



BILLING CODE 6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[MB Docket Nos. 19-193 and 17-105; FCC 19-74]

Low Power FM Radio Service Technical Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on a Notice of Proposed Rulemaking (NPRM) proposing to improve technical rules that primarily affect Low Power FM (LPFM) radio stations, based upon a petition for rulemaking filed by REC Networks.

DATES: Comments may be filed on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and reply comments may be filed on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by MB Docket Nos. 19-193 and 17-105, by any of the following methods:

- *Federal Communications Commission's Website:* [http:// www.fcc.gov/cgb/ecfs/](http://www.fcc.gov/cgb/ecfs/).
Follow the instructions for submitting comments.
- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the

Secretary, Federal Communications Commission.

- *People with Disabilities*: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov or phone: (202) 418-0530 or TTY: (202) 418-0432. For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Irene Bleiweiss, Media Bureau, Audio Division, (202) 418-2785. Direct press inquiries to Janice Wise at (202) 418-8165. For additional information concerning the Paperwork Reduction Act (PRA) information collection requirements contained in this document, contact Cathy Williams at 202-418-2918, or via the Internet at Cathy.Williams@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's NPRM, in MB Docket Nos. 19-193 and 17-105, FCC 19-74, adopted and released on July 30, 2019. The full text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) website at http://fjallfoss.fcc.gov/edocs_public/ or via the FCC's Electronic Comment Filing System (ECFS) website at <http://fjallfoss.fcc.gov/ecfs2/>. (Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.) This document is also available for public inspection and copying during regular business hours in the FCC Reference Information Center, which is located in Room CY-A257 at FCC Headquarters, 445 12th Street, SW, Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from

8:00 a.m. to 11:30 a.m. Alternative formats are available for people with disabilities (braille, large print, electronic files, audio format), by sending an e-mail to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Initial Paperwork Reduction Act of 1995 Analysis

The NPRM in document FCC 19-74 seeks comment on proposed rule amendments that may result in modified information collection requirements. If the Commission adopts any modified information collection requirements, the Commission will publish another notice in the Federal Register inviting the public to comment on the requirements, as required by the Paperwork Reduction Act. Public Law 104-13; 44 U.S.C. 3501-3520. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. Public Law 107-198; 44 U.S.C. 3506(c)(4).

Synopsis

1. *Introduction.* On July 30, 2019, the Commission adopted a Notice of Proposed Rulemaking, Amendment of Parts 73 and 74 of the Commission's Rules to Improve the Low Power FM Radio Service Technical Rules; Modernization of Media Regulation Initiative; FCC 19-75, MB Docket Nos. 19-193, 17-105, proposing to make the technical rules more flexible for LPFM stations. The NPRM states that the highly simplified engineering requirements adopted when it created the LPFM service almost 20 years ago do not provide LPFM applicants with transmission and siting options available to other

broadcast stations, and that it may be possible to improve LPFM service by providing such options now that the LPFM service has matured.

2. The rule changes proposed in the NPRM would, if adopted, revise the technical rules in four main ways: (1) Allowing LPFM use of directional antennas to avoid interference to other FM stations; (2) Setting a July 13, 2021 sunset date for a current requirement that FM stations protect adjacent television stations operating on TV channel 6; (3) providing LPFM stations with greater flexibility to relocate their transmitter sites by providing applicants with an additional way to demonstrate that a proposed change is “minor;” and (4) permitting retransmission of LPFM signals over FM booster stations. The proposals, if implemented, could improve LPFM reception and increase flexibility in transmitter siting while maintaining interference protection and the core LPFM goals of diversity and localism.

3. *Directional Antennas.* The Commission proposes to amend section 73.816 of its rules (Rules) to expand the optional use of directional antennas in the LPFM service, including custom-designed models. The Commission expects that use of directional antennas would primarily assist LPFM licensees constructing stations near the borders with Canada and Mexico and those that must relocate in areas with few available transmitter sites. In connection with this proposal, the Commission seeks comment on whether to delineate specific circumstances in which LPFM directional antennas are permissible or, alternatively, to leave decisions about antenna use to the applicant’s discretion. The Commission also seeks comment on the type of information that licensed applicants would submit to the Commission to verify proper installation and operation of such antennas and to prevent interference.

