

showing service contours and/or main studio and transmitter location.¹²³ These documents must be retained for as long as they reflect current, accurate information about the station.

(v) Ownership Reports and related materials. We will require licensees to retain only the most recent, complete ownership report (FCC Form 323) and any statement certifying the continuing accuracy of the report, until replaced by a new, complete report.

(vi) List of contracts required to be filed with the FCC. We will give licensees the option either of retaining in the public file a copy of all contracts required to be filed with the FCC under §73.3613, as our rules currently require, or of retaining an up-to-date list identifying all such contracts. Licensees who choose this latter option will be required to provide copies of such contracts to requesting parties within seven days.

(vii) Political file. We are making no substantive changes to our current political file requirements.¹²⁴ We decline to reduce the current two-year retention period for records required to be maintained in the political file, as requested by at least one commenter.¹²⁵ These records are necessary to permit political candidates and others to verify that licensees have complied with their obligations relating to use of their facilities by candidates for political office. We are not persuaded that the current retention period is overly burdensome to licensees, and believe this retention period provides interested parties necessary and adequate access to these important records.

(viii) Annual employment reports and related material. We will require retention of all annual employment reports until grant of the next renewal application becomes final. The current rule requires retention of these reports for five years for radio licensees and seven years for TV licensees, based on the former license terms for these facilities.

(ix) "The Public and Broadcasting" manual. We will require licensees to maintain in the public file an updated version of this manual, to be prepared by the FCC staff.

(x) Letters from the public. As under the current rule, commercial licensees will be required to retain for a period of three years written comments and suggestions received from the public regarding operation of their station. The revised rule will clarify that the rule extends to e-mail communications as well as letters, and will relieve commercial TV licensees of their current obligation to separate letters into programming and non-programming subject categories. For reasons of clarity, the rules governing retention of letters from the public (currently in §73.1202 of our rules) will be incorporated into our public file rule for commercial stations (§73.3526 of our rules).

¹²³ We note that we have proposed in our *Streamlining NPRM* certain revisions to our rules governing contour overlap maps required to be submitted in connection with radio and TV applications. See *Streamlining NPRM, supra* n. 112, at ¶¶34, 41.

¹²⁴ As discussed above, we will correct the cross-reference in Sections 73.3526(a)(4) & (e) and 73.3527(a)(4) & (e) of the local public inspection file rules to the rule section governing a licensee's political file. The current rule incorrectly cross-references Section 73.1940 of the rules; the revised rule correctly references Section 73.1943.

¹²⁵ Comments of Crawford at p. 7 (advocating reducing retention period from 2 years to 90 days after an election).

(xi) Material relating to FCC investigation or complaint. As under the current rule, licensees will be required to retain material relating to a matter which is the subject of an FCC complaint or investigation until the licensee is notified by the FCC that the material may be discarded.¹²⁶ The current rule will be revised, however, to delete the requirement that licensees retain materials related solely to private disputes, as the FCC does not involve itself in such disputes.

(xii) Issues/programs list. Sections 73.3526(a)(8)(i) and 73.3527(a)(7) require licensees to prepare a quarterly issues/programs list that must be retained in the public file for the term of the license (5 or 7 years under the current rule, based on the former license term). The new rule will require retention of such lists until grant of the next renewal application becomes final.

(xiii) Records regarding children's programming commercial limits. The revised rule requires retention of such records until grant of the next renewal application becomes final, which is the revised retention period for children's television programming reports. The current rule is unclear, requiring retention of "records sufficient to permit substantiation of the station's certification, in its license renewal application, of compliance..." with the commercial limits.¹²⁷

(xiv) Children's Television Programming Reports. The revised rule will require retention of such reports until final grant of the next renewal application. The current rule has a five-year retention period, based on the former license term.

(xv) Local public notice announcements. As under our current rules, applicants for renewal of license must retain in the public file a copy of the local public notice of filing announcement required by § 73.3580 of the rules, which must be retained for the same period of time as the renewal application.

(xvi) Radio time brokerage agreements. The revised rule requires retention of such agreements in the public file until the contract expires. The current rule has not been updated to reflect the specification of this retention period in the 1992 radio ownership rule *Report and Order*.¹²⁸

(xvii) Must-carry or retransmission consent election. As under our current rules, statements of a commercial TV station's election with respect to either must-carry or retransmission consent must be retained for the duration of the three year election period to which the statement applies.

55. Noncommercial Educational Stations. Section 73.3527 of our rules governing public

¹²⁶ See 47 C.F.R. §§ 73.3526(e)(2)(ii); 73.3527(e)(2)(ii).

¹²⁷ 47 C.F.R. § 73.3526(a)(8)(ii). The revised rule will also clarify that commercial records must be placed in the station's public file no later than the tenth day of the quarter following the quarter in which the programming aired. See *Memorandum Opinion and Order, Policies and Rules Concerning Children's Television Programming, Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations*, MM Docket Nos. 90-570 and 83-670, 6 FCC Rcd 5093, 5097 (1991).

¹²⁸ See *Report and Order, Radio Broadcast Services*, MM Docket No. 91-140, 57 Fed. Reg. 18089 (1992). See also 47 C.F.R. § 73.3526 Effective Date Note 1.

file requirements for noncommercial educational stations is very similar to the rule for commercial stations, and we have made the applicable revisions discussed above to both rules. In addition, we have made the following revisions to the rule relating to noncommercial educational stations.

