



FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[MB Docket Nos. 20-401, 17-105; RM-11854; FCC 20-166; FRS 17341]

FM Broadcast Booster Stations; Modernization of Media Initiative

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document the Federal Communications Commission proposes to amend its rules to enable FM broadcasters to use FM booster stations to air geo-targeted content (e.g., news, weather, and advertisements) independent of the signals of its primary station within different portions of the primary station's protected service contour for a limited period of time during the broadcast hour.

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 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by MB Docket No. 20-401, by any of the following methods:

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS) at:
<http://apps.fcc.gov/ecfs/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington DC 20554
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.
- During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.
- 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).

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: Albert Shuldiner, Audio Division, Media Bureau at Albert.Shuldiner@fcc.gov or 418-2721, or James Bradshaw, Audio Division, Media Bureau at James.Bradshaw@fcc.gov or (202) 418-2739. 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 notice of proposed rulemaking (*NPRM*), MB Docket Nos. 20-401, 17-105; RM-11854; FCC 20-166,

adopted on November 20, 2020, and released on December 1, 2020. Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

Initial Paperwork Reduction Act of 1995 Analysis

The *NPRM* in document FCC 20-166 seeks comment on whether the Commission should adopt new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens and pursuant to the Paperwork Reduction Act of 1995, Public Law 104-13, invites the general public and the Office of Management and Budget (OMB) to comment on these information collection requirements. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Synopsis of Notice of Proposed Rulemaking

1. Traditionally, an FM broadcast station transmits its signal from a single, elevated transmission site central to its protected service contour. The FM booster service – a low power secondary service in the FM broadcast band – was created in 1970 to allow FM stations to improve signal strength within their authorized service contour. Booster stations were designed to address gaps in coverage, such as those caused by distance or terrain shielding. FM booster stations are only licensed to the licensee of the primary station, must operate on the same frequency as the primary station, and are limited to rebroadcasting the signal of the primary station (i.e., no transmission of original content). As a secondary service, FM booster stations are not permitted to cause adjacent-channel interference to other primary services or previously-authorized secondary stations. The Commission's rules also address interference to the primary station caused by the booster station.

2. *Petition for Rulemaking.* On March 13, 2020, GeoBroadcast filed a petition for rulemaking seeking to amend § 74.1231(i) of the Commission’s rules to permit FM booster stations to transmit original content for a limited period during the broadcast hour. This “geo-targeted” content would only be available in the specific part of the primary station’s protected service contour served by the booster station; outside of the permitted transmission periods, the booster would continue to retransmit the primary station’s signal. Under the proposal, the booster station’s programming would have to be “substantially similar” to the primary station’s programming. Petitioner clarified that in order to be substantially similar, the booster station would be required to retransmit the same content as the primary station except for advertisements, promotions for upcoming programs, and enhanced capabilities including hyper-localized content, and to limit transmission of such original content to 5 percent of the broadcast hour. Petitioner asserts that this proposal would not cause adjacent-channel interference and that technology has developed such that FM booster stations can be sufficiently synchronized with the primary station to avoid harmful self-interference. Petitioner claims that only a targeted change to § 74.1231(i) is necessary to facilitate this proposal—which does not seek any changes to the rules regarding primary stations or FM translators—and that the proposed booster station operation is compatible with all existing interference rules.
3. On April 2, 2020, the Consumer and Governmental Affairs Bureau issued a public notice seeking comment on the Petition. The Petition garnered significant public participation.
4. Most commenters supported the Petition, although some raise concerns that they assert should be addressed in this proceeding. For example, commenters raised concerns about potential interference and limitations to the proposed technology (i.e., the Petitioner’s geo-targeting technology currently only works with analog FM service and may disrupt digital audio broadcasting). Other commenters stated that they support the Petition because it would permit minority-owned stations to better serve their communities. Other commenters raised

concerns with the lack of real-world testing, stating that the existing testing is insufficient to prove that geo-targeted programming does not cause self-interference and would not cause confusion among radio listeners, and cautioning the Commission not to rush forward.

