Commission try to evaluate the content of a station's broadcasts to determine their local nature.

8. The Commission has recognized that programming does not have to be locally originated to have interest or value to audiences in any particular community and has suggested that locally originated content may not always be responsive to a community's needs or interests. But the corollary that some may read into those statements—that locally originated programming is not valuable enough to warrant Commission attention—goes too far. To the contrary, programming containing at least some locally sourced content appears quite likely to be responsive to local concerns and interests. We believe that the incentives behind the creation of local programming (including but not limited to financial incentives) tend to align local creators with the needs and interests of local audiences; evidence suggests that creators of local programming would be unlikely to expend time and financial resources on material that has little or no appeal to local listeners and viewers. We also recognize that the line between ''local'' and ''non-local'' is not always a sharp one; broadcasters may ''localize'' a state, national, or international issue by providing local commentary or local expert explanations on the probable effect of the issue on people within the station's signal contour. Such content plainly also serves local needs and interests. We seek comment on these views.

9. Accordingly, to the degree that the Main Studio Elimination Order could be read to the contrary, we tentatively conclude that locally originated programming usually reflects needs, interests, circumstances, or perspectives that may be quite pertinent to that community and that production of local broadcast programming remains a key

consideration. We also question whether the Main Studio Elimination Order's predictive judgment—that the Commission's action there would foster creation of more and better local content—has actually come to pass. We invite comment on these views and request commenters to provide analysis and data in support of their positions. Under our proposal, licensees will continue to ultimately have the discretion to determine what mix of local and non-local programming will best serve the community. We tentatively conclude our proposal does not interfere with this discretion but merely offers an opportunity to licensees to obtain prioritized review of applications if they certify that they provide programming that is locally originated. We invite comment generally on these views.

A. Processing Priority

10. We tentatively conclude that our proposal would apply only to those applications for which processing is not immediately available because the application has a hold, petition to deny, or other pending issue that requires further staff review. Applications without holds or other processing issues requiring additional staff review, also referred to here as ''simple'' applications, would be acted upon consistent with current routine processing procedures. In contrast, applications that have holds related to the applicant's failure to comply with Commission rules, or where petitions to deny or informal objections have been filed, generally require additional staff research and processing time before they can be processed. The amount of time it takes to process these types of applications is often dependent upon the number of applications pending before the Commission at any given time, the complexity of the issues involved, and the availability of Commission staff to process the applications in light of other agency priorities. With respect to these more ''complex'' applications, we propose that the staff first would consider those that are filed together with a certification that the station provides programming that is locally originated. We tentatively conclude this approach will not slow the review of ''simple'' applications that are otherwise grantable but will create a priority system for more ''complex'' applications that require further staff attention. We will not delay the processing of a ''simple'' application while a more ''complex'' application with a certification is pending. We seek comment on this approach.

11. We propose that the decision by a licensee to elect to certify that the station meets the local programming guideline be purely voluntary, and we seek comment on this proposal. With respect to those licensees that either cannot, or choose not, to provide a certification, the Commission staff will process the licensee's application pursuant to its normal procedures. Applications that do not include a certification will not be scrutinized or processed differently as a substantive matter than applications with a certification, other than the prioritization proposal discussed above.

12. While we do not propose at this time to extend our proposed application processing priority to modification applications, waiver requests, or requests for Special Temporary Authority (STA), we invite comment on whether these types of applications and requests should be included in our proposal herein. Based upon the experience of the Media's Bureaus licensing divisions, we note that the review time for these applications is generally more abbreviated than for renewals and transactions, and therefore such a prioritization may not be appreciably relevant. Despite this, should these, or other, kind of requests be treated in the same manner as renewal applications and applications for assignment and transfer of control for purposes of application processing priority?

13. Finally, we do not propose to offer priority application review, as outlined herein, to applications filed for radio translators or boosters or TV translators. Booster stations do not originate programming and translator stations may only originate a very limited amount of programming so the underlying purpose of the proposed processing policy—*i.e.,* to further incentivize broadcast licensees to serve community needs and interests through production of locally originated programming—would not apply. Accordingly, we believe there would be minimal value, if any, in asking these stations to certify they provide locally originated programming content. As noted above, we tentatively conclude this approach will not slow the review of ''simple'' applications that are otherwise grantable. We seek comment on our proposals and findings.