56. Letters from the public. Currently, unlike commercial licensees, noncommercial educational stations are not required to retain letters from the public regarding operation of the station. In the *NPRM*, we noted that the 1996 Telecommunications Act requires licensees to summarize in their renewal applications letters received from the public and maintained by the licensee regarding violent programming.¹²⁹ As noncommercial licensees are not presently required to retain letters from the public, public television commenters sought guidance regarding the obligations of noncommercial licensees to retain letters regarding violent programming.¹³⁰ We have concluded that such licensees may retain letters from the public if they choose, but we will not require them to do so. The issue of violent programming has almost exclusively been raised in connection with programming aired by commercial television licensees. In light of our overall goal of streamlining public file obligations where appropriate, we do not believe it is necessary to require noncommercial television licensees to retain letters regarding violent programming or other programming issues.¹³¹ However, we will require that all noncommercial television licensees include in their renewal applications a summary of any letters they receive regarding violent programming. We believe that this requirement is appropriate in light of Congress' concern with the issue of violent programming, and will help ensure that the Commission and the public are kept informed of concerns raised by the public about such programming on both commercial and noncommercial stations.

57. Ownership Reports. We will revise Section 73.3527 to require that noncommercial licensees retain a copy of their current complete ownership report (FCC Form 323-E) in the public file. Presently, that section of our rules does not reflect the language in Sections 73.3615(d)-(g) requiring that ownership reports be retained in the public inspection files of noncommercial licensees. Section 73.3615(d) requires that noncommercial licensee file ownership reports at renewal, as is required for commercial licensees. We will update our rules to mirror our new provision for commercial stations, discussed above.

58. Donor's Lists. One commenter advocated that we eliminate the requirement that noncommercial broadcast licensees include in their public file a list of donors supporting specific programs.¹³² We disagree that this provision is obsolete. The donor list requirement is tied to our sponsorship identification requirements, the basic premise of which is that the public is entitled to know

¹²⁹ The 1996 Act amended the Communications Act of 1934 to require that "[e]ach applicant for the renewal of a commercial or noncommercial television license shall attach as an exhibit to the application a summary of written comments and suggestions received from the public and maintained by the licensee (in accordance with Commission regulations) that comment on the applicant's programming, if any, and that are characterized by the commenter as constituting violent programming." 47 U.S.C. § 308(d) (as amended by Section 204(b) of the 1996 Act, Pub. L. No. 104-104, 110 Stat. 56 (1996)).

¹³⁰ See Comments of America's Public Television Stations and The Public Broadcasting Service at p. 5.

¹³¹ We nonetheless encourage noncommercial stations to retain any communications they may receive from the public regarding violent programming as a means of facilitating interaction with the public on this important issue.

¹³² 47 C.F.R. § 73.3527(a)(8). See Comments of University of North Carolina Center for Public Television at p. 4.

by whom they are being persuaded.¹³³ The donor list requirement for noncommercial licensees is related to the Commission's determination that noncommercial educational stations are permitted to limit their on-air program sponsorship announcements to major donors or underwriters only, but must maintain a complete donor list in their public file.¹³⁴ The donor lists therefore provide the only complete information regarding program sponsorship on noncommercial stations, and will be retained.

IV. CONCLUSION

59. For the reasons discussed above, we adopt this *Report and Order* revising our main studio and public inspection file rules. We intend by these revisions to minimize the regulatory burdens on licensees and increase their flexibility in choosing main studio location. We believe that our decisions herein strike the appropriate balance of relieving broadcasters of unnecessary regulation and permitting them to take advantage of economic efficiencies, while ensuring that broadcasters remain responsive to the needs and interests of their local communities.

V. ADMINISTRATIVE MATTERS

60. Paperwork Reduction Act of 1995 Analysis. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and recordkeeping requirements will be subject to approval by the Office of Management and Budget as prescribed by the Act.

61. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in Sections 154, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154, 303, and 307, Sections 73.1125, 73.1202, 73.3526 and 73.3527 of the Commission's Rules, 47 C.F.R. §§ 73.1125, 73.1202, 73.3526 and 73.3527 ARE AMENDED, as set forth in Appendix C.

62. IT IS FURTHER ORDERED that the Commission staff shall dismiss all main studio and/or public file waiver requests currently pending unless parties submitting such waiver requests amend their requests within 30 days of publication of this *Report and Order* in the *Federal Register* to show why the relief they request continues to be warranted given the newly revised main studio and public file rules.

63. IT IS FURTHER ORDERED that, pursuant to the Contract with America Advancement Act of 1996, the amendment set forth in Appendix C SHALL BE EFFECTIVE the later of either 30 days after publication in the *Federal Register*, or upon receipt by Congress of a report in compliance with the Contract with America Advancement Act of 1996, Pub. L. No 104-121, or as soon thereafter as may be

¹³³ See *Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations*, BC Docket No. 21136, 90 FCC 2d 895, 896 note 7 (1982).

¹³⁴ See *Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations*, BC Docket No. 21136, 90 FCC 2d 895, 901 note 18 (1982)(general reference to minor contributors must also include a statement advising the public that a complete donor list is maintained through PBS or the individual public broadcast station, whichever is appropriate). See also *Revision of Program Policies and Reporting Requirements Related to Public Broadcasting Licensees*, BC Docket 81-496, 98 FCC 2d 746, note 23.

approved by the Office of Management and Budget.

64. IT IS FURTHER ORDERED that the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

65. IT IS FURTHER ORDERED that this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in cursive script that reads "Magalie Roman Salas".

Magalie Roman Salas
Secretary

APPENDIX A

Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA),¹³⁵ an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Review of the Commission's Rules Regarding the Main Studio and Public Inspection File of Broadcast Television and Radio Stations Notice of Proposed Rule Making in MM Docket No. 97-138 ("NPRM")*.¹³⁶ The Commission sought written public comment on the proposals in the *NPRM*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.¹³⁷

A. Need for, and Objectives of, the Main Studio and Public Inspection File Report and Order:

The main studio and public inspection file rules seek to ensure that members of the local community have access to the broadcast stations that are obligated under the FCC's rules to serve them. Our goals in this proceeding are to relieve undue regulatory burdens on licensees while retaining their basic obligations to serve their communities of license, and adopt a rule that is clear and easy to administer.