5. In its reply, Petitioner asserted that its existing testing regime provides a sufficient basis upon which to proceed to a NPRM. Petitioner also notes the level of support from radio broadcasters, notwithstanding some objections, and highlights the potential public interest benefits of the proposed rule change, including advancing localism, supporting minority-owned broadcasters, providing emergency alert capability, and helping radio broadcasters compete in the current challenging environment.
6. *Discussion.* The Commission seeks comment on whether – and if so, how – to change the FM booster station rules to permit FM boosters to transmit original geo-targeted content. First, the Commission seeks comment on technical issues, such as whether permitting FM boosters to transmit original geo-targeted content may result in self-interference that would be disruptive to listeners and whether there are alternatives to the Petitioner’s proposal, including conforming changes to other Commission rules, that the Commission should consider. Second, the Commission seeks comment on whether to require programming originated by the FM booster station to be “substantially similar” to the primary station’s programming, and how to define this term. Finally, the Commission seeks comment on potential public interest implications if it permits FM boosters to transmit original geo-targeted content, including the impact, if any, on localism, diversity, and competition in the media marketplace, and any attendant costs and benefits. The Commission also asks for comment on the effect of these proposals on small entities and seeks comment as to alternatives that would minimize burdens on such small entities.
7. *Technical Operation -- Interference Issues.* The Commission seeks comment on whether permitting FM boosters to transmit original geo-targeted content would result in additional interference, either to the primary station or to other broadcast stations serving the same area.

The Petition asserts that the only interference-related impact of its proposed rule change would be self-interference with the primary station where the FM booster station and the primary station contours meet, rather than adjacent-channel interference between broadcasters and therefore, it would be incumbent upon the stations using FM booster stations to originate programming to manage the self-interference to ensure that service to its community was not degraded. The NPRM asks if this assessment is accurate? Is it reasonable to expect stations to adequately manage self-interference without additional guidance or mandates, and what is the likely financial impact of managing any self-interference? The Commission's existing rules do not require FM booster stations to protect second adjacent stations from interference. Should the Commission impose second adjacent channel interference protection requirements for FM booster stations? What would be the correct protection requirements to impose? Should second adjacent channel interference protection requirements apply to all FM booster stations or only those using multiple boosters to provide geo-targeted content? To the extent FM booster stations result in interference to other stations, are the Commission's existing rules and procedures able to sufficiently address the interference? Do the proposed booster operations pose a distinct threat to other types of stations, such as LPFM or HD Radio broadcasters?

8. Should FM stations utilizing booster stations for geo-targeted programming be required to provide notice to other local broadcasters and/or the public to help identify potential sources of interference? If so, how should the Commission structure the notice? Should other stations or listeners be permitted to raise concerns immediately based on the potential for interference or must they wait and only report actual interference? What are the costs and benefits associated with any proposed notice requirement?
9. Petitioner acknowledges that, while an FM booster station is broadcasting different content from its primary station, self-interference is possible. The NPRM asks what is the likely impact of self-interference on listeners? Could such interference significantly degrade the

quality of service on the FM band? What would the listener experience as they moved between zones broadcasting different content or if they otherwise were located near the boundary between two zones? Could there be circumstances in which a listener travelling in an automobile moves from a booster zone to the primary zone and then to another booster zone in quick succession? How would these sudden, repeated changes impact the listening experience? Should the Commission restrict the protected service contour, size, or proximity of booster “zones” to address self-interference concerns? What impact could any increase in self-interference have on emergency broadcasts being transmitted from the primary station? Will broadcasters be sufficiently incentivized to address self-interference concerns if it means potentially forfeiting additional revenue from geo-targeted advertising or should the Commission consider additional interference restrictions?

