Federal Communications Commission

**Kirk Burgee,**

*Chief of Staff, Wireline Competition Bureau.*

[FR Doc. 2020–05508 Filed 3–19–20; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 74 and 76

**[MB Docket Nos. 19–165, 17–105; FCC 20–8; FRS 16516]**

### Electronic Delivery of Notices to Broadcast Television Stations; Modernization of Media Regulation Initiative

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (FCC or Commission) modernizes its rules regarding certain written notices that cable operators and direct broadcast satellite (DBS) providers are required to provide to broadcast television stations. Rather than continuing to require that cable and DBS providers deliver these notices on paper, the Commission is revising its rules to require that the notices be delivered to broadcast television stations electronically via email.

**DATES:**

*Effective Date:* April 20, 2020.

*Compliance Date:* Compliance will not be required for 47 CFR 74.779, 76.54(e), 76.64(k), 76.66(d)(1)(iv), (d)(2)(ii), (v), and (vi), (d)(3)(iv), (d)(5)(i), (f)(3) and (4), and (h)(5), 76.1600(e), 76.1607, 76.1608, 76.1609, and 76.1617(a) and (c) until the Commission publishes a document in the **Federal Register** announcing the compliance date.

**FOR FURTHER INFORMATION CONTACT:** Christopher Clark, Industry Analysis Division, Media Bureau, at *Christopher.Clark@fcc.gov* or (202) 418–2609.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order,* FCC 20–8, in MB Docket Nos. 19–165 and 17–105, adopted on January 30, 2020, and released on January 31, 2020. The complete text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) website at *https://www.fcc.gov/document/fcc-modernizes-delivery-mvpd-notices-broadcast-tv-stations-0.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. The complete text of this document is also available for public inspection and copying during regular business hours in the FCC Reference Information Center, Federal Communications Commission, 445 12th Street SW, CY–A257, Washington, DC 20554. 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

1. We adopt the proposal to require electronic delivery of certain notices that cable operators are required to provide to broadcast television stations under our existing rules. To harmonize the rules applicable to cable operators and direct broadcast satellite (DBS) providers, we extend the same treatment to the notices that DBS providers are required to provide to broadcast television stations under our existing rules. We conclude that it will serve the public interest and enhance administrative efficiency to harmonize the notification rules discussed herein for cable operators and DBS providers with our modernized carriage election notice procedures for broadcast television stations.

2. As proposed in the notice of proposed rulemaking (*NPRM*) (84 FR 37979, August 5, 2019), we will require that cable operators use email to deliver notices to broadcast television stations in the following circumstances: informing local broadcast stations that a new cable system intends to commence service (§ 76.64(k)); sending required information to local broadcast stations when a new cable system is activated (§ 76.1617); notifying a television station about the deletion or repositioning of its signal (§ 76.1601); informing stations of a change in the designation of the principal headend of a cable operator (§ 76.1607); informing stations that a cable operator intends to integrate two cable systems, requiring a uniform carriage election (§ 76.1608); and notifying stations that a cable system serves 1,000 or more subscribers and is no longer exempt from the Commission's network non-duplication and syndicated exclusivity rules (§ 76.1609). To ensure that television stations continue to receive these important notices, we will require that cable operators deliver the notices to the email address that the station designates for carriage-related questions in accordance with the procedures adopted in the Carriage Election Notice Modernization proceeding. Under those procedures, commercial and noncommercial full-power and Class A television stations are already required to provide a current email address and phone number in their online public inspection file (OPIF) for carriage-related questions no later than July 31, 2020, and maintain up-to-date contact information at all times thereafter. Requiring cable operators to deliver notices to this email address will help ensure that notices are sent to the correct inbox without imposing any new obligations on these stations. Because the email address must be kept up-to-date, cable operators will easily be able to identify the email address that is current for purposes of sending notices to a television station. In addition, if questions arise pertaining to the notices, cable operators will be able to call the station at the phone number provided.

3. We conclude that transitioning the notices from paper to electronic delivery will serve the public interest. As discussed above, the Commission has already taken similar steps with respect to various other notices and filings required by our rules. In doing so, the Commission found that the benefits of transitioning the notices from paper to electronic delivery include reducing the costs, administrative burdens, and environmental waste associated with paper notices. Consistent with these previous determinations, we conclude that requiring notices under § 76.64(k) and subpart T to be delivered to broadcast television stations via email will reduce burdens on all parties and ensure that notices are still received in a timely manner, while reducing environmental waste.