4. *Protecting TV Channel 6 Television Stations.* The Commission proposes to establish a July 13, 2021, sunset date for the requirement that LPFM stations operating on the FM reserved band (channels 201 to 220) protect television stations operating on adjacent television channel 6 (TV6). Because the precise TV6 protections issue also affects noncommercial FM (NCE), FM translator, and Class D radio stations on the reserved band, the Commission also proposes to eliminate the TV6 protection requirements for those stations. The proposed July 13, 2021, sunset date corresponds to the date by which all TV6 stations will have transitioned from analog to digital operations. The sunset date would be included in sections 73.525 (NCE-FM and Class D stations), 73.825 (LPFM stations), and 74.1205 (FM translators).

5. Since 1985, the Commission has required stations proposing operations on FM reserved band channels 201 through 220 to protect full service television, Low Power Television (LPTV), Class A, and television translator stations operating on TV6. The TV6 spectrum is located at 82 to 88 MHz, immediately adjacent to the FM band. Full power TV6 stations, however, transitioned to digital operations in 2009 and the Commission expects that most of the remaining LPTV stations on TV6 will transition by July 13, 2021. The Commission believes that the transition to digital and the use of digital receivers with improved selectivity reduces the need for radio stations to provide protection to TV6 stations.

6. Given these circumstances, the Commission proposes a July 13, 2021, sunset date for distance separation requirements between all reserved band radio stations and TV6 stations. In the intervening time between the effective date of final rules and July 13, 2021, the Commission proposes to implement a waiver process. Radio stations proposing

facilities that do not meet TV6 spacing requirements could request a waiver by submitting exhibits demonstrating that their proposals would not cause interference to the TV6 station. The Commission would review these requests on a case-by-case basis.

7. The Commission invites comment on its proposal and on the tentative conclusion that TV6 spacing requirements can be eliminated upon completion of the television transition to digital without any resulting interference to TV6 station. The Commission also asks whether there are any better alternatives. The NPRM further notes that approximately 26 LPTV stations currently supplement their analog TV6 signals with audio programming on 87.7 FM and asks whether the proposed elimination of TV6 protection by LPFM and other radio stations would be compatible with LPTV audio operations on 87.7 MHz if such operations were allowed to continue.

8. *Redefine Minor Changes.* The NPRM proposes to amend section 73.870 to provide an additional way in which LPFM stations can demonstrate that a proposed facility change is “minor.” An LPFM station making a “minor” change to its transmitter site, currently defined as a move of 5.6 kilometers or less, may relocate without awaiting the opening of a filing window. The NPRM proposes to expand the definition of minor change to one which either: (1) does not exceed 5.6 kilometers; or (2) involves overlapping 60 dBu contours of the existing and proposed facilities. The Commission accepts contour-based studies for FM translator stations seeking minor changes and has, on occasion, accepted such studies for LPFM stations on a waiver basis when the LPFM applicants demonstrated a lack of available fully-spaced sites. The proposal to incorporate a contour showing into the LPFM rules could provide additional flexibility for LPFM stations needing to relocate but faced with zoning and land use issues.

9. The Commission recognizes that providing a contour-based showing of a “minor” change can be expensive because it requires an engineering study. However, the Commission notes that applicants would not incur the expense unless they choose the alternative of moving greater distances than currently permissible. The Commission seeks comment on whether a new LPFM minor change analysis should focus, as with FM translators, solely on whether the contours of the current and proposed facilities overlap, or should also include a threshold requirement that LPFM stations show a lack of viable fully-spaced sites, similar to the current LPFM waiver standard.

10. *Cross Ownership of FM Booster Stations.* The Commission also proposes to amend Section 73.860 to allow cross-ownership of LPFM stations and FM boosters. Generally, LPFM licensees may not own non-LPFM stations. There is, however, a limited exception allowing non-Tribal LPFM licensees to operate up to two FM translator stations if they meet certain requirements. The Commission has occasionally granted waivers to allow LPFM stations to fill in terrain-associated gaps in service by using FM booster stations. Such waivers have permitted an LPFM station to substitute an FM booster for one of its permitted FM translators. In 2012, the Commission considered but declined to authorize LPFM cross-ownership of FM booster stations on a non-waiver basis. The Commission reasoned at that that there would be few situations in which an LPFM station could operate a booster without causing interference to its own signal.