This *Report and Order* adopts rules that relax the main studio rule to reduce the burdens on licensees of broadcast stations, and provide them greater flexibility in locating their main studios. The *Report and Order* replaces the current requirement -- that the main studio be located within a station's principal community contour -- with a new standard that allows a station to locate its main studio within the principal community contour of any station (in any service) licensed to its community or within 25 miles of the center of its community of license, whichever it chooses. This standard fulfills the goals set in this proceeding. It is clear and easy to administer, and it strikes a balance between ensuring that the public has reasonable access to each station's main studio and public file and minimizing regulatory burdens on licensees. This rule should continue to ensure that the main studio is reasonably accessible to a station's community of license, and grant more flexibility to licensees of broadcast stations. We also believe that this amendment of the main studio rule will lessen the disproportionate effect that the previous rule had on owners of smaller stations.

The *Report and Order* also amends the local public inspection file rules to provide that licensees keep their public files at their main studio, wherever located, rather than in the community, as previously required. In addition, the *Report and Order* clarifies and updates aspects of the public inspection file rules regarding contents. These changes will reduce burdens on licensees providing access and the public seeking information. Licensees with out-of-community main studios will be able to exercise dominion over their public files, making sure the files are complete and available to the public seeking information, and that personnel are available to answer questions if necessary. This will also benefit

¹³⁵ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

¹³⁶ 12 FCC Rcd 6993, 7011 (1997).

¹³⁷ See 5 U.S.C. § 604.

the public.

B. Summary of Significant Issues Raised by Public Comments In Response to the IRFA

No comments were received specifically in response to the IRFA attached to the *NPRM*. Most commenters, including Jacor Communications, Inc. ("Jacor") and Allbritton Communications Company ("Allbritton"), agree generally that the Commission should amend the rule. Many commenters, including the National Association of Broadcasters, ("NAB"), Capstar Broadcasting Partners ("Capstar"), ABC, Inc., and Malrite agree generally with the combination approach for location of the main studio we adopt in the rule. Some of these commenters proposed amendments that would benefit only multiple station licensees, and others proposed amending the rule to allow licensees to locate their main studios at a more distant location (e.g., 40-50 miles from city-center, or within a "market" rather than community) than we adopt in our rule today. We considered the potential significant economic impact of these rules on small entities, and determined that our approach would benefit more small entities than those proposed by commenters and not adopted.

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

1. Definition of a "Small Business"

Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. 5 U.S.C. § 601(6). The RFA, 5 U.S.C. § 601(3), generally defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. § 632. 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 Small Business Administration ("SBA"). Pursuant to 4 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."¹³⁸

2. Issues in Applying the Definition of a "Small Business"

¹³⁸ While we tentatively believe that the SBA's definition of "small business" greatly overstates the number of radio and television broadcast stations that are small businesses and is not suitable for purposes of determining the impact of the proposals on small television and radio stations, for purposes of this *Notice*, we utilize the SBA's definition in determining the number of small businesses to which the proposed rules would apply, but we reserve the right to adopt a more suitable definition of "small business" as applied to radio and television broadcast stations or other entities subject to the proposed rules in this *Notice* and to consider further the issue of the number of small entities that are radio and television broadcasters or other small media entities in the future. *See Report and Order* in MM Docket No. 93-48 (*Children's Television Programming*), 11 FCC Rcd 10660, 10737-38 (1996), citing 5 U.S.C. § 601(3).

As discussed below, we could not precisely apply the foregoing definition of "small business" in developing our estimates of the number of small entities to which the rules will apply. Our estimates reflect our best judgments based on the data available to us.

An 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 or television station is dominant in its field of operation. Accordingly, the following estimates of small businesses to which the new rules will apply do not exclude any radio or television station from the definition of a small business on this basis and are therefore overinclusive to that extent. An additional element of the definition of "small business" is that the entity must be independently owned and operated. As discussed further below, we could not fully apply this criterion, and our estimates of small businesses to which the rules may apply may be overinclusive to this extent. The SBA's general size standards are developed taking into account these two statutory criteria. This does not preclude us from taking these factors into account in making our estimates of the numbers of small entities.

With respect to applying the revenue cap, the SBA has defined "annual receipts" specifically in 13 C.F.R. § 121.104, and its calculations include an averaging process. We do not currently require submission of financial data from licensees that we could use in applying the SBA's definition of a small business. Thus, for purposes of estimating the number of small entities to which the rules apply, we are limited to considering the revenue data that are publicly available, and the revenue data on which we rely may not correspond completely with the SBA definition of annual receipts.

Under SBA criteria for determining annual receipts, if a concern has acquired an affiliate or been acquired as an affiliate during the applicable averaging period for determining annual receipts, the annual receipts in determining size status include the receipts of both firms. 13 C.F.R. § 121.104(d)(1). The SBA defines affiliation in 13 C.F.R. § 121.103. In this context, the SBA's definition of affiliate is analogous to our attribution rules. Generally, under the SBA's definition, concerns are affiliates of each other when one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. 13 C.F.R. § 121.103(a)(1). The SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists. 13 C.F.R. § 121.103(a)(2). Instead of making an independent determination of whether television stations were affiliated based on SBA's definitions, we relied on the databases available to us to provide us with that information.