4. Perhaps not surprisingly, we find unanimous support in the record for transitioning these notices from paper to electronic delivery. Cable operators and broadcasters commenting in this proceeding agree that electronic delivery will reduce the time and money spent on the required notices, enable quicker, more effective communication of necessary information, and decrease the environmental waste generated by paper notices. As the National Cable and Telecommunications Association (NCTA) explains, electronic notices need not be printed, posted, or tracked to ensure they reach their destination, making them far less expensive and much less administratively burdensome than paper notices. Because email transmission is nearly instantaneous and paper delivery methods often take up to several days, transitioning from paper notices to email will also help ensure that broadcasters receive notices

much faster than they do currently. Further, as America's Communications Association (ACA) and NCTA attest, allowing the notices to be delivered via email is consistent with the way companies do business today. Public television broadcasters similarly support the use of email for notices to full-power noncommercial television stations, and the National Association of Broadcasters (NAB) suggests that email would be acceptable for delivering notices to low-power television (LPTV) stations. No commenter disputes our authority to require that cable operators deliver notices via email. And we conclude, consistent with our previous finding, that emailing television stations the information required by § 76.64(k) and subpart T of our rules satisfies the ''written notice'' requirement in sections 614(b)(9) and 615(g)(3) of the Communications Act of 1934, as amended, because ''it is reasonable to interpret the term 'written information' . . . to include information delivered by email.''

5. Given the unanimous support in the record for transitioning from paper to electronic delivery of notices from cable operators to broadcast television stations, we see no reason to retain paper delivery as an option for the notices required by § 76.64(k) and subpart T of our rules. Indeed, no commenter in this proceeding asserts that we should retain such an option. To the contrary, ACA cautions that exempting some broadcasters from receiving the notices electronically would substantially negate the benefits of our decision today to move to electronic distribution of the notices. We agree with ACA that requiring cable operators to deliver notices to some broadcast stations via email and other stations via paper delivery would introduce unnecessary complexity and additional costs, which could pose challenges, particularly for small cable operators with limited resources. Similarly, we believe that allowing some cable operators to continue using paper delivery to distribute the notices would impose unnecessary burdens and costs on broadcast television stations. To streamline delivery of the notices and reduce the associated costs and burdens for all parties, we adopt email as the required means for delivering notices to broadcast television stations under § 76.64(k) and subpart T of our rules. Accordingly, we will require that after July 31, 2020, cable operators must deliver to broadcast television stations electronically via email the notices required by the rules listed above.

6. For LPTV stations that are entitled to notices but not required to maintain an OPIF, we will require that notices be delivered to the general email address listed for the licensee in our Licensing and Management System (LMS). Unlike full-power and Class A television stations, non-Class A LPTV stations are not subject to our OPIF rules and will therefore need to use alternative means other than the OPIF to publicize an email address and phone number for receiving notices from cable operators. We agree with commenters that cable operators should be able to consult a single Commission website or database to obtain contact information for delivering notices to non-Class A LPTV stations, rather than having to attempt to locate this information on each station's website. While some commenters suggest the Commission should establish a new means to collect and share such contact information, we find that the information such stations are already required to provide in LMS is sufficient for this purpose. When submitting a broadcast license application in LMS, an applicant is required to provide contact information, including an email address and phone number, for itself and any contact representatives listed on the form. Thus, each LPTV station that has filed a license application in LMS should already have an email address and phone number listed in LMS. LPTV stations may add or update this information easily by filing an Administrative Update for a LPTV/Translator Station Application in LMS. After submission, this contact information is publicly available in LMS via the Facility Details page, which may be accessed by doing a Facility Search and then clicking the relevant Facility ID Number in the Facility Search results.

7. We conclude that notices to non-Class A LPTV stations should be delivered to the licensee's email address, rather than a contact representative's email address (if different from the licensee's email address), to ensure that all such notices are delivered consistently to the same inbox in cases where a station designates a third party as a contact representative or designates multiple types of contact representatives. Accordingly, we will require that after July 31, 2020, § 76.64(k) and subpart T notices to LPTV stations that are entitled to such notices but that lack Class A status must be delivered to the email address listed for the licensee (not a contact representative, if different from the licensee) in LMS. Delivering notices to the email address listed for the contact representative is not sufficient to satisfy the notice requirements in § 76.64(k) and subpart T. After July 31, 2020, non-Class A LPTV stations must be prepared to respond to carriage questions directed to the licensee's email address and phone number (not a contact representative's email address and phone number, if different) as displayed publicly in LMS and must ensure that this information is kept up-to-date in LMS. We conclude that relying on this existing information in LMS will ensure that cable operators are able to identify contact information easily for notices to non-Class A LPTV stations without imposing additional burdens on stations or the Commission. LPTV stations are responsible for the accuracy of this contact information, and cable operators may rely on its accuracy at any time after July 31, 2020, for purposes of delivering the notices required by § 76.64(k) and subpart T of the Commission's rules.