11. The Commission now proposes to amend section 73.860 to incorporate guidelines for potential booster use by LPFM stations in lieu of use of an FM translator. Such a booster station could receive the signal of the commonly-owned LPFM station by any means authorized in section 74.1231(i), the rule that applies to all FM booster stations.

While such a rule would likely affect only a limited number of LPFM stations and such stations could otherwise seek the same relief on a waiver basis, the NPRM tentatively concludes that a rule permitting use of FM boosters may improve LPFM reception in areas with irregular terrain and that in such situations the Commission should not require the filing of a waiver request.

12. *Miscellaneous Issues.* The NPRM proposes to make several additional changes and tentatively rejects others. First, the Commission proposes to make a non-substantive change to section 73.810, the rule governing LPFM third-adjacent channel interference. The current language of section 73.810 is virtually identical to that which we recently modified in Docket 18-119, for FM translators in sections 74.1203(a)(3) and 74.1204(f). To foster consistency and to clarify that LPFM stations and FM translator stations must protect the same stations, the NPRM proposes to alter section 73.810 in the same manner. The NPRM notes that section 73.810(a)(1)(iii) currently requires protection of “previously authorized and operating LPFM stations,” whereas the recently modified FM translator rules reference “previously authorized” stations without specifying an operational status. The Commission proposes to adopt the same language for LPFM stations as it did for FM translator stations, but seeks comment on whether there is a reason to retain the “operating” language specifically for the LPFM service.

13. The NPRM also proposes changes to correct small typographical errors, to eliminate repetitive language, and to remove out-of-date information in the LPFM Rules. The amendments would occur in sections 73.871(c) concerning “minor” amendments and 74.1290 which contains an outdated web page address.

14. The Commission briefly identifies and tentatively rejects several additional proposals from LPFM organizations. The suggestions tentatively rejected include those:

- (1) To alter the simplicity of LPFM licensing through use of a contour analysis rather than distance separations to evaluate potential interference to other stations (except for the TV6 waiver process);
- (2) to revisit an earlier decision not to authorize LPFM stations at powers exceeding 100 watts;
- (3) to alter the noncommercial nature or classification of LPFM stations;
- (4) to undertake the resource-intensive process of opening a new LPFM window when an LPFM station ceases operation so that others can provide replacement service;
- (5) to revisit the Commission's prior interpretation of language in the Local Community Radio Act describing LPFM stations and FM translator stations as "equal in status," which the Commission has understood to simply require priority neither to new LPFM stations nor to new FM translators when making spectrum available for initial licensing; and
- (6) to update a list prepared in 2000 of stations carrying radio reading services for the blind and visually impaired where such a list would have limited longevity and contain information that LPFM applicants needing to protect reading services could obtain from other sources.

15. The Commission also tentatively rejects a suggestion to eliminate Emergency Alert System (EAS) requirements for LPFM stations. LPFM stations already have fewer EAS requirements than full service stations and it has not been shown that EAS requirements are unduly burdensome for LPFM stations. The Commission notes, however, that LPFM stations have not always participated fully in EAS testing and seeks comment on how to increase LPFM involvement in EAS testing.

16. Finally, the Commission encourages commenters to submit any additional technical proposals that follow logically from the proposals in the NPRM, excluding any proposals tentatively rejected above.