10. To help prevent potential self-interference, should the Commission place a limit on the number of FM boosters that can be associated with a primary station for purposes of geo-targeted programming? If so, the Commission seeks comment on the appropriate cap and the reasoning supporting any such cap. Should certain types of stations be exempt from the restriction, and, if so, how should the Commission determine which stations are exempt? Should the Commission consider changes to § 74.1204(i) to better protect first-adjacent channel stations? Also, does the likely increase in the number of authorized FM booster stations warrant a new rule that provides predicted protections for co-channel stations?
11. Should the Commission adopt any additional rules or guidelines to address instances of self-interference? For example, should a station be required to shut down a booster station offering geo-targeted programming upon the filing of an interference complaint until the station can prove it has eliminated the interference? How many separate interference complaints should be filed before resolution is required? What should be included in these complaints? The Commission seeks comment generally on how to structure such a complaint process.

12. From a consumer electronics standpoint, will the impact of self-interference be the same for all radios? The Commission seeks comment from receiver manufacturers, retailers, and/or auto manufacturers regarding the extent to which they are concerned about consumer confusion and whether such confusion is likely to result in warranty claims and/or equipment returns.
13. Finally, have the previous experimental operations provided the Commission with enough information upon which to identify and address interference concerns? If not, what additional information or testing is necessary? The Commission seeks comment generally on these issues.
14. *FM Booster Station Rules.* Consistent with the proposal in the Petition, the Commission seeks comment on whether to change § 74.1231(i) of the Commission's rules, which applies to both commercial and noncommercial educational (NCE) FM stations. If the Commission were to modify that rule, would any conforming changes be needed to other Commission rules? For example, would § 74.1201(f) need to be revised to reflect the fact that FM booster stations would no longer be limited to retransmitting the signal of the primary station? Are there any changes to power limitations under § 74.1235 that we should consider for booster stations that will air geo-targeted content? Should any changes be made to the FM booster station application process under § 74.1233 for boosters that will air geo-targeted content? How should we deal with mutually exclusive FM booster station applications (e.g., two proposed booster stations that are short-spaced under § 74.1204(g))? Additionally, as noted above, the proposed rule change to § 74.1231(i) would apply to commercial and NCE FM stations. The NPRM asks if there is any reason to restrict the ability to offer geo-targeted programming to commercial stations? Conversely, should we also permit LPFM stations to offer geo-targeted programming via FM booster stations? What rules would need to be revised to facilitate this change?

15. How might permitting FM boosters to transmit original geo-targeted content impact demand for FM booster stations? What variables influence the number of boosters necessary to support geo-targeted programming? Will an increase in FM booster stations result in an increase to the noise floor in the FM band that would be detrimental to the quality of the FM service? Should the Commission limit the number of FM boosters that can be used for geo-targeted programming in order to address noise-floor issues? Should such limits apply as an aggregate cap across all FM licensees in a market and/or a limit on the number of booster stations that can be associated with a primary station? If the Commission adopts any such limitation, what measures should it take to ensure that broadcasters that do not currently have FM booster stations, especially small, independent, women, and minority station owners, have a meaningful opportunity to provide geo-targeted programming?
16. At present, FM booster station applications can be filed at any time, without limitation on the number of boosters associated with a primary station. If the Commission permits FM boosters to transmit original geo-targeted content, should the Commission consider one or more special filing windows for certain types of stations to ensure equitable and timely access to FM booster station licenses? Is the anticipated demand for additional booster stations such that the Commission's existing processing capabilities would be insufficient to meet demand? If so, which stations should be able to participate in these early filing windows? How should the Commission assess which stations may need and benefit from such a process? The Commission seeks comment generally on these issues.
17. The Petition focuses on geo-targeted programming on FM radio based on FM booster station technology developed by Petitioner. Would the proposed rule change limit other companies from developing similar geo-targeting technology using FM booster stations? If so, what changes would be necessary to ensure competition in the delivery of such geo-targeting solutions?