8. Similarly, with respect to qualified noncommercial educational (NCE) translator stations, we agree with the public broadcasting organizations that there is no need to adopt a new email posting requirement for such stations. Rather, we will require that after July 31, 2020, § 76.64(k) and subpart T notices to a qualified NCE translator station must be delivered to the email address listed for the licensee (not a contact representative, if different from the licensee) in LMS, or alternatively to the primary station's carriage-related email address, if the translator station does not have its own email address listed in LMS. Like LPTV and other broadcast stations, qualified NCE translator stations are already required to provide general contact information, including an email address and phone number, when filing license applications in LMS. While it is possible that some qualified NCE translator stations have yet to submit a filing in LMS, we expect that by the end of the next cycle for television license renewal applications in 2023, all such stations will have submitted an application requiring them to provide an email address and phone number in LMS. We conclude that delivering relevant notices to the primary station's carriage-related email address is sufficient for providing electronic notices to qualified NCE translator stations that have no email address listed in LMS. Unlike an LPTV station, a qualified NCE translator station is associated with the primary station that authorizes the retransmission of its signal by the translator station. To the extent a qualified NCE translator station and its primary station are not owned by

the same party, we expect that the owner of the primary station will inform the translator station promptly upon receiving relevant notices. Because the Commission's rules prohibit a TV translator station from rebroadcasting the programs of a TV broadcast station without obtaining the TV broadcast station's prior consent, we anticipate that there will be an existing relationship between a qualified NCE translator station and its primary station even where the stations are not owned by the same party. Moreover, we believe that the primary station will have every incentive to inform its affiliated translator station of relevant notices quickly in order to maintain or expand the reach of its programming.

9. To effectuate these changes, we add to § 76.1600 of our rules a new subsection requiring that notices provided by cable operators to broadcast television stations under § 76.64(k) and subpart T must be delivered via email as discussed herein. To avoid potential discrepancies with § 76.1600 as revised herein, we also add language to §§ 76.64(k), 76.1607, 76.1608, 76.1609, and 76.1617 to reflect our decision to require that cable operators deliver the notices required by these rules electronically to broadcast television stations via email in accordance with revised § 76.1600. In addition, we codify the requirements discussed above for LPTV and qualified NCE translator stations. Further, as proposed in the *NPRM,* we make a minor correction to our rules in part 74 by moving our existing channel sharing rule for LPTV and TV translator stations from subpart H (Low Power Auxiliary Stations) to subpart G (Low Power TV, TV Translator, and TV Booster Stations). Because the rules in subpart G apply to LPTV stations, TV translator stations, and TV booster stations, subpart G is a more appropriate location for § 74.799 than subpart H, which contains rules for low power auxiliary stations that transmit over distances of approximately 100 meters for uses such as wireless microphones, cue and control communications, and synchronization of TV camera signals.

10. We adopt the same approach outlined above for the notices that DBS providers currently are required to provide to broadcast television stations pursuant to the following rules: §§ 76.54(e) and 76.66(d)(5) (intent to retransmit ''significantly viewed'' out-of-market station); 76.66(d)(2) (intent to launch new local-into-local or HD carry-one, carry-all service); 76.66(d)(1)(vi) and (d)(3)(iv) (response to carriage requests); 76.66(f)(3) and (4) (location of local receive facility or intent to relocate such facility); and 76.66(h)(5) (deletion of duplicating signal or addition of formerly duplicating signal). DISH and DIRECTV support the *NPRM*'s proposal to require that DBS providers deliver these notices electronically via email, and no commenter opposes such a requirement.

11. No commenter disputes our authority to adopt rules requiring that DBS operators deliver these notices via email. We believe it will serve the public interest and enhance administrative efficiency to have a consistent approach for delivery of notices discussed herein. We agree with DISH and DIRECTV that, given our previous decision to require electronic delivery of carriage election notices, failure to allow email delivery of the notices required by §§ 76.54(e) and 76.66 will result in disproportionate burdens on DBS providers and broadcasters, and raise logistical and operational challenges. Accordingly, we require that after July 31, 2020, DBS providers must deliver to broadcast television stations electronically via email the notices required by the rules listed above. Such notices must be delivered to the same email address the station designates for carriage-related questions, as discussed above for the notices from cable operators. We revise our rules accordingly.