Initial Regulatory Flexibility Analysis

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

18. *Need for and Objectives of the Proposed Rule Change.* Commission initiates this rulemaking proceeding to seek comment on certain proposals designed to improve the public's reception of LPFM broadcast station signals and to provide greater flexibility to LPFM broadcasters. Specifically, the Commission seeks comment on the following: (1) Whether to expand the class of LPFM licensees able to use directional antennas and to allow LPFM use of antennas beyond off-the-shelf models; (2) whether to eliminate or modify the requirement that LPFM stations operating on Channels 201 to 220 (reserved band) protect television stations still operating on television channel 6; (3) whether to redefine a "minor change" for LPFM stations as one which either: (a) does not exceed 5.6 kilometers (the simple standard currently in use), or (b) involves overlapping 60 dBu

contours of the station's own existing and proposed facilities (a new standard that would generally be used by stations unable to meet the current 5.6 kilometer distance but that would be more complex and costly because it would require an engineering study); (4) whether to permit LPFM stations to retransmit LPFM signals over booster stations (which amplify and reradiate the signal) as a substitute for currently permissible use of FM translators (which retransmits the signal on a different channel without amplification); and (5) whether to update LPFM-related rules in Parts 73 and 74 to make a non-substantive change to conform the rule governing LPFM third-adjacent channel interference, correct typographical errors (repetitive language in 47 CFR 73.871), and remove outdated information. With respect to the proposed changes to TV Channel 6 protection, the Commission also asks whether it should eliminate or modify the requirement for all stations operating in the FM reserved band, not only LPFM stations in that band. The Commission also seeks any additional suggestions designed to enhance LPFM service to the public that would follow logically from the proposals in this proceeding.

19. These proposed changes may be needed to improve the public's ability to receive signals from low-powered stations, especially in areas with irregular terrain and near international borders. The proposed changes may also be needed to provide LPFM applicants greater flexibility in identifying initial and modified transmitter locations. The Commission's objectives are to improve LPFM reception and increase flexibility in LPFM siting while protecting primary stations and pre-existing secondary stations from interference and maintaining the core LPFM goals of diversity and localism.

20. *Legal Basis.* The authority for this proposed rulemaking is contained in sections 1, 2, 4(i), 301, 303, 307, 316, and 403 of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 301, 303, 307, 316, and 403.

21. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

22. *Low Power FM Radio Stations.* The proposed policies make relatively small rule adjustments that will primarily affect licensees and potential licensees of LPFM stations. LPFM stations are classified as radio broadcast stations. Business concerns included in this industry are those primarily engaged in broadcasting aural programs by radio to the public. The SBA has established a small business size standard for this category as firms having \$38.5 million or less in annual receipts. Given the nature of the LPFM service, in which parties are generally not permitted to have other broadcast interests and eligibility is limited to non-profit organizations, governments, and tribal applicants, we will presume that all LPFM licensees and applicants qualify as small

entities under the SBA definition. As of June 30, 2019, there are 2,178 licensed LPFM stations. In addition, there is one pending application from the 2013 LPFM filing window. This estimate may overstate the number of potentially affected licensees because existing LPFM stations that do not seek to modify their facilities would not be affected. The estimate may also be an overstatement because some of the proposals would affect only stations to be located in particular geographic regions, in certain topography, or on certain channels. With respect to applicants in future filing windows, we anticipate that we will receive a number of applications similar to past filing windows and that all applicants will qualify as small entities. The last LPFM filing window in 2013 generated approximately 2,827 applications.

23. *Noncommercial Educational (NCE) FM Radio Stations.* The proposed elimination of Channel 6 protection policies could apply to NCE FM radio broadcast licensees, and potential licensees of NCE FM radio service. The same SBA definition of \$38.5 million in annual receipts applies to NCE FM stations. Radio stations that the Commission would consider commercial, as well as those it would consider NCE stations, are included in this industry. A Commission staff review of the BIA Publications, Inc., Master Access Radio Analyzer Database reflects that as of June 8, 2017, all 4,404 (100 percent) of radio stations operating as noncommercial have revenues of \$38.5 million or less and thus qualify as small entities under the SBA definition. Of these, no more than 4,139 authorized stations are potentially affected by the proposals because they are licensed as NCE stations, whereas BIA data also includes stations that are not licensed as NCE stations but choose to operate with a noncommercial format. The estimate may overstate the number of potentially affected licensees because Channel 6 protections apply

only to stations operating in the reserved band (Channels 201 through 220), whereas the numbers include non-reserved band stations that would not be affected. The estimate may also overstate the number of small entities because in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate considers each station separately and does not include or aggregate revenues from affiliated organizations or from commonly controlled stations.