3. Estimates Based on Census Data

The rules proposed in this *Notice of Proposed Rule Making* will apply to full service television and radio stations. The Small Business Administration defines a television broadcasting station that has no more than \$10.5 million in annual receipts as a small business.¹³⁹ Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the

¹³⁹ 13 C.F.R. § 121.201, Standard Industrial Code (SIC) 4833 (1996).

public, except cable and other pay television services.¹⁴⁰ Included in this industry are commercial, religious, educational, and other television stations.¹⁴¹ Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials.¹⁴² Separate establishments primarily engaged in producing taped television program materials are classified under another SIC number.¹⁴³

There were 1,509 television stations operating in the nation in 1992.¹⁴⁴ That number has remained fairly constant as indicated by the approximately 1,580 operating television broadcasting stations in the nation as of June 1998.¹⁴⁵ For 1992¹⁴⁶ the number of television stations that produced less than \$10.0 million in revenue was 1,155 establishments.¹⁴⁷ Thus, the proposed rules will affect approximately 1,569 television stations; approximately 77%, or 1,208 of those stations are considered small businesses.¹⁴⁸ These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-television affiliated companies. We recognize that the proposed rules may also affect minority and women owned stations, some of which may be small entities. In 1995, minorities owned and controlled 37 (3.0%) of 1,221

¹⁴⁰ Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications and Utilities, Establishment and Firm Size. Series UC92-S-1, Appendix A-9 (1995).

¹⁴¹ *Id.* See Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (1987), at 283, which describes "Television Broadcasting Stations (SIC Code 4833) as:

Establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational and other television stations. Also included here are establishments primarily engaged in television broadcasting and which produce taped television program materials.

¹⁴² Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications and Utilities, Establishment and Firm Size. Series UC92-S-1, Appendix A-9 (1995).

¹⁴³ *Id.*; SIC 7812 (Motion Picture and Video Tape Production); SIC 7922 (Theatrical Producers and Miscellaneous Theatrical Services (producers of live radio and television programs).

¹⁴⁴ FCC News Release No. 31327, Jan. 13, 1993; Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce. *supra* note 53, Appendix A-9.

¹⁴⁵ FCC News Release, Broadcast Station Totals as of June 30, 1998 (released July 21, 1998).

¹⁴⁶ Census for Communications' establishments are performed every five years ending with a "2" or "7". See Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *supra* note 53, III.

¹⁴⁷ The amount of \$10 million was used to estimate the number of small business establishments because the relevant Census categories stopped at \$9,999,999 and began at \$10,000,000. No category for \$10.5 million existed. Thus, the number is as accurate as it is possible to calculate with the available information.

¹⁴⁸ We use the 77 percent figure of TV stations operating at less than \$10 million for 1992 and apply it to the 1998 total of 1569 TV stations to arrive at stations categorized as small businesses.

commercial television stations in the United States.¹⁴⁹ According to the U.S. Bureau of the Census, in 1987 women owned and controlled 27 (1.9%) of 1,342 commercial and non-commercial television stations in the United States.¹⁵⁰

The proposed rule changes would also affect radio stations. The SBA defines a radio broadcasting station that has no more than \$5 million in annual receipts as a small business.¹⁵¹ A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.¹⁵² Included in this industry are commercial religious, educational, and other radio stations.¹⁵³ Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included.¹⁵⁴ However, radio stations which are separate establishments and are primarily engaged in producing radio program material are classified under another SIC number.¹⁵⁵ The 1992 Census indicates that 96 percent (5,861 of 6,127) of radio station establishments produced less than \$5 million in revenue in 1992.¹⁵⁶ Official Commission records indicate that 11,334 individual radio stations were operating in 1992.¹⁵⁷ As of June 1998, official

¹⁴⁹ *Minority Commercial Broadcast Ownership in the United States*, U.S. Dep't. of Commerce, National Telecommunications and Information Administration, The Minority Telecommunications Development Program ("MTDP") (April 1996). MTDP considers minority ownership as ownership of more than 50% of a broadcast corporation's stock, voting control in a broadcast partnership, or ownership of a broadcasting property as an individual proprietor. *Id.* The minority groups included in this report are Black, Hispanic, Asian, and Native American.

¹⁵⁰ See Comments of American Women in Radio and Television, Inc. in MM Docket No. 94-149 and MM Docket No. 91-140, at 4 n.4 (filed May 17, 1995), citing 1987 Economic Censuses, *Women-Owned Business*, WB87-1, U.S. Dep't of Commerce, Bureau of the Census, August 1990 (based on 1987 Census). After the 1987 Census report, the Census Bureau did not provide data by particular communications services (four-digit Standard Industrial Classification (SIC) Code), but rather by the general two-digit SIC Code for communications (#48). Consequently, since 1987, the U.S. Census Bureau has not updated data on ownership of broadcast facilities by women, nor does the FCC collect such data. However, we sought comment on whether the Annual Ownership Report Form 323 should be amended to include information on the gender and race of broadcast license owners. *Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities, Notice of Proposed Rulemaking*, 10 FCC Rcd 2788, 2797 (1995).

¹⁵¹ 13 C.F.R. § 121.201, SIC 4832.

¹⁵² Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *supra* note 55, Appendix A-9.

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ The Census Bureau counts radio stations located at the same facility as one establishment. Therefore, each co-located AM/FM combination counts as one establishment.

¹⁵⁷ FCC News Release No. 31327, Jan. 13, 1993.

Commission records indicate that 12,329 radio stations are currently operating.¹⁵⁸

We seek comment on these data and estimates regarding the number of small entities affected by the proposals in this *Notice*.

4. Alternative Classification of Small Television Stations

An alternative way to classify small television stations is by the number of employees. The Commission currently applies a standard based on the number of employees in administering its Equal Employment Opportunity ("EEO") rule for broadcasting.¹⁵⁹ Thus, radio or television stations with fewer than five full-time employees are exempted from certain EEO reporting and recordkeeping requirements.¹⁶⁰ We estimate that the total number of broadcast stations with 4 or fewer employees is 4,239.¹⁶¹

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

The *Report and Order* adopts modifications to existing recordkeeping requirements. In general, these rules will allow broadcasters greater flexibility in locating their main studios, and would simply describe more specifically where a licensee must retain the public file it is already required by the Commission's rules to maintain. Generally, the costs of compliance will be reduced for all entities. The *Report and Order* also addresses how a licensee can make its public inspection file available via the internet, but broadcasters would retain the discretion not to utilize internet technology at all. The *Report and Order* clarifies which materials are required to be kept in the public file, and clarifies the

¹⁵⁸ FCC News Release, Broadcast Station Totals as of June 30, 1998 (released July 21, 1998).