12. *Paperwork Reduction Act Analysis.* This document contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

13. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

**Final Regulatory Flexibility Analysis**

14. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *notice of proposed rulemaking* (*NPRM*) in MB Docket No. 19–165. The Commission sought written public comments on proposals in the *NPRM,* including comment on the IRFA. The Commission received no direct comments on the IRFA. The present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

15. *Need for, and Objectives of, the Report and Order.* In the Report and Order, the Commission takes additional steps to modernize certain notice provisions in part 76 of the Commission's rules governing multichannel video and cable television service. Currently, these rules require that cable operators and other multichannel video programming distributors (MVPDs) provide certain written notices to broadcast stations by paper delivery, such as mail, certified mail, or, in some instances, hand delivery. Section 76.64(k) and subpart T of the Commission's rules contain written notification requirements for cable operators, and §§ 76.54(e) and 76.66 of the Commission's rules contain written notification requirements for direct broadcast satellite (DBS) providers. The rules require written notice to a local broadcast television station prior to deleting or repositioning the station, changing the location of the principal headend or local receive facility, or commencing service in a market, among other things.

16. The Report and Order revises the Commission's rules to require that cable operators deliver notices electronically to broadcast television stations in the following circumstances: Informing local broadcast stations that a new cable system intends to commence service (§ 76.64(k)); sending required information to local broadcast stations when a new cable system is activated (§ 76.1617); notifying a television station about the deletion or repositioning of its signal (§ 76.1601); informing stations of a change in the designation of the principal headend of a cable operator (§ 76.1607); informing stations that a cable operator intends to integrate two cable systems, requiring a uniform carriage election (§ 76.1608); and notifying stations that a cable system serves 1,000 or more subscribers and is no longer exempt from the Commission's network non-duplication and syndicated exclusivity rules (§ 76.1609). After July 31, 2020, cable operators must deliver required notices

to full-power and Class A television stations electronically via email to the inbox that the station designates for carriage-related questions in its online public inspection file (OPIF). Similarly, notices to LPTV stations must be delivered to the email address listed for the licensee (not a contact representative, if different from the licensee) in the Commission's Licensing and Management System (LMS), and notices to qualified noncommercial educational (NCE) translator stations must be delivered to the email address listed for the licensee in LMS (not a contact representative, if different from the licensee) or alternatively the primary station's carriage-related email address, if the translator station does not have its own email address listed in LMS.

17. The Report and Order also requires that DBS providers similarly use email to deliver to broadcast television stations the notices required by the following rules: §§ 76.54(e) and 76.66(d)(5) (intent to retransmit ''significantly viewed'' out-of-market station); 76.66(d)(2) (intent to launch new local-into-local or HD carry-one, carry-all service); 76.66(d)(1)(vi) and (d)(3)(iv) (response to carriage requests); 76.66(f)(3) and (4) (location of local receive facility or intent to relocate such facility); and 76.66(h)(5) (deletion of duplicating signal or addition of formerly duplicating signal). Through this Report and Order, the Commission continues its efforts to update its rules and eliminate outdated requirements.

18. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA.* No comments were filed in direct response to the IRFA.

19. *Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration.* Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the SBA and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to this proceeding.

20. *Description and Estimate of the Number of Small Entities To Which 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.

21. Cable Companies and Systems (Rate Regulation Standard). The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. The Commission determined that this size standard equates approximately to a size standard of $100 million or less in annual revenues. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Industry data indicate that there are currently 4,300 active cable systems in the United States. Of this total, 3,550 cable systems have fewer than 15,000 subscribers, and 750 systems have 15,000 or more. Thus, we estimate that most cable systems are small entities.

22. Cable System Operators (Telecommunications Act Standard). The Act also contains a size standard for a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' There are approximately 49,011,210 cable video subscribers in the United States today. Accordingly, an operator serving fewer than 490,112 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all but five incumbent cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

23. We also note that there currently are 182 cable antenna relay service (CARS) licensees. The Commission, however, neither requests nor collects information on whether CARS licensees are affiliated with entities whose gross annual revenues exceed $250 million. Although some CARS licensees may be affiliated with entities whose gross annual revenues exceed $250 million, we are unable at this time to estimate with greater precision the number of CARS licensees that would qualify as small cable operators under the definition in the Communications Act.

24. Direct Broadcast Satellite (DBS) Service. DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic dish antenna at the subscriber's location. DBS is now included in SBA's economic census category ''Wired Telecommunications Carriers.'' The Wired Telecommunications Carriers industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry. The SBA determines that a wireline business is small if it has fewer than 1,500 employees. Economic census data for 2012 indicate that 3,117 wireline companies were operational during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on that data, we conclude that the majority of wireline firms are small under the applicable standard. Currently, however, only two entities provide DBS service, which requires a great deal of capital for operation: DIRECTV (owned by AT&T) and DISH Network. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Accordingly, we conclude that, in general, DBS service is provided only by large firms.