B. Applications Eligible for Processing Priority

1. ''Local'' Market

14. Under our proposal, we would prioritize the review of applications filed by stations that provide locally originated programming. We invite comment on how we should define ''local'' for this purpose. The former main studio rule required each AM, FM, and television broadcast station to maintain a main studio that is located either: ''(1) [w]ithin the station's community of license; (2) [a]t any location within the principal community contour of any AM, FM, or TV broadcast station licensed to the station's community of license; or (3) [w]ithin twenty-five miles from the reference coordinates of the center of its community of license as described in § 73.208(a)(1).'' Should we define ''locally originated'' programing as programming originated within one or more of these geographic areas? One purpose of the former main studio rule was to ensure that the station complied with its local service obligations. Would adopting a definition of the geographic area in which ''locally originated '' programming is created for purposes of priority application review in a manner similar to the geographic area used for the former main studio rule help ensure that this programming reflects the needs and interests of the local community? Should we instead define the ''local'' market as the station's service contour? As service contours generally encompass a larger geographic area than a station's community of license or principal community contour, this definition would give the station more flexibility with respect to where local programming could be originated. We invite comment generally on how to define the geographic area in which a program should be originated in order to qualify as ''local'' under our proposal herein. Should we define the local market differently for radio stations than for TV stations? Should we define the local market differently for low power TV stations than full power TV stations?

2. Locally ''Originated'' Programming

15. We also invite comment on how to define programming ''originated'' locally for purposes of qualifying for priority application review. We propose that any kind of activity involved in creating audio (radio) or video (TV) programming that occurs within the ''local'' market, as defined in this proceeding, would be sufficient. Local program origination could involve, for example, activities such as program scripting, recording (video or audio) at a studio or other location in the local market, or editing. Our proposed approach would include programming that contains video or audio recordings that were made at locations outside the local market, as long as the program also includes some other element of local

creation. For particular programming that contains content made at locations outside the local market, should we establish a minimum amount of required locally originated programming? What other kinds of local activities should qualify as local program origination?

16. We note that, in the case of mutually exclusive applications for new Low Power FM (LPFM) stations, the Commission's rules favor the selection of applicants that pledge to provide at least eight hours of locally originated programming each day. The LPFM rules define ''local origination'' as ''the production of programming by the licensee within ten miles of the coordinates of the proposed transmitting antenna'' and provides the following examples of locally originated programming: ''licensee produced call-in shows, music selected and played by a disc jockey present on site, broadcasts of events at local schools, and broadcasts of musical performances at a local studio or festival, whether recorded or live.'' We propose that these kinds of programs and activities would qualify as locally originated programming for purposes of our proposed priority application review, and invite comment on this proposal. Are there other examples of locally originated programming we should provide?

17. We note that, in the LPFM context for resolving mutually exclusive applications, the rules require the locally originated programming to be produced by the licensee. We do not propose to adopt a similar requirement for this priority application review proposal. Thus, we propose that the locally originated content can be produced by a third party that is not the licensee. We invite comment on this approach.

18. The LPFM rules further provide that local origination ''does not include the broadcast of repetitive or automated programs or time-shifted recordings of non-local programming whatever its source.'' Should we exclude these kinds of programs and/or time-shifted recordings from the definition of local programming for purposes of priority application review? In addition, the LPFM rules provide that ''local origination does not include a local program that has been broadcast twice, even if the licensee broadcasts the program on a different day or makes small variations in the program thereafter.'' In adopting this restriction for LPFM, the Commission noted that local origination is a ''central virtue'' of that service and that there was ''room for abuse'' if repetitious, automated programs could count as locally originated. Should we adopt this same restriction on repetition of locally originated programming for purposes of priority application review? With respect to television stations, should we define ''locally originated programming'' for purposes of priority application review as programming containing simultaneous video and audio programming where the audio portion of the programming directly relates to the video portion of the program? This would mean that, for television applicants, video-only or audio-only programming would not count for purposes of obtaining priority application review. For television stations, would this restriction help ensure that locally originated programming contains the type of television services viewers expect TV stations to provide?