¹⁵⁹ The Commission's definition of a small broadcast station for purposes of applying its EEO rule was adopted prior to the requirement of approval by the Small Business Administration pursuant to Section 3(a) of the Small Business Act, 15 U.S.C. § 632(a), as amended by Section 222 of the Small Business Credit and Business Opportunity Enhancement Act of 1992, Pub. L. No. 102-366, § 222(b)(1), 106 Stat. 999 (1992), as further amended by the Small Business Administration Reauthorization and Amendments Act of 1994, Pub. L. No. 103-403, § 301, 108 Stat. 4187 (1994). However, this definition was adopted after public notice and an opportunity for comment. See *Report and Order in Docket No. 18244*, 23 FCC 2d 430 (1970).

¹⁶⁰ See, e.g., 47 C.F.R. § 73.3612 (Requirement to file annual employment reports on Form 395-B applies to licensees with five or more full-time employees); *First Report and Order* in Docket No. 21474 (In the Matter of Amendment of Broadcast Equal Employment Opportunity Rules and FCC Form 395), 70 FCC 2d 1466 (1979). The Commission is currently considering how to decrease the administrative burdens imposed by the EEO rule on small stations while maintaining the effectiveness of our broadcast EEO enforcement. *Order and Notice of Proposed Rule Making* in MM Docket No. 96-16 (In the Matter of Streamlining Broadcast EEO Rule and Policies, Vacating the EEO Forfeiture Policy Statement and Amending Section 1.80 of the Commission's Rules to Include EEO Forfeiture Guidelines), 11 FCC Rcd 5154 (1996). One option under consideration is whether to define a small station for purposes of affording such relief as one with ten or fewer full-time employees. *Id.* at ¶ 21.

¹⁶¹ We base this estimate on a compilation of 1995 Broadcast Station Annual Employment Reports (FCC Form 395-B), performed by staff of the Equal Opportunity Employment Branch, Mass Media Bureau, FCC.

required retention period for public file materials. No special skills will be necessary to comply with these requirements.

Specifically, the *Report and Order* requires stations to make available, by mail upon telephone request, photocopies of documents in the public file. The station may require the person requesting the copies to pay the reasonable cost of photocopying prior to mailing, and the station will pay postage. The *Report and Order* requires stations to provide callers, if they wish to receive one, a copy of the new edition of "The Public and Broadcasting" free of charge. The *Report and Order* requires licensees to assist callers in this process and answer questions they may have about the actual contents of the station's public file, such as the number of pages and time periods covered by a particular report or the types and dates of applications maintained in the station's public file. Any increased burdens associated with these accommodations will apply equally to all stations.

With respect to the contents of the local public inspection file, several changes affect reporting, recordkeeping and compliance (See ¶ 54, *Report and Order*). These changes are: all licensees must retain a copy of their current authorization, as well as any other documents necessary to reflect any modifications thereto or conditions that the Commission has placed on the authorization. This does not increase any burdens, merely requires the licensee to keep its authorization in its public file as well as in the station.

Applications filed with the FCC must be retained only until final action has been taken on the application, except that applications for a construction permit and applications for assignment or transfer of license granted pursuant to a waiver must be retained for as long as the waiver remains in effect. Renewal applications granted on a short-term basis must be retained through the short-term renewal review and until final grant of the next renewal application. This reduces the burden on licensees, both by clearly defining what must be retained, and the period during which it must be retained.

Licensees must retain only the most recent, complete ownership report (FCC Form 323) and any statement certifying the continuing accuracy of the report, until replaced by a new, complete report. This clarification reduces burdens on all licensees.

Licensees may either retain in the public file a copy of all contracts referenced under §73.3613 of the Commission's Rules, or retain an up-to-date list identifying all such contracts, and then provide copies of such contracts to requesting parties within seven days. The list option reduces paperwork burdens on licensees.

Licensees must maintain in the public file an updated version of "The Public and Broadcasting" manual.

Letters from the public required to be retained are clarified to include e-mail communications. To mitigate any burden of increased paperwork resulting from retention of computer e-mails, licensees may, at their option maintain such documents on diskette rather than in hard copy. Commercial TV licensees need not separate letters into programming and non-programming subject categories, reducing burdens required in maintaining two separate categories.

With respect to material relating to FCC investigation or complaint, licensees are no longer required to

retain materials related solely to private disputes, as the FCC does not involve itself in such disputes.

Radio time brokerage agreements must be retained in the public file until the contract expires. This is a clarification.

Retention periods for the following are updated to reflect the current eight-year license term, noting that all items are to be retained until grant of the next renewal becomes final: Issues/programs list; records regarding children's programming commercial limits; Children's Television programming reports; Local public notice announcements. Most changes herein are no more burdensome than the previous rule.

With respect to rules specific to noncommercial educational stations, we have amended the public inspection file requirements to require noncommercial licensees to retain a copy of their current complete ownership report (FCC Form 323-E) in the public file. All noncommercial television licensees must also include in their renewal applications a summary of any letters they receive regarding violent programming. These changes are not burdensome to small businesses.

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

We considered four options to achieve our goals in this proceeding. Our first goal was to balance reasonable access to the public and regulatory burdens on licensees, and our second goal was to achieve clarity in our rules and ease of administration. The approach we have chosen will grant flexibility to licensees of multiple stations, as well as licensees of smaller stations, and those that are the sole local services in a community. One of our concerns in adopting a rule was to address the differential treatment larger and smaller stations received under the previous rule. We believe that the rule we adopt today addresses this differential treatment and assures that the main studio remains in the primary reception area of a station licensed to the same community. It also grants small station licensees a much wider degree of latitude in choosing main studio locations compared to the latitude they had under the previous rule.