25. Open Video Services. Open Video Service (OVS) systems provide subscription services. The open video system framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers. The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard covering cable services, which is ''Wired Telecommunications Carriers.'' The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees. To gauge small business prevalence for the OVS service, the Commission relies on data currently available from the U.S. Census for the year 2012. According to that source, there were 3,117 firms that in 2012 were Wired Telecommunications Carriers. Of these, 3,059 operated with less than 1,000 employees. Based on this data, the majority of these firms can be considered small. In addition, we note that the Commission has certified some OVS operators, with some now providing service. Broadband service providers (BSPs) are currently the only significant holders of OVS certifications or local OVS franchises. The Commission does not have financial or employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. Thus, at least some of the OVS operators may qualify as small entities. The Commission further notes that it has certified approximately 45 OVS operators to serve 116 areas, and some of these are currently providing service. Affiliates of Residential Communications Network, Inc. (RCN) received approval to operate OVS systems in New York City, Boston, Washington, DC, and other areas. RCN has sufficient revenues to assure that they do not qualify as a small business entity. Little financial information is available for the other entities that are authorized to provide OVS and are not yet operational. Given that some entities authorized to provide OVS service have not yet begun to generate revenues, the Commission concludes that up to 44 OVS operators (those remaining) might qualify as small businesses that may be affected by the rules and policies adopted herein.

26. Satellite Master Antenna Television (SMATV) Systems, also known as Private Cable Operators (PCOs). SMATV systems or PCOs are video distribution facilities that use closed transmission paths without using any public right-of-way. They acquire video programming and distribute it via terrestrial wiring in urban and suburban multiple dwelling units such as apartments and condominiums, and commercial multiple tenant units such as hotels and office buildings. SMATV systems or PCOs are now included in the SBA's broad economic census category, ''Wired Telecommunications Carriers,'' which was developed for small wireline firms. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2012 indicate that in that year there were 3,117 firms operating businesses as wired telecommunications carriers. Of that 3,117, 3,059 operated with 999 or fewer employees. Based on this data, we estimate that a majority of operators of SMATV/PCO companies were small under the applicable SBA size standard.

27. Television Broadcasting. This Economic Census category ''comprises 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 has created the following small business size standard for such businesses: Those having $41.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of this number, 656 had annual receipts of less than $25 million, 25 had annual receipts ranging from $25 million to $49,999,999, and 70 had annual receipts of $50 million or more. Based on this data we therefore estimate that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

28. Additionally, the Commission has estimated the number of licensed commercial television stations to be 1,380. Of this total, 1,267 stations (or 91.8%) had revenues of $41.5 million or less in 2018, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on December 9, 2019, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates the number of licensed noncommercial educational (NCE) television stations to be 380. The Commission does not compile and does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

29. We note, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, 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'' requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive.

30. There are also 387 Class A stations. Given the nature of these services, the Commission presumes that all of these stations qualify as small entities under the applicable SBA size standard. In addition, there are 1,900 LPTV stations and 3,631 TV translator stations. Given the nature of these services as secondary and in some cases purely a ''fill-in'' service, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

31. *Description of Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.* As discussed above, this Report and Order takes additional steps to update certain notice provisions in part 76 of the Commission's rules governing multichannel video and cable television service. The existing rules require that cable operators and other MVPDs provide certain written notices to broadcast stations by paper delivery, such as mail, certified mail, or, in some instances, hand delivery. The Report and Order revises the Commission's rules to require that cable operators and DBS providers distribute these notices to broadcast television stations electronically via email. After July 31, 2020, cable operators and DBS providers must deliver required notices to full-power and Class A television stations electronically via email to the inbox that the station designates for carriage-related questions in its OPIF. Similarly, notices to LPTV stations must be

delivered to the email address listed for the licensee (not a contact representative, if different from the licensee) in LMS, and notices to qualified NCE translator stations must be delivered to the email address listed for the licensee (not a contact representative, if different from the licensee) in LMS or alternatively the primary station's carriage-related email address, if the translator station does not have its own email address listed in LMS.

32. *Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance 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 small entities.

33. Through this Report and Order, the Commission takes steps to minimize the administrative burden on MVPDs, including small entities, by transitioning from paper to electronic delivery of certain notices to broadcast television stations, which will reduce the costs and burdens of providing such notices. The Commission has found that electronic delivery of notices would greatly ease the burden of complying with notification requirements for cable operators and DBS providers, including small entities. The Commission previously sought comment on other potential alternative means of delivering notices that might better serve the needs of broadcasters and MVPDs, including small entities, but still be less burdensome than sending notices by paper delivery, such as mail, certified mail, or, in some instances, hand delivery. Commenters, including those representing smaller entities, unanimously support transitioning the notices from paper to electronic delivery.