18. The Commission notes that the FM booster station rules were originally adopted to address signal quality issues caused by distance from the main transmitter site and/or terrain shielding. The proposed use of boosters to provide geo-targeted programming would not be based on such considerations, however. How should this impact the Commission's assessment of the proposal?
19. *HD Radio*. It is the Commission's understanding that, at present, geo-targeting technology is only compatible with analog broadcasts; accordingly, the Commission lacks any testing data on the operation of geo-targeted programming by HD Radio broadcast stations. If the intent is to expand this service offering to HD Radio stations, what is the impact of the change in programming on the advanced features of the HD Radio signal? Would the booster station only replace the content on the HD1 channel or would it also (and simultaneously) change programming on the HD2/HD3/HD4 channels? How does this impact the scrolling information the receiver displays? Is the expense associated with an HD Radio system similar to the analog equipment? The Commission acknowledges that there may be insufficient information upon which to address these questions at this time. How should the Commission address potential HD Radio operation in the absence of such information? What other issues should we consider in this context?
20. *Substantially Similar Programming*. For purposes of determining whether a booster may originate programming, the Commission seeks comment on whether to require the FM booster station to air content that is "substantially similar" to the content on the primary channel. What would the purpose of such a requirement be and what would be the consequences of not adopting such a requirement? Should "substantially similar" mean that the programming must be the same except for advertisements, promotions for upcoming programs, and enhanced capabilities including hyper-localized content? Do licensees need additional guidance as to the types of original programming that are permitted within the categories of "advertisements, promotions for upcoming programs, and enhanced

capabilities?” Should the Commission expand or contract on these categories? Is it necessary to include any other aspects of the substantially similar requirement in the ATSC 3.0 context, such as that any programming required to be retransmitted from the primary station must be aired at the same time to satisfy the rule?

21. The Commission also seeks comment on whether there should be any differences in the definition of substantially similar programming as between commercial and NCE FM stations, in particular in the categories of original programming that are permitted.
22. For purposes of determining whether an FM booster station’s programming is substantially similar to its primary station, GeoBroadcast recommended a time limit for original programming of 5 percent of the broadcast hour (i.e., three minutes). The Commission seeks comment on whether to adopt the 5 percent limitation. Are there other alternatives should be considered? The Commission encourages parties addressing the time limit to discuss the potential impact of content origination on the existing rules and policies for licensing new stations. If any such limitation is generally appropriate, should the Commission provide for exceptions in emergency situations, where additional local information may be particularly valuable to listeners? What are the costs and benefits associated with any proposed time limits?
23. *Public Interest Benefits.* The Commission seeks comment on whether, and if so how, revising the FM booster station rules to permit original geo-targeted content would benefit listeners and broadcasters and otherwise serve the public interest. For example, the Petition claims that the rule change would promote localism by allowing FM radio stations to provide hyper-local news and alerts, weather, traffic, and advertising that would be particularly relevant to certain sectors of their protected service contour. The Commission seeks comment on these potential benefits and whether such services are consistent with the Commission’s localism goals. To the extent targeted advertising includes political content,

how would that impact the primary station's political file requirements, or any other requirements related to political advertisements?

24. The Petition also asserts that it would benefit small businesses and other local advertisers who may not be able to afford or be interested in buying advertisements to air in the station's entire market but who could be interested in more targeted ads. While not typically part of the Commission's public interest assessment, should it take into account the impact on small businesses and local advertisers in assessing the public interest benefits of the proposal? Would national advertisers also benefit from geo-targeted programming? The Petition further asserts that the proposal would generate additional economic opportunity for broadcasters at a time when many FM broadcasters are facing financial hardship. The Commission seeks comment on these issues, in particular on any economic benefits that small, independent, minority, and women owned FM station owners could derive from increased advertising opportunities.
25. The Commission seeks comment on whether the proposal is likely to have any impact on diversity, in particular on FM station ownership by minorities, women, and small businesses. Would the ability to geo-target content increase ownership opportunities for these underrepresented and diverse station owners in the FM service? What other specific opportunities would small, independent, minority, and women owned FM station owners gain if we authorize geo-targeting?
26. How would the proposed rule change affect competition among existing FM station owners, in particular those who currently operate FM booster stations and those who would need to secure a new FM booster license to implement geo-targeting? Does the voluntary nature of the proposed change, coupled with the availability of vendor financing for the transmission equipment necessary to implement geo-targeting, increase the likelihood that small, independent, or diverse station owners that seek to gain access to this technology will be able to do so? Does vendor financing of the transmission equipment raise any public interest