As stated above, we have adopted an accommodation which applies to all licensees. We considered and rejected other accommodations mentioned in the *NPRM* and proposed by commenters. We considered all of the alternate suggestions and have determined that the accommodation we require in this rule fulfills our stated goals of balancing public access with regulatory burden and ease and clarity of administration. As noted, toll-free telephone service is already required. We believe that requiring stations to provide transportation to requesters, to transport the public file to them or open the main studio during non-business hours would be unnecessarily burdensome to station owners, large and small.

We have considered whether only commercial licensees should continue to be required to retain letters from the public. Since the 1996 Telecommunications Act requires licensees to summarize in their renewal applications letters received from the public and maintained by the licensee regarding violent programming, commenters asked to address whether noncommercial licensees would be required to retain these letters. In the interest of streamlining and reducing burdens, we have not

required noncommercial television licensees to retain letters from the public regarding violent programming or other programming issues. As stated above, noncommercial television licensees will submit a summary of such letters with their renewal applications.

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

None.

Report to Congress: The Commission will send a copy of the *Main Studio and Public Inspection File Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. § 801(a)(1)(A). In addition, the Commission will send a copy of the *Main Studio and Public Inspection File Report and Order*, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Main Studio and Public Inspection File Report and Order* and FRFA (or summaries thereof) will also be published in the Federal Register. See 5 U.S.C. § 604(b).

Appendix B
List of Commenters and Reply Commenters

ABC, Inc.
Allbritton Communications Company
American Radio Systems Corporation
Armak Broadcasters, Inc.
Association of America's Public Television Stations
Association of Local Television Stations, Inc.
Barnstable Broadcasting
Bible Broadcasting Network, Inc.
Bloomington Broadcasting Corporation
Cannell Cleveland, L.P.
Capstar Broadcasting Partners, Inc.
Casciani Communications, Inc.
Coltre Broadcasting, Inc.
Cornerstone Community Radio and LUJ, Inc.
Cowen, Terry A. (KNLR)
Cox Radio, Inc.
Crawford Broadcasting Company
Dalton Group, Inc.
Delta Radio, Inc.
Dick Broadcasting Company, Inc.
First Virginia Communications, Inc.
Fuller-Jeffrey Broadcasting Company, Inc.
GRK Productions Joint Venture
Gilbert, Galen O.
Hallikainen, Harold
Hardy & Carey, L.L.P.
Hawes-Saunders, Ronita
Henry County Radio Company, Inc. (WKKP)
InterMart Broadcasting Corporation
Ital-Net Broadcasting Corporation
Jacor Communications, Inc.
K. J. Benner & Associates
KALI-FM, Inc.
KATY 101.3 FM
KERM, Inc.
KGLM-FM
KHWY, Inc.
KRAI-AM/FM
KTUX, Inc.
LB Radio Corporation

Malrite Communications Group, Inc.
Max Media Properties, LLC
Moody Bible Institute of Chicago
Morality In Media, Inc.
Mullaney Engineering, Inc.
National Association of Broadcasters
Network Affiliated Station Alliance
New Jersey Broadcasters Association
Noncommercial Educational Licensees
North Carolina Association of Broadcasters and Virginia Association of Broadcasters
Northern New Jersey Radio, L.P.
Odyssey Communications, Inc.
Office of Communications for United Church of Christ and Media Access Project, Center for
Media Education and Minority Media and Telecommunications Council
Osenkowsky, Thomas G.
Paxson Communications Corporation
Paxson Communications Television, Inc.
Positive Alternative Radio, Inc., et al.
Pride Communications, LLC
Pyramid Broadcasting, Inc.
Q107-WMQT
Quarnstrom, Alan R.
Radio One Licenses, Inc.
Robinson, David W.
S & S Communications Group, Inc.
Salem Communications Corporation
Sinclair Telecable, Inc.
Sunair Communications, Inc.
Susquehanna Radio Corp.
Unicorn Communications
University of North Carolina Center for Public Television
VI Stereo Communications Corporation
Vidalia Communications Corporation
WJCP
WMPL 920 AM/WZRK 93.5 FM
WXCH
Wichita Great Empire Broadcasting, Inc.
William R. Rice Company
Wind River Broadcast Center

Appendix C

Part 73 of Title 47 of the U.S. Code of Federal Regulations is amended 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, 303, 334.

2. Section 73.1125 is revised as follows:

§ 73.1125 Station main studio location.

(a) Except for those stations described in paragraph (b) of this section, each AM, FM, and TV broadcast station shall maintain a main studio at one of the following locations: (1) within the station's community of license; (2) at any location within the principal community contour of any AM, FM, or TV broadcast station licensed to the station's community of license; or (3) within twenty-five miles from the reference coordinates of the center of its community of license as described in §73.208(a)(1).

(b) The following stations are not required to maintain their main studio at the locations described in subparagraph (a) of this section.

- (1) AM stations licensed as synchronous amplifier transmitters ("AM boosters") or,

(2) AM, FM, or TV stations, when good cause exists for locating the main studio at a location other than that described in paragraph (a) of this section, and when so doing would be consistent with the operation of the station in the public interest.

(c) Relocation of the main studio may be made:

- (1) From one point to another within the locations described in paragraph (a) this section or from a point outside the locations specified in paragraph (a) to one within those locations, without specific FCC authority, but notification to the FCC in Washington shall be made promptly.