**Ordering Clauses**

34. Accordingly, *it is ordered* that, pursuant to the authority found in sections 1, 4(i), 4(j), 303(r), 338, 340, 614, 615, and 653 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303(r), 338, 340, 534, 535, and 573, this Report and Order *is adopted.*

35. *It is further ordered* that, pursuant to the authority found in sections 1, 4(i), 4(j), 303(r), 338, 340, 614, 615, and 653 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303(r), 338, 340, 534, 535, and 573, the Commission's rules *are amended* as set forth in the Final Rules. These rules contain new or modified information collection requirements that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and *will become effective* April 20, 2020. Compliance will not be required until after the Commission publishes a document in the **Federal Register** announcing OMB approval and the relevant compliance date.

36. *It is further ordered* that the Commission *shall send* a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

37. *It is further ordered* that, should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 19–165 shall be *terminated* and its docket closed.

**List of Subjects**

*47 CFR Part 74*

Communications equipment, Education, radio, Reporting and recordkeeping requirements, Research, Television.

*47 CFR Part 76*

Administrative practice and procedure, Cable television, Communications, Equal employment opportunity, Internet, Political candidates, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

**Final Rules**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 74 and 76 as follows:

## PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 1. The authority for part 74 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302a, 303, 307, 309, 310, 336 and 554.

■ 2. Add § 74.779 to read as follows:

**§ 74.779 Electronic delivery of notices to LPTV stations.**

In accordance with § 76.1600 of this title, beginning July 31, 2020, each licensee of a low power television station or noncommercial educational translator station that is entitled to notices under § 76.64(k), § 76.1601, § 76.1607, or § 76.1617 of this title shall receive such notices via email to the licensee's email address (not a contact representative's email address, if different from the licensee's email address) as displayed publicly in the Commission's Licensing and Management System (LMS), or the primary station's carriage-related email address if the noncommercial educational translator station does not have its own email address listed in LMS. Licensees are responsible for the continuing accuracy and completeness of this information.

**§ 74.799 [Transferred from Subpart H to Subpart G]**

■ 3. Transfer § 74.799 from subpart H to subpart G.

## PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

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

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

■ 5. Amend § 76.54 by revising paragraph (e) to read as follows:

**§ 76.54 Significantly viewed signals; method to be followed for special showings.**

* * * * *

(e) Satellite carriers that intend to retransmit the signal of a significantly viewed television broadcast station to a subscriber located outside such station's local market, as defined by § 76.55(e), must provide written notice to all television broadcast stations that are assigned to the same local market as the intended subscriber at least 60 days before commencing retransmission of the significantly viewed station. Such satellite carriers must also provide the notifications described in § 76.66(d)(5)(i). Except as provided in this paragraph (e), such written notice must be sent via certified mail, return receipt requested, to the address for such station(s) as listed in the consolidated database maintained by the Federal Communications Commission. After July 31, 2020, such written notice must be delivered to

stations electronically in accordance with § 76.66(d)(2)(ii).

* * * * *

■ 6. Amend § 76.64 by revising paragraph (k) to read as follows:

**§ 76.64 Retransmission consent.**

* * * * *

(k) A cable system commencing new operation is required to notify all local commercial and noncommercial broadcast stations of its intent to commence service. The cable operator must send such notification, by certified mail except as provided in this paragraph (k), at least 60 days prior to commencing cable service. After July 31, 2020, the cable operator must send such notification by electronic delivery in accordance with § 76.1600. Commercial broadcast stations must notify the cable system within 30 days of the receipt of such notice of their election for either must-carry or retransmission consent with respect to such new cable system. If the commercial broadcast station elects must-carry, it must also indicate its channel position in its election statement to the cable system. Such election shall remain valid for the remainder of any three-year election interval, as established in paragraph (f)(2) of this section. Noncommercial educational broadcast stations should notify the cable operator of their request for carriage and their channel position. The new cable system must notify each station if its signal quality does not meet the standards for carriage and if any copyright liability would be incurred for the carriage of such signal. Pursuant to § 76.57(e), a commercial broadcast station which fails to respond to such a notice shall be deemed to be a must-carry station for the remainder of the current three-year election period.