24. As noted above, an element of the definition of “small business” is that the entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific radio station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any radio station from the definition of a small business on this basis and therefore may be over-inclusive to that extent. Also, as noted, an additional element of the definition of “small business” is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

25. Channel 6 Television Stations. The proposed elimination of Channel 6 protection would affect Television Broadcasting firms that continue to operate on analog Channel 6. This economic Census category “comprises establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public.” The SBA defines Television Broadcasting firms as small businesses if they have \$38.5 million or less in annual receipts. The 2012 economic Census reports that 751

television broadcasting firms operated during that year. Of that number, 656 had annual receipts of less than \$25 million per year. Based on that Census data we conclude that a majority of firms that operate television stations are small. The proposal would affect only television stations that operate on Channel 6 and that have not transitioned to digital operations. Approximately nine full-power television stations and about 117 LPTV and TV translator stations (54 analog and 63 digital) currently operate on Channel 6. The lower powered television stations are scheduled to transition to digital by July 13, 2021. Ten additional low power television stations that were displaced by an Incentive Auction process hold permits to move to Channel 6 in the future, but those operations will be digital rather than analog. We will presume that all of these remaining Channel 6 television stations are small businesses.

26. *FM Translator Stations.* FM translator stations operating in the reserved band would be affected by the proposed elimination of their protection to television stations operating on Channel 6. FM translators would continue to protect previously-filed LPFM applications and previously authorized LPFM stations. To the extent that proposals other than Channel 6 may alter the numbers and locations of LPFM facilities that FM translator licensees and proposed licensees must protect, the proposals could affect FM translator stations. The same \$38.5 million SBA definition that applies to radio broadcast licensees applies to FM translator stations. There are 8,126 licensed FM translator and booster stations and we will presume that each is a small business. There are no remaining FM translator applications from the 2003 filing window, but there are eight applications from that window which were disposed but remain under appeal. There are six pending FM translator applications from the 2017 Auction 99 window as well as three applications

from that window which were disposed of but are under appeal. There are 26 pending FM translator applications from the 2018 Auction 100 window. Seven others from that window were disposed of and are under appeal. We will presume that each applicant with an unresolved application is a small entity.

27. The proposals could also affect future FM translator applicants. We anticipate that in future filing windows we will receive a number of applications similar to past filing windows and that all applicants will qualify as small entities. The 2003 FM translator filing window generated approximately 13,303 applications. The 2017 Auction 99 and 2018 Auction 100 windows, which were limited to applicants that are also licensees of AM radio stations, generated 1081 and 874 applications respectively.

28. The above-referenced estimates of licensed and future FM translator stations may overstate the number of small entities affected. The number of licensed stations includes boosters, which will not be affected. It may also be an overstatement because the proposals will only affect an existing FM translator if it must protect a previously LPFM station as part of a modification of the translator's facilities. The estimate may also overstate the number of small entities because in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate considers each station separately and does not include or aggregate revenues from affiliated organizations or from commonly controlled stations.

29. An additional element of the definition of "small business" is that the 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 radio station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the proposed rules may

apply does not exclude any radio station from the definition of a small business on this basis and therefore may be over-inclusive to that extent. Also, as noted, an additional element of the definition of “small business” is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities, and our estimates of small businesses to which they apply may be over-inclusive to this extent.

30. The proposed rule and procedural changes may, in some cases, impose different reporting requirements on LPFM applicants for new and modified facilities. Applicants will be able to demonstrate that their proposals are “minor” by submitting a different type of showing as an alternative to the current requirement. The NPRM also proposes to allow cross-ownership of LPFM stations and FM boosters. Stations choosing to own boosters would include the booster on bi-annual ownership reports. We expect this additional burden with respect to ownership reports for boosters to be minimal because LPFM stations would generally not choose to operate a booster unless they are experiencing unique terrain issues and because the report of booster ownership would be part of the same form the licensee would already be filing for its co-owned primary station. The NPRM proposes that LPFM applicants authorized to use directional antennas implement safeguards to prevent interference and submit that information to the Commission. We expect this additional burden concerning directional antennas to be minimal because it will affect only a small portion of LPFM applicants, primarily those constructing stations near the borders with Canada and Mexico.