- (2) Written authority to locate a main studio outside the locations specified in paragraph (a) of this section for the first time must be obtained from the Audio Services Division, Mass Media Bureau for AM and FM stations, or the Television Branch, Video Services Division, Mass Media Bureau for television stations before the studio may be moved to that location. Where the main studio is already authorized at a location outside those specified in paragraph (a), and the licensee or permittee desires to specify a new location also located outside those locations, written authority must also be received from the Commission prior to the relocation of the main studio. Authority for these changes may be requested by filing a letter with an explanation of the proposed changes with the appropriate division. Licensees or permittees should be aware that the filing of such a letter request does not imply approval of the relocation request, because each request is addressed on a case-by-case basis. A filing fee is required for commercial AM, FM, or TV licensees or permittees filing a letter

request under this section (*see* §1.1104).

(d) Each AM, FM, and TV broadcast station shall maintain a local telephone number in its community of license or a toll-free number.

NOTE: The principal community contour of AM stations that simulcast on a frequency in the 535-1605 kHz band and on a frequency in the 1605-1705 kHz band shall be the 5 mV/m contour of the lower band operation during the term of the simultaneous operating authority. Upon termination of the 535-1605 kHz band portion of the dual frequency operation, the principal community contour shall become the 5 mV/m of the remaining operation in the 1605-1705 kHz band.

3. Section 73.3526 is revised to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

(a) **Responsibility to maintain a file.** The following shall maintain for public inspection a file containing the material set forth in this section.

(1) Applicants for a construction permit for a new station in the commercial broadcast services shall maintain a public inspection file containing the material, relating to that station, described in paragraph (e)(2) and (10) of this section. A separate file shall be maintained for each station for which an application is pending. If the application is granted, paragraph (a)(2) of this section shall apply.

(2) Every permittee or licensee of an AM, FM, or TV station in the commercial broadcast services shall maintain a public inspection file containing the material, relating to that station, described in paragraphs (e)(1) through (10) and (13) of this section. In addition, every permittee or licensee of a commercial TV station shall maintain for public inspection a file containing material, relating to that station, described in paragraphs (e)(11) and (15) of this section, and every permittee or licensee of a commercial AM or FM station shall maintain for public inspection a file containing the material, relating to that station, described in paragraph (e)(12) and (14) of this section. A separate file shall be maintained for each station for which an authorization is outstanding, and the file shall be maintained so long as an authorization to operate the station is outstanding.

(b) **Location of the file.** The public inspection file shall be maintained at the main studio of the station. An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license or at its proposed main studio.

(c) **Access to material in the file.** (1) The file shall be available for public inspection at any time during regular business hours. All or part of the file may be maintained in a computer database, as long as a computer terminal is made available, at the location of the file, to members of the public who wish to review the file. Material in the public inspection file shall be made available for printing or machine reproduction upon request made in person. The applicant, permittee, or licensee may specify the location for printing or reproduction, require the requesting party to pay the reasonable cost thereof, and may require guarantee of payment in advance (*e.g.*, by requiring a deposit, obtaining credit card information, or any other reasonable method). Requests for copies shall be fulfilled within a reasonable period of time, which generally should not exceed 7 days.

(2) The applicant, permittee, or licensee shall make available, by mail upon telephone request, photocopies of documents in the file, and the station shall pay postage. Licensees shall mail the most recent version of "The Public and Broadcasting" to any member of the public that requests a copy. Licensees shall be prepared to assist members of the public in identifying the documents they may ask to be sent to them by mail, for example, by describing to the caller, if asked, the period covered by a particular report and the number of pages included in the report.

(d) Responsibility in case of assignment or transfer. (1) In cases involving applications for consent to assignment of broadcast station construction permits or licenses, with respect to which public notice is required to be given under the provisions of § 73.3580 or § 73.3594, the file mentioned in paragraph (a) of this section shall be maintained by the assignor. If the assignment is consented to by the FCC and consummated, the assignee shall maintain the file commencing with the date on which notice of the consummation of the assignment is filed with the FCC. The assignee shall retain public file documents obtained from the assignor for the period required under these rules.

(2) In cases involving applications for consent to transfer of control of a permittee or licensee of a broadcast station, the file mentioned in paragraph (a) of this section shall be maintained by the permittee or licensee.

(e) Contents of the file. The material to be retained in the public inspection file is as follows:

(1) Authorization. A copy of the current FCC authorization to construct or operate the station, as well as any other documents necessary to reflect any modifications thereto or any conditions that the FCC has placed on the authorization. These materials shall be retained until replaced by a new authorization, at which time a copy of the new authorization and any related materials shall be placed in the file.

(2) Applications and related materials. A copy of any application tendered for filing with the FCC, together with all related material, and copies of Initial Decisions and Final Decisions in hearing cases pertaining thereto. If petitions to deny are filed against the application and have been served on the applicant, a statement that such a petition has been filed shall be maintained in the file together with the name and address of the party filing the petition. Applications shall be retained in the public inspection file until final action has been taken on the application, except that applications for a new construction permit granted pursuant to a waiver showing and applications for assignment or transfer of license granted pursuant to a waiver showing shall be retained for as long as the waiver is in effect. In addition, license renewal applications granted on a short-term basis shall be retained until final action has been taken on the license renewal application filed immediately following the shortened license term.

(3) Citizen Agreements. A copy of every written citizen agreement. These agreements shall be retained for the term of the agreement, including any renewal or extension thereof.

NOTE: For purposes of this section, a citizen agreement is a written agreement between a broadcast applicant, permittee, or licensee, and one or more citizens or citizen groups, entered for primarily noncommercial purposes. This definition includes those agreements that deal with goals or proposed practices directly or indirectly affecting station operations in the public interest, in areas such as - but not limited to - programming and employment. It excludes common commercial agreements

such as advertising contracts; union, employment, and personal services contracts; network affiliation, syndication, program supply contracts, etc. However, the mere inclusion of commercial terms in a primarily noncommercial agreement - such as a provision for payment of fees for future services of the citizen-parties (see "Report and Order," Docket 19518, 57 FCC 2d 494 (1976)) - would not cause the agreement to be considered commercial for purposes of this section.