* * * * *

■ 7. Amend § 76.66 by revising paragraphs (d)(1)(vi) introductory text and (d)(2)(ii), (v), and (vi), (d)(3)(iv), (d)(5)(i) introductory text, (f)(3) and (4), and (h)(5) to read as follows:

**§ 76.66 Satellite broadcast signal carriage.**

* * * * *

(d) * * *

(1) * * *

(vi) Within 30 days of receiving a television station's carriage request, and subject to paragraph (d)(2)(ii) of this section, a satellite carrier shall notify in writing:

* * * * *

(2) * * *

(ii) Except as provided in this paragraph (d)(2)(ii), satellite carriers shall transmit the notices required by paragraph (d)(2)(i) of this section via certified mail to the address for such television station licensee listed in the consolidated database system maintained by the Commission. After July 31, 2020, the written notices required by paragraphs (d)(1)(vi), (d)(2)(i), (v), and (vi), (d)(3)(iv), (d)(5)(i), (f)(3) and (4), and (h)(5) of this section shall be delivered electronically via email to the email address for carriage-related questions that the station lists in its public file in accordance with §§ 73.3526 and 73.3527 of this title.

* * * * *

(v) Within 30 days of receiving a local television station's election of mandatory carriage in a new television market, a satellite carrier shall notify in writing those local television stations it will not carry, along with the reasons for such decision, and those local television stations it intends to carry. After July 31, 2020, the written notices required by this paragraph (d)(2)(v) shall be delivered to stations electronically in accordance with paragraph (d)(2)(ii) of this section.

(vi) Satellite carriers shall notify all local stations in a market of their intent to launch HD carry-one, carry-all in that market at least 60 days before commencing such carriage. After July 31, 2020, the written notices required by this paragraph (d)(2)(vi) shall be delivered to stations electronically in accordance with paragraph (d)(2)(ii) of this section.

* * * * *

(3) * * *

(iv) Within 30 days of receiving a new television station's election of mandatory carriage, a satellite carrier shall notify the station in writing that it will not carry the station, along with the reasons for such decision, or that it intends to carry the station. After July 31, 2020, the written notices required by this paragraph (d)(3)(iv) shall be delivered to stations electronically in accordance with paragraph (d)(2)(ii) of this section.

(5) * * *

(i) Beginning with the election cycle described in paragraph (c)(2) of this section, the retransmission of significantly viewed signals pursuant to § 76.54 by a satellite carrier that provides local-into-local service is subject to providing the notifications to stations in the market pursuant to paragraphs (d)(5)(i)(A) and (B) of this section, unless the satellite carrier was retransmitting such signals as of the date these notifications were due. After July 31, 2020, the written notices required by this paragraph (d)(5)(i) shall be delivered to stations electronically in accordance with paragraph (d)(2)(ii) of this section.

* * * * *

(f) * * *

(3) Except as provided in paragraph (d)(2) of this section, a satellite carrier providing local-into-local service must notify local television stations of the location of the receive facility by June 1, 2001 for the first election cycle and at least 120 days prior to the commencement of all election cycles thereafter. After July 31, 2020, the written notices required by this paragraph (f)(3) shall be delivered to stations electronically in accordance with paragraph (d)(2)(ii) of this section.

(4) A satellite carrier may relocate its local receive facility at the commencement of each election cycle. A satellite carrier is also permitted to relocate its local receive facility during the course of an election cycle, if it bears the signal delivery costs of the television stations affected by such a move. A satellite carrier relocating its local receive facility must provide 60 days notice to all local television stations carried in the affected television market. After July 31, 2020, the written notices required by this paragraph (f)(4) shall be delivered to stations electronically in accordance with paragraph (d)(2)(ii) of this section.

* * * * *

(h) * * *

(5) A satellite carrier shall provide notice to its subscribers, and to the affected television station, whenever it adds or deletes a station's signal in a particular local market pursuant to this paragraph (h)(5). After July 31, 2020, the required notice to the affected television station shall be delivered to the station electronically in accordance with paragraph (d)(2)(ii) of this section.

* * * * *

■ 8. Amend § 76.1600 by adding paragraph (e) to read as follows:

**§ 76.1600 Electronic delivery of notices.**

* * * * *

(e) After July 31, 2020, written information provided by cable operators to broadcast stations pursuant to §§ 76.64(k), 76.1601, 76.1607, 76.1608, 76.1609, and 76.1617 must be delivered electronically to full-power and Class A television stations via email to the email address for carriage-related questions that the station lists in its public file in accordance with §§ 73.3526 and 73.3527 of this title, or in the case of low power television stations and noncommercial educational translator stations that are entitled to such notices, to the licensee's email address (not a contact representative's email address, if

different from the licensee's email address) as displayed publicly in the Licensing and Management System (LMS) or the primary station's carriage-related email address if the noncommercial educational translator station does not have its own email address listed in LMS.