31. *Steps Taken to Minimize Significant 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 or reporting requirements under the rule for 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.

32. In the NPRM, the Commission seeks comment on its proposal to assist LPFM broadcast stations and applicants by providing them with additional options that could increase coverage and choice of sites. The proposals, if adopted, would enable LPFM organizations: (1) To use directional antennas including custom and composite antennas; (2) to eliminate or modify protection of television stations operating on analog channel 6; (3) to use lack of contour overlap as an additional way to demonstrate that a proposed LPFM modification qualifies as a “minor change” that does not require awaiting an application filing window; and (4) to retransmit LPFM signals over booster stations. The Commission seeks comment as to whether its goals of improving LPFM service to the public without negative impact on other FM listeners can be accomplished effectively through these means. The Commission recognizes that the TV6 proposal, which seeks to assist LPFM, NCE, and FM translator stations, also eliminates or modifies a current protection for television stations operating on Channel 6 which are also small entities. We believe that any potential negative impact on such television stations is minimal because full power TV6 stations transitioned to digital operations in 2009; there has been a lack of interference complaints from current full power digital TV6 stations since the transition;

and low power television stations on TV6 are scheduled to transition by July 13, 2021. Further, digital television receivers are more selective than the analog equipment that existed when the Commission adopted the TV6 protection requirement. Nevertheless, the Commission does not propose complete elimination of TV6 protections until July 13, 2021, the date by which the remaining stations are scheduled to transition to digital. In the interim, the Commission would provide alternative protections such as allowing FM applicants to demonstrate no contour overlap with TV6 television station (and, thus, no likely interference) or to reach agreements with TV6 television stations without regard to any contour overlap. The NPRM requests comment on the effect of the proposed rule changes on all affected entities. The Commission is open to consideration of alternatives to the proposals under consideration, as set forth herein, including but not limited to alternatives that will minimize the burden on LPFM broadcasters, virtually all of whom are small businesses, as well as TV6 broadcasters that are small entities. Retaining some or all of the existing process is also an alternative. There may be unique circumstances these entities may face, and we will consider appropriate action for small broadcasters when preparing a *Report and Order* in this matter.

33. *Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rule.* None.

Ex Parte Rules

34. *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. Ex parte presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are

generally prohibited. 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 section 1.1206(b) of the rules. In proceedings governed by section 1.49(f) of the rules 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.

Filing Procedures

35. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the

dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
 - Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

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

Ordering Clauses

36. It is ordered that pursuant to sections 1, 2, 4(i), 301, 303, 307, 316, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 301, 303, 307, 316, and 403, and sections 1.407 and 1.411-19 of the Commission's rules, 47 CFR 1.407, 1.411-19, the Petition for Rulemaking filed by REC Networks is granted to the extent discussed herein and this Notice of Proposed Rule Making is adopted.

37. It is further ordered that the proceeding in RM No. 11810 is terminated.

38. It is further ordered that the Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration, and shall cause it to be published in the Federal Register.

List of Subjects in 47 CFR Parts 73 and 74

Telecommunications

Radio Broadcast Services

Noncommercial Educational FM Broadcast Stations

Low Power FM Broadcast Stations

Experimental Radio, Auxiliary, Special Broadcast, and Other Program Distributional
Services

FM Broadcast Translator Stations and FM Broadcast Booster Stations

FEDERAL COMMUNICATIONS COMMISSION

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Federal Register Liaison Officer.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 73 and 74 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, and 339.

- 2. In §73.525, revise the introductory text to read as follows:

§73.525 TV Channel 6 protection.

The requirements of this section will sunset on July 13, 2021. Until that date, the provision of this section will apply to all applications for construction permits for new or modified facilities for an NCE-FM station on Channels 200-220, unless the application is accompanied by a written agreement between the NCE-FM applicant and each affected TV Channel 6 broadcast station concurring with the proposed NCE-FM facilities.