C. Certification

19. We propose to provide priority staff review to licensees that certify that the station(s) provides on average at least three hours per week of locally originated programming. We note that, to be eligible for Class A status, the CBPA required that low power TV stations, during the 90 days preceding the date of enactment of the statute, broadcast an average of at least three hours per week of programming produced within the ''market area'' served by the station. Should we adopt the same three-hour guideline for purposes of priority staff review? We note that under a three-hour per week criteria, stations on the air 24 hours per day seven days each week that air locally originated programming for just two minutes at the top of each hour would exceed a three-hour guideline. Should the guideline number be greater or less than three hours? Should it be prorated for stations that are on the air less than 24 hours per day? Should the amount be the same for radio and television stations? Should it be the same for commercial and non-commercial stations? Should applicants be required to have met the required amount of hours per week for a minimum number of days or weeks prior to filing of the application? If so, what would be an appropriate minimum number of days or weeks? As in the CBPA, would 90 days prior to the filing of the application be an appropriate timeframe? Should applicants also be required to continue to meet the required amount of hours per week while the subject application is pending? Should applicants be required to re-certify compliance while the application is pending? Should applicants also be required to continue to meet the required amount of hours per week for a minimum number of days or weeks after the application is granted? If so, what would be an appropriate minimum number of days or weeks?

20. We propose that the Media Bureau add a question to each FCC application form for which expedited processing would be made available (*e.g.,* each TV/radio renewal, transfer, and assignment application form) asking the licensee whether it certifies, under penalty of perjury, that the station(s) provides at least three hours per week of locally originated programming, consistent with the criteria adopted in this proceeding. We invite comment on this approach. We propose that, in the case of applications involving multiple stations (such as an application proposing the transfer or assignment of multiple stations), priority review be available only if the applicant certifies that every station included in the application meets the priority processing criteria, and invite comment on this proposal. Should we require the applicant to provide any additional information that would permit the Commission to review the certification, such as identifying the programs the applicant claims are locally originated?

D. Digital Equity and Inclusion

21. 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.

III. Procedural Matters

22. *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. 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.

23. *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).

24. 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.

25. *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 the rule changes proposed in this *NPRM* on small entities. Written public comments are requested on the IRFA. Comments must be filed by the deadlines for comments on the *NPRM* indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

26. *Providing Accountability Through Transparency Act.* The Providing Accountability Through Transparency Act requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule. Accordingly, the Commission will publish the required summary of this Notice of Proposed Rulemaking/Further Notice of Proposed Rulemaking on *https://www.fcc.gov/proposed-rulemakings.*

IV. Paperwork Reduction Act

27. 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.

V. Initial Regulatory Flexibility Analysis

28. 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

29. In this *NPRM,* we propose to prioritize processing review of certain applications filed by commercial and noncommercial radio and television broadcast stations that provide locally originated programming. Our goal is to provide additional incentive to stations to provide programming that responds to the needs and interests of the communities they are licensed to serve. In 2017, the Commission eliminated the rule that required broadcast stations to maintain a main studio located in or near their community of license, as well as the associated requirement that the main studio have program origination capability. We propose this processing priority in order to further encourage radio and TV stations to serve their community of license with local journalism or other locally originated programming. Such prioritization would be granted to renewal applicants, as well as applicants for assignment or transfer of license, that certify they provide locally originated programming, thereby advancing our efforts to promote localism and serve local communities across the nation.

30. The *NPRM* also seeks comment on the Commission's proposal to exclude television translator and radio translator and booster stations from the proposed priority application review proposal and on whether its proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well as the scope of the Commission's relevant legal authority.

B. Legal Basis

31. The proposed action is authorized pursuant to sections 1, 2, 4(i), 4(j), 303, 307, and 309 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 303, 307, and 309.

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

32. 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.

33. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA'sOffice of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.

34. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

35. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,931 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

36. *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.

37. As of March 31, 2023, 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 BIA Kelsey Media Access Pro Television Database (BIA) on April 7, 2023, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates as of March 31, 2023, there were 383 licensed noncommercial educational (NCE) television stations, 381 Class A TV stations, and 1,887 LPTV 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.