■ 9. Revise § 76.1607 to read as follows:

**§ 76.1607 Principal headend.**

A cable operator shall provide written notice to all stations carried on its system pursuant to the must-carry rules in this subpart at least 60 days prior to any change in the designation of its principal headend. Such written notice shall be provided by certified mail, except that after July 31, 2020, notice shall be provided to stations by electronic delivery in accordance with § 76.1600.

■ 10. Revise § 76.1608 to read as follows:

**§ 76.1608 System technical integration requiring uniform election of must-carry or retransmission consent status.**

A cable system that changes its technical configuration in such a way as to integrate two formerly separate cable systems must give 90 days notice of its intention to do so to any television broadcast stations that have elected must-carry status with respect to one system and retransmission consent status with respect to the other. After July 31, 2020, such notice shall be delivered to stations electronically in accordance with § 76.1600. If the system and the station do not agree on a uniform election 45 days prior to integration, the cable system may require the station to make such a uniform election 30 days prior to integration.

■ 11. Revise § 76.1609 to read as follows:

**§ 76.1609 Non-duplication and syndicated exclusivity.**

Within 60 days following the provision of service to 1,000 subscribers, the operator of each such system shall file a notice to that effect with the Commission, and serve a copy of that notice on every television station that would be entitled to exercise network non-duplication protection or syndicated exclusivity protection against it. After July 31, 2020, in lieu of serving paper copies on stations, the operator shall provide the required copies to stations by electronic delivery in accordance with § 76.1600.

■ 12. Amend § 76.1617 by revising paragraphs (a) and (c) to read as follows:

**§ 76.1617 Initial must-carry notice.**

(a) Within 60 days of activation of a cable system, a cable operator must notify all qualified NCE stations of its designated principal headend by certified mail, except that after July 31, 2020, notice shall be provided by electronic delivery in accordance with § 76.1600.

* * * * *

(c) Within 60 days of activation of a cable system, a cable operator must send a copy of a list of all broadcast television stations carried by its system and their channel positions to all local commercial and noncommercial television stations, including those not designated as must-carry stations and those not carried on the system. Such written information shall be provided by certified mail, except that after July 31, 2020, such information shall be provided by electronic delivery in accordance with § 76.1600.

[FR Doc. 2020–05478 Filed 3–19–20; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 622

**[Docket No. 130403320–4891–02]**

**RTID 0648–XS028**

## Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; 2020–2021 Recreational Fishing Season for Black Sea Bass

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; recreational season length.

**SUMMARY:** NMFS announces that the length of the recreational fishing season for black sea bass in the exclusive economic zone (EEZ) of the South Atlantic will extend throughout the species' 2020–2021 fishing year. Announcing the length of recreational season for black sea bass is one of the accountability measures (AMs) for the recreational sector. This announcement allows recreational fishers to maximize their opportunity to harvest the recreational annual catch limit (ACL) for black sea bass during the fishing season while managing harvest to protect the black sea bass resource.

**DATES:** This rule is effective from 12:01 a.m. eastern time on April 1, 2020, through March 31, 2021, unless changed by subsequent notification in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Nikhil Mehta, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *nikhil.mehta@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** The South Atlantic snapper-grouper fishery includes black sea bass south of 35°15.9′ N latitude and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The South Atlantic Fishery Management Council prepared the FMP and the FMP is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The recreational fishing year for black sea bass is April 1 through March 31. The recreational AM for black sea bass requires that before the April 1 start date of each recreational fishing year, NMFS projects the length of the recreational fishing season based on when NMFS projects the recreational ACL will be met, and announces the recreational season end date in the **Federal Register** (50 CFR 622.193(e)(2)). The purpose of this AM is to have a more predictable recreational season length while still constraining harvest at or below the recreational ACL to protect the stock from experiencing adverse biological consequences.

The recreational ACL for the 2020–2021 black sea bass fishing year is 323,161 lb (146,583 kg) gutted weight, or 381,330 lb (172,968 kg) round weight. The recreational ACL was set through the final rule for Abbreviated Framework Amendment 2 to the FMP (84 FR 14021, April 9, 2019).

NMFS estimates that recreational landings for the 2020–2021 fishing year will be less than the 2020–2021 recreational ACL. To make this determination, NMFS compared recreational landings in the last 3 fishing years to the recreational ACL for the 2020–2021 black sea bass fishing year. Recreational landings in each of the past 3 fishing years have been substantially less than the 2020–2021 recreational ACL; therefore, recreational landings are projected to be less than the 2020–2021 recreational ACL. Accordingly, the recreational sector for black sea bass is not expected to close during the fishing year as a result of reaching its ACL, and the season end date for recreational fishing for black sea bass in the South Atlantic EEZ south of 35°15.9′ N latitude is March 31, 2021.