concerns or otherwise impact the existing rules? Are the costs associated with the proposal such that smaller broadcasters would be unable to deploy the technology absent vendor financing? Should cost concerns impact the Commission's decision whether to permit geo-targeted programming? Are there any special considerations for stations that are being operated pursuant to a sharing agreement (e.g., local marketing agreement)?

27. The Commission also seeks comment on whether the proposal could have a negative impact on listeners. For example, could interference issues reduce the effectiveness of emergency alerts? Could certain parts of the local market be ignored in favor of population clusters deemed more valuable to advertisers? What impact would geo-targeted programming have on underserved populations? How should the Commission balance any potential public interest benefits against any identified public interest harms and/or technical concerns?

PROCEDURAL MATTERS

28. *Paperwork Reduction Act*. This document seeks comment on whether the Commission should adopt new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens and pursuant to the Paperwork Reduction Act of 1995, Public Law 104-13, invites the general public and the Office of Management and Budget (OMB) to comment on these information collection requirements. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.
29. *Ex Parte Rules - Permit-But-Disclose*. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all

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

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

- 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.

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

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31. *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).

32. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

Initial Regulatory Flexibility Analysis.

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

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

34. The NPRM seeks comment on changes to the Commission's rules governing the use of FM booster stations by FM radio broadcasters. Traditionally, an FM broadcast station transmits its signal from a single, elevated transmission site central to its protected service contour. This results in a stronger signal near the transmitter and a weaker signal as the distance from the transmitter increases. Intervening terrain can also reduce signal strength, regardless of the distance from the transmitter. The FM booster service—a low power secondary service on the FM broadcast band—was created in 1970 to allow FM stations to improve signal strength within their authorized service contour. FM booster stations are only licensed to the licensee of the primary station, must operate on the same frequency as the primary station, and are limited to rebroadcasting the signal of the primary station (i.e., no transmission of original content). As a secondary service, FM booster stations are not permitted to cause adjacent-channel interference to other primary services or previously-authorized secondary stations. The Commission's rules also address interference to the primary station caused by the booster station. Many of the current FM booster station rules have not been significantly updated since the 1980s.

35. On March 13, 2020, GeoBroadcast Solutions LLC (GeoBroadcast or Petitioner) filed a petition for rulemaking seeking to amend § 74.1231(i) of the Commission’s rules to permit FM booster stations to transmit original content for a limited period of time during the broadcast hour. This “geo-targeted” content would only be available in the specific part of the primary station’s protected service contour served by the booster station; outside of these periods, the booster would continue to retransmit the primary station’s signal. Under the proposal, the content aired by the boosters must be “substantially similar” to the content aired by the primary station. The NPRM preliminarily defines “substantially similar” as programming must that is the same except for advertisements, promotions for upcoming programs, and enhanced capabilities including hyper-localized content (e.g., geo-targeted weather, targeted emergency alerts, and hyper-local news). Petitioner asserts that this proposal would not cause adjacent-channel interference and that technology has developed such that FM booster stations can be sufficiently synchronized with the primary station to avoid harmful self-interference. Petitioner claims that only a targeted change to § 74.1231(i) is necessary to facilitate this proposal—which does not seek any changes to the rules regarding primary stations or FM translators—and that the operation is compatible with all existing interference rules.