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- 3. In § 73.807, add paragraph (g)(5) to read as follows:

§73.807 Minimum distance separation between stations.

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(g) * * *

(5)(i) LPFM stations located within 125 kilometers of the Mexican border are limited to 50 watts (0.05 kW) ERP, a 60 dBu service contour of 8.7 kilometers and a 34 dBu interfering contour of 32 kilometers in the direction of the Mexican border. LPFM stations may operate up to 100 watts in all other directions.

(ii) LPFM stations located between 125 kilometers and 320 kilometers from the Mexican border may operate in excess of 50 watts, up to a maximum ERP of 100 watts. However, in no event shall the location of the 60 dBu contour lie within 116.3 kilometers of the Mexican border.

(iii) Applications for LPFM stations within 320 kilometers of the Canadian border may employ an ERP of up to a maximum of 100 watts. The distance to the 34 dBu interfering contour may not exceed 60 kilometers in any direction.

4. In §73.810, revise paragraphs (a)(1) introductory text and (a)(1)(iii) to read as follows:

§73.810 Interference.

(a) ***

(1) Such an LPFM station will not be permitted to continue to operate if it causes any actual third-adjacent channel interference to:

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(iii) The direct reception by the public of the off-the-air signals of any full-service station or previously authorized secondary station. Interference will be considered to occur whenever reception of a regularly used signal on a third-adjacent channel is impaired by the signals radiated by the LPFM station, regardless of the quality of such reception, the strength of the signal so used, or the channel on which the protected signal is transmitted.

5. In §73.816, revise paragraphs (b), (c), and (d) to read as follows:

§73.816 Antennas.

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(b) Directional antennas generally will not be authorized and may not be utilized in the LPFM service, except as provided in paragraphs (c) and (d) of this section.

(c) The following may use directional antennas in the LPFM service:

(1) Public safety and transportation permittees and licensees, eligible pursuant to §73.853(a)(2), in connection with the operation of a Travelers' Information Service (TIS).

(2) LPFM permittees and licensees proposing a waiver of the second-adjacent channel spacing requirements of §73.807 may utilize directional antennas for the sole purpose of justifying such a waiver.

(3) LPFM permittees and licensees proposing operation within 320 kilometers of the Mexican or Canadian border in accordance with §73.807(g)(5) of this subpart.

(d) Use of directional antennas in the LPFM service is subject to the following standards:

(1) Composite antennas and antenna arrays may be used where the total ERP does not exceed the maximum determined in accordance with §73.811(a) of this subpart.

(2) Either horizontal, vertical, circular or elliptical polarization may be used provided that the supplemental vertically polarized ERP required for circular or elliptical polarization does not exceed the ERP otherwise authorized. Either clockwise or counterclockwise rotation may be used. Separate transmitting antennas are permitted if both horizontal and vertical polarization is to be provided.

(3) All applications must comply with §73.316, paragraphs (d) and (e) of this chapter.

(4) An application that specifies the use of a directional antenna must provide the information identified in §73.316(c) of this subpart.

6. In §73.825, add introductory text to read as follows:

§73.825 Protection to reception of TV channel 6.

The requirements of this section will sunset on July 13, 2021.

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7. In §73.860, revise paragraph (b) to read as follows:

§73.860 Cross-ownership.

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(b) A party that is not a Tribal Applicant, as defined in §73.853(c), may hold attributable interests in one LPFM station and no more than two FM translator stations, two FM booster stations, or one FM translator station and one FM booster station provided that the following requirements are met:

(1) The 60 dBu contour of the LPFM station overlaps the 60 dBu contour of the commonly-owned FM translator and booster station(s);

(2) The FM translator and/or booster station(s), at all times, synchronously rebroadcasts the primary analog signal of the commonly-owned LPFM station or, if the commonly-owned LPFM station operates in hybrid mode, synchronously rebroadcasts the digital HD-1 version of the LPFM station's signal;

(3) The FM translator station receives the signal of the commonly-owned LPFM station over-the-air and directly from the commonly-owned LPFM station itself. The FM booster station receives the signal of the commonly-owned LPFM station by any means authorized in §74.1231(i);

(4) The transmitting antenna of the FM translator and/or booster station(s) is located within 16.1 kilometers (10 miles) for LPFM stations located in the top 50 urban markets and 32.1 kilometers (20 miles) for LPFM stations outside the top 50 urban markets of either the transmitter site of the commonly-owned LPFM station or the reference coordinates for that station's community of license; and

(5) The 60 dBu service contour of the FM booster station(s) must remain entirely within the 60 dBu service contour of the commonly-owned LPFM station.