38. *Radio Broadcasting.* This industry is comprised of ''establishments primarily engaged in broadcasting aural programs by radio to the public.'' Programming may originate in the station's own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies firms having $41.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 2,963 firms operated in this industry during that year. Of this number, 1,879 firms operated with revenue of less than $25 million per year. Based on this data and the SBA's small business size standard, we estimate a majority of such entities are small entities.

39. The Commission has estimated the number of licensed commercial radio stations to be 11,153 (4,472 commercial AM stations and 6,681 commercial FM stations). Of this total, 11,151 stations (or 99.98%) had revenues of $41.5 million or less in 2022, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Database (BIA) on April 7, 2023, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates that as of March 31, 2023, the number of licensed noncommercial radio stations to be 4,219, and the number of LPFM Stations to be 1,999. The Commission however does not compile, and otherwise does not have access to financial information for these radio 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 radio station licensees, we presume that all of these entities qualify as small entities under the above SBA small business size standard.

40. 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. In addition, another 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, 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.

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

41. We expect that the proposed rules set forth in the *NPRM* will impose new

or additional filing, recordkeeping and reporting requirements for small and other entities. We note, however, that while the proposed rules will create additional compliance requirements, the *NPRM* also proposes that the decision by a licensee to elect to certify that the station meets the local programming guideline be purely voluntary. With respect to those small or other licensees that either cannot, or choose not, to provide a certification, the Commission staff will process the licensee's application pursuant to its normal procedures.

42. The *NPRM* proposes to provide priority in terms of processing review to applications filed by commercial and noncommercial radio and television broadcast stations that certify that they provide on average at least three hours per week of locally originated programming. The *NPRM* also seeks comment on whether applicants should also be required to re-certify compliance while the subject application is pending, and whether they should be required to continue to meet the required amount of hours per week for a minimum number of days or weeks after the application is granted. We propose that the Media Bureau add a question to each FCC application form for which expedited processing would be made available (*e.g.,* each TV/radio renewal, transfer, and assignment application form) asking the licensee whether it certifies, under penalty of perjury, that the station(s) provides at least three hours per week of locally originated programming, consistent with the criteria adopted in this proceeding. We also propose that, in the case of applications involving multiple stations, priority review be available only if the applicant certifies that every station included in the application meets the priority processing criteria. We invite comment on these proposals. We also seek comment on whether we should require applicants to provide any additional information that would permit the Commission to review the certification, such as identifying the programs the applicant claims are locally originated.

43. We propose that licensees that request priority staff review of an application(s) be required to certify, under penalty of perjury, that the station meets the criteria adopted in this proceeding. The *NPRM* seeks comment on whether we should require applicants to provide any additional information that would permit the Commission to review the certification, such as identifying the programs the applicant claims are locally originated. We expect that the information we receive in the comments will help the Commission identify and evaluate relevant compliance matters for small entities, including compliance costs and other burdens that may emerge as a result of the potential changes discussed in the *NPRM.*

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

44. 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.''

45. The *NPRM* seeks comment generally on its proposal to provide priority staff review of applications filed by stations that certify that they provide an average of at least three hours per week of locally originated programming. The *NPRM* invites comment on whether this guideline is appropriate. We also invite comment on 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.

46. In an effort to minimize significant economic impact on small entities as a result of the proposals that are ultimately adopted, the *NPRM* makes clear that a station's participation in certifying that it meets the qualifications for priority application review is purely voluntary. A station may choose whether it wants to provide the additional information to qualify for prioritized review of its application and, should it decline to, would have its application processed pursuant to its normal procedures. Applications that do not include a certification will not be scrutinized or processed differently as a substantive matter than applications with a certification, other than the prioritization proposal discussed in the *NPRM.*

47. Finally, we do not propose to offer priority application review, as outlined herein, to applications filed for radio translators or boosters or TV translators. Booster stations do not originate programming and translator stations may only originate a very limited amount of programming so the underlying purpose of the proposed processing policy—*i.e.,* to further incentivize broadcast licensees to serve community needs and interests through production of locally originated programming—would not apply. Accordingly, we believe there would be minimal value, if any, in asking these stations to certify they provide locally originated programming. We tentatively conclude that our prioritized processing approach will not slow the review of ''simple'' applications that are otherwise grantable.