36. The NPRM seeks comment on whether to change the Commission’s FM booster station rules consistent with the proposal set forth in the Petition. We also seek comment on alternative approaches to permitting FM boosters to transmit original geo-targeted content. First, the NPRM seeks comment on technological issues, such as whether permitting FM boosters to transmit original geo-targeted content may result in self-interference that would be disruptive to listeners, degrade the quality of service on the FM band, cause interference and a distinct threat to particular types of stations, such as LPFM or HD Radio broadcasters stations, and whether there are alternatives to the Petitioner’s proposal, including conforming changes to other Commission rules, that the Commission should consider.

Second, the NPRM seeks comment on whether geo-targeted content should be substantially similar to the primary station's content, and how to define this term. Finally, the NPRM seeks comment on potential public interest benefits, including the impact, if any, on ownership diversity. Petitioner asserts that its proposal would benefit small businesses and other local advertisers who may not be able to afford or be interested in buying advertisements to air in the station's entire market but who could be interested in more targeted ads. The NPRM asks whether the Commission should take into account the impact on small businesses and local advertisers in assessing the public interest benefits of the proposal. Further the NPRM seeks comment on the costs associated with the proposal, such that smaller broadcasters would be unable to deploy the technology absent vendor financing, and whether such cost concerns should impact our decision.

B. Legal Basis

37. The proposed action is authorized pursuant to sections 1, 4, 7, 301, 302, 303, 307, 308, 309, 316, 319, and 324, of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 157, 301, 302, 303, 307, 308, 309, 316, 319, and 324.

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

38. 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.

39. *Radio Broadcasting.* Given the potential impact of the proposal to allow FM boosters to transmit original geo-targeted content, radio broadcasting stations may be affected by rule changes.
40. The U.S. Economic Census radio broadcasting category “comprises establishments primarily engaged in broadcasting aural programs by radio to the public.” Programming may originate in the establishment’s own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for this category: those having \$41.5 million or less in annual receipts. Census data for 2012 show that 2,849 firms in this category operated in that year. Of this number, 2,806 firms had annual receipts of less than \$25 million, 17 with annual receipts between \$24,999,999 and \$50 million, and 26 with annual receipts of \$50 million or more. Because the Census has no additional classifications that could serve as a basis for determining the number of stations whose receipts exceeded \$41.5 million in that year, we conclude that the majority of radio broadcast stations were small entities under the applicable SBA size standard.
41. Apart from the U.S. Census, the Commission has estimated the number of licensed AM radio stations to be 4,560 and the number of commercial FM radio stations to be 6,704, along with 8,339 FM translator and booster stations. Based on 2019 revenue data, 4,263 AM stations and 6,731 FM stations had revenues of \$41.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA). In addition, the Commission has determined the number of noncommercial educational (NCE) FM radio stations to be 4,196. NCE stations are non-profit, and therefore considered to be small entities. Therefore, we estimate that the majority of radio broadcast stations are small entities.
42. *Low Power FM Stations.* The same SBA definition that applies to radio stations applies to low power FM stations. As noted, the SBA has created the following small business size standard for this category: those having \$41.5 million or less in annual receipts. While the

U.S. Census provides no specific data for these stations, the Commission has estimated the number of licensed low power FM stations to be 2,143. Given the fact that low power FM stations may only be licensed to not-for-profit organizations or institutions that must be based in their community and are typically small, volunteer-run groups, we will presume that these licensees qualify as small entities under the SBA definition.

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

44. *Radio and Television Broadcasting and Wireless Communications Equipment*

Manufacturing. This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The SBA has established a small business size standard for this industry of 1,250 employees or less. U.S. Census Bureau data for 2012 shows that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees, and 6 establishments

operated with 2,500 or more employees. Based on this data, we conclude that a majority of manufacturers in this industry are small.