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8. In §73.870, revise paragraph (a) to read as follows:

§73.870 Processing of LPFM broadcast station applications.

(a) A minor change for an LPFM station authorized under this subpart is limited to transmitter site relocations not exceeding 5.6 kilometers or where the 60 dBu contour of the authorized facility overlaps the 60 dBu contour of the proposed facility. These distance limitations do not apply to amendments or applications proposing transmitter site relocation to a common location filed by applicants that are parties to a voluntary time-sharing agreement with regard to their stations pursuant to § 73.872(c) and (e). These distance limitations also do not apply to an amendment or application proposing transmitter site relocation to a common location or a location very close to another station operating on a third-adjacent channel in order to remediate interference to the other

station; provided, however, that the proposed relocation is consistent with all localism certifications made by the applicant in its original application for the LPFM station.

Minor changes of LPFM stations may include:

(1) Changes in frequency to adjacent or IF frequencies (+/- 1, 2, 3, 53 or 54 channels) or, upon a technical showing of reduced interference, to any frequency;
and

(2) Amendments to time-sharing agreements, including universal agreements that supersede involuntary arrangements.

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9. In §73.871, revise paragraph (c)(1), and remove and reserve paragraph (c)(2).

The revision reads as follows:

§73.871 Amendment of LPFM broadcast station applications.

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(c) * * *

(1) Site relocations of 5.6 kilometers or less, and site relocations that involve overlap between the 60 dBu service contours of the currently authorized and proposed facilities;

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

10. The authority citation for part 74 continues to read as follows:

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

11. In §74.1201, revise paragraph (f) and add paragraph (k) to read as follows:

§74.1201 Definitions.

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(f) *FM broadcast booster station.* A station in the broadcasting service operated for the sole purpose of retransmitting the signals of an FM radio broadcast station, by amplifying and reradiating such signals, without significantly altering any characteristic of the incoming signal other than its amplitude. Unless specified otherwise, this term includes LPFM boosters as defined in paragraph (k) of this section.

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(k) *LPFM booster.* An FM broadcast booster station as defined in paragraph (f) of this section that is commonly-owned by an LPFM station for the purpose of retransmitting the signals of the commonly-owned LPFM station.

12. In §74.1205, revise the introductory text to read as follows:

§74.1205 Protection of channel 6 TV broadcast stations.

The requirements of this section will sunset on July 13, 2021. Until that date, the provisions of this section apply to all applications for construction permits for construction permits for new or modified facilities for a noncommercial educational FM translator station on Channels 201-220, unless the application is accompanied by a written agreement between the NCE-FM translator applicant and each affected TV

Channel 6 broadcast station licensee or permittee concurring with the proposed NCE-FM translator facility.

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13. In §74.1263, revise paragraph (b) to read as follows:

§74.1263 Time of operation.

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(b) A booster station rebroadcasting the signal of an AM, FM or LPFM primary station shall not be permitted to radiate during extended periods when signals of the primary station are not being retransmitted. Notwithstanding the foregoing, FM translators rebroadcasting Class D AM stations may continue to operate during nighttime hours only if the AM station has operated within the last 24 hours.

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14. In §74.1283, revise paragraph (b) to read as follows:

§74.1283 Station identification.

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(b) The call sign of an FM booster station or LPFM booster will consist of the call sign of the primary station followed by the letters “FM” or “LP” and the number of the booster station being authorized, e.g., WFCCFM-1 or WFCCLP-1.

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§74.1290 [Removed and Reserved]

15. Remove and reserve §74.1290.

[FR Doc. 2019-19744 Filed: 9/18/2019 8:45 am; Publication Date: 9/19/2019]