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

48. None.

VI. Ordering Clauses

49. Accordingly, *it is ordered* that, pursuant to the authority found in sections 1, 2, 4(i), 4(j), 303, 307, and 309 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 303, 307, and 309, this Notice of Proposed Rulemaking *is adopted.*

50. *It is further ordered* that the Office of the Secretary, 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.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 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. Section 73.3514 is amended by adding paragraph (c) to read as follows:

§ 73.3514 Content of applications.

* * * * *

(c) Applicants for renewal, assignment, or transfer of license for commercial and noncommercial AM, FM, and TV broadcast stations may request priority staff review of such applications if the applicant certifies

that the station provides an average of at least three hours per week of locally originated programming. This paragraph does not apply to TV translator or radio translator or booster stations.

(1) For purposes of this provision, locally originated programming is programming produced either

(i) [W]ithin the station's community of license;

(ii) [A]t any location within the principal community contour of any AM, FM, or TV broadcast station licensed to the station's community of license; or

(iii) [W]ithin 25 miles from the reference coordinates of the center of its community of license as described in § 73.208(a)(1).

(2) For purposes of this provision, locally originated programming is defined as:

(i) Programming that was created within the area defined in paragraph (c)(1) of this section. Programming that contains video or audio recordings that were made at locations outside the area defined in paragraph (c)(1) of this section qualifies as locally originated programming as long as the program also includes some other element of local creation that takes place in the area defined in paragraph (c)(1) of this section, including program scripting, recording (video or audio) at a studio or other location in the local market, editing, or other activity.

(ii) Locally originated programming does not include: the broadcast of repetitive or automated programs or time-shifted recordings of non-local programming whatever its source; a local program that has been broadcast twice, even if the licensee broadcasts the program on a different day or makes small variations in the program thereafter. In addition, with respect to television stations, locally originated programming is programming containing simultaneous video and audio programming where the audio portion of the programming directly relates to the video portion of the program.

* * * * *

[FR Doc. 2024–02039 Filed 2–7–24; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2023–0261; FF09E21000 FXES1111090FEDR 245]

Endangered and Threatened Wildlife and Plants; 90-Day Finding for the Kings River Pyrg

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to add the Kings River pyrg (*Pyrgulopsis imperialis*) to the List of Endangered and Threatened Wildlife under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petition to list the Kings River pyrg presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Therefore, with the publication of this document, we announce that we are initiating a status review to determine whether the petitioned action is warranted. To ensure that the status review is comprehensive, we request scientific and commercial data and other information regarding Kings River pyrg and factors that may affect its status. Based on the status review, we will issue a 12-month petition finding, which will address whether or not the petitioned action is warranted, in accordance with the Act.

DATES: This finding was made on February 8, 2024. As we commence our status review, we seek any new information concerning the status of, or threats to, the Kings River pyrg or its habitats. Any information we receive during the course of our status review will be considered.

ADDRESSES:

Supporting documents: A summary of the basis for the petition finding contained in this document is available on *https://www.regulations.gov* in Docket No. FWS–R8–ES–2023–0261. In addition, this supporting information is available by contacting the appropriate person, as specified in **FOR FURTHER INFORMATION CONTACT**.

Status reviews: If you have new scientific or commercial data or other information concerning the status of, or threats to, the Kings River pyrg or its habitat, please provide those data or information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter FWS–R8–ES–2023–0261, which is the docket number for this action. Then, click on the ''Search'' button. After finding the correct document, you may submit information by clicking on ''Comment.'' If your information will fit in the provided comment box, please use this feature of *https://www.regulations.gov,* as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R8–ES–2023–0261, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. We will post all information we receive on *https://www.regulations.gov.* This generally means that we will post any personal information you provide us.

FOR FURTHER INFORMATION CONTACT: Justin Barrett, Deputy Field Supervisor, Reno Fish and Wildlife Office, telephone: 775–861–6300, email: *justin_barrett@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations in title 50 of the Code of Federal Regulations (50 CFR part 424) set forth the procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants (Lists or List) in 50 CFR part 17. Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to add a species to the List (*i.e.,* ''list'' a species), remove a species from the List (*i.e.,* ''delist'' a species), or change a listed species' status from endangered to threatened or from threatened to endangered (*i.e.,* ''reclassify'' a species) presents substantial scientific or commercial