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

45. In this section, we identify the reporting, recordkeeping, and other compliance requirements proposed in the NPRM and consider whether small entities are affected disproportionately by any such requirements. As discussed above, the NPRM seeks comment on changes to the Commission's rules governing the use of FM booster stations by FM radio broadcasters. Providing geo-targeted programming as proposed in the NPRM would be voluntary. The NPRM does not propose any new mandatory reporting, recordkeeping, or compliance requirements for small entities, unless such entities, i.e., licensees, choose to use FM booster stations to provide geo-targeted programming. We note that the adoption of the proposed rule may require modification of current requirements and processes for entities that choose to provide geo-targeted programming, such as modification of FCC forms, including but not limited to, FCC Form 2100, Schedules 349 and 350. The NPRM thus will not impose additional obligations or expenditure of resources on small businesses unless they choose to acquire FM booster stations.
46. *Reporting Requirements.* The NPRM does not propose to adopt new reporting requirements.
47. *Recordkeeping Requirements.* The NPRM does not propose to adopt new recordkeeping requirements.
48. *Other Compliance Requirements.* The NPRM seeks comment on whether stations utilizing booster stations for geo-targeted programming should be required to provide notice to other local broadcasters and/or the public to help identify potential sources of interference. The NPRM seeks comment on the structure of such a notice, timeframe for providing such notice, if/how stations or listeners should be permitted to raise concerns, and the costs and benefits associated with any proposed notice requirement.

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

49. 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.
50. The NPRM seeks comment on a voluntary process by which FM broadcasters could utilize FM booster stations to offer geo-targeted content that may be of particular interest to listeners in certain areas within the station's service contour. Petitioner asserts that this would benefit broadcasters (large and small) and listeners alike, by promoting localism through hyper-local news and alerts, weather, traffic, and advertising that would be particularly relevant to certain sectors of their protected service contour. The Petition also asserts that it would not only generate additional economic opportunity for broadcasters at a time when many FM broadcasters are facing financial hardship, but also benefit small businesses and other local advertisers who may not be able to afford or be interested in buying advertisements to air in the station's entire market but who could be interested in more targeted ads.
51. The Commission considers in the NPRM specific steps it could take and significant alternatives to the proposed rules that could minimize potential economic impact on small entities that could be affected by the rule change proposed in the NPRM, as well as any other rule changes that may be required. Potential economic costs and burdens that could impact small businesses include, for example, interference arising from geo-targeted programming. Specifically, the Bureau considers as an alternative the possibility that the proposed operation may not result in interference to other broadcasters and has also

considered the possibility that existing rules are able to address such circumstances. The Bureau also considers ways to assist small entities that wish to engage in geo-targeted broadcasting, such as whether to open special filing windows for FM booster applications and, to the extent the Commission limits the number of booster stations a primary station may license, whether to exempt certain types of broadcasters from these limits.

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

52. None.

ORDERING CLAUSES

53. Accordingly, IT IS ORDERED that, pursuant to the authority contained in § 1.407 of the Commission's rules, 47 CFR 1.407, the Petition for Rulemaking of GeoBroadcast Solutions LLC IS GRANTED to the extent specified herein and the Petition for Rulemaking in RM-11659 IS DISMISSED.

54. Accordingly, IT IS ORDERED that, pursuant to the authority found in sections 1, 4, 7, 301, 302, 303, 307, 308, 309, 316, 319, and 324 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 157, 301, 302, 303, 307, 308, 309, 316, 319, and 324, this notice of proposed rulemaking IS ADOPTED.

55. IT IS FURTHER ORDERED that, pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on the notice of proposed rulemaking in MB Docket No. 20-166 on or before thirty (30) days after publication in the Federal Register and reply comments on or before sixty (60) days after publication in the Federal Register.

56. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this notice of proposed rulemaking, including the Initial Regulatory Flexibility Act Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene Dortch,
Secretary,
Office of the Secretary.

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