(4) Contour maps. A copy of any service contour maps, submitted with any application tendered for filing with the FCC, together with any other information in the application showing service contours and/or main studio and transmitter location (State, county, city, street address, or other identifying information). These documents shall be retained for as long as they reflect current, accurate information regarding the station.

(5) Ownership Reports and related materials. A copy of the most recent, complete ownership report filed with the FCC for the station, together with any statements filed with the FCC certifying that the current report is accurate, and together with all related material. These materials shall be retained until a new, complete ownership report is filed with the FCC, at which time a copy of the new report and any related materials shall be placed in the file. The permittee or licensee must retain in the public file either a copy of the contracts listed in such reports in accordance with § 73.3615(a)(4)(i), or an up-to-date list of such contracts. Licensees or permittees who choose to retain a list of contracts must provide a copy of any contracts to requesting parties within 7 days.

(6) Political file. Such records as are required by § 73.1943 to be kept concerning broadcasts by candidates for public office. These records shall be retained for the period specified in § 73.1943 (2 years).

(7) Annual Employment Reports. A copy of every annual employment report filed by the licensee or permittee for the station, together with all related material (Form 395-B). These materials shall be retained until final action has been taken on the station's next license renewal application.

(8) The Public and Broadcasting. At all times, a copy of the most recent version of the manual entitled "The Public and Broadcasting."

(9) Letters and e-mail from public. All written comments and suggestions received from the public regarding operation of the station, unless the letter writer has requested that the letter not be made public or when the licensee feels that it should be excluded from public inspection because of the nature of its content, such as a defamatory or obscene letter. Letters and electronic mail messages shall be retained for a period of three years from the date on which they are received by the licensee.

(i) For purposes of this section, written comments and suggestions received from the public include electronic mail messages transmitted via the internet. Licensees may retain e-mails either on paper or in a computer file. Licensees who choose to maintain a computer file of e-mails may make the file available to the public either by providing the public with access to a computer terminal at the location of the public file, or providing the public with a copy of such e-mails on computer diskette, upon request. In the case of identical communications, licensees and permittees may retain one sample copy of the letter or electronic mail message together with a list identifying other parties who sent identical communications.

(10) Material relating to FCC investigation or complaint. Material having a substantial bearing on a matter which is the subject of an FCC investigation or complaint to the FCC of which the applicant, permittee, or licensee has been advised. This material shall be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded.

(11)(i) TV issues/programs lists. For commercial TV broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October - December, April 10 for the quarter January - March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs shall include, but shall not be limited to, the time, date, duration, and title of each program in which the issue was treated. The lists described in this paragraph shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.

(11)(ii) Records concerning commercial limits. For commercial TV broadcast stations, records sufficient to permit substantiation of the station's certification, in its license renewal application, of compliance with the commercial limits on children's programming established in 47 U.S.C. 303a and 47 CFR 73.670. The records for each calendar quarter must be filed in the public inspection file by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October - December, April 10 for the quarter January - March, etc.). These records shall be retained until final action has been taken on the station's next license renewal application.

(11)(iii) Children's Television Programming Reports. For commercial TV broadcast stations, on a quarterly basis, a completed Children's Television Programming Report ("Report"), on FCC Form 398, reflecting efforts made by the licensee during the preceding quarter, and efforts planned for the next quarter, to serve the educational and informational needs of children. The Report for each quarter is to be filed by the tenth day of the succeeding calendar quarter. The Report shall identify the licensee's educational and informational programming efforts, including programs aired by the station that are specifically designed to serve the educational and informational needs of children, and it shall explain how programs identified as Core Programming meet the definition set forth in § 73.671(c). The Report shall include the name of the individual at the station responsible for collecting comments on the station's compliance with the Children's Television Act, and it shall be separated from other materials in the public inspection file. These Reports shall be retained in the public inspection file until final action has been taken on the station's next license renewal application. Licensees shall publicize in an appropriate manner the existence and location of these Reports. For an experimental period of three years, licensees shall file these Reports with the Commission on an annual basis, i.e. four quarterly reports filed jointly each year, preferably in electronic form. These Reports shall be filed with the Commission on January 10, 1998, January 10, 1999, and January 10, 2000.

(12) Radio issues/programs lists. For commercial AM and FM broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October - December, April 10 for the quarter January - March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The

description of the programs shall include, but shall not be limited to, the time, date, duration, and title of each program in which the issue was treated. The lists described in this paragraph shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.

(13) Local public notice announcements. Each applicant for renewal of license shall, within 7 days of the last day of broadcast of the local public notice of filing announcements required pursuant to § 73.3580(h), place in the station's local public inspection file a statement certifying compliance with this requirement. The dates and times that the pre-filing and post-filing notices were broadcast and the text thereof shall be made part of the certifying statement. The certifying statement shall be retained in the public file for the period specified in § 73.3580 (for as long as the application to which it refers).

(14) Radio time brokerage agreements. For commercial radio stations, a copy of every agreement or contract involving time brokerage of the licensee's station or of another station by the licensee, with confidential or proprietary information redacted where appropriate. These records shall be retained as long as the contract or agreement is in force.

(15) Must-carry or retransmission consent election. Statements of a commercial television station's election with respect to either must-carry or retransmission consent as defined in § 76.64 of this chapter. These records shall be retained for the duration of the three year election period to which the statement applies.

NOTE: For purposes of this section, action taken on an application tendered with the FCC becomes final when that action is no longer subject to reconsideration, review, or appeal either at the FCC or in the courts.

NOTE: For purposes of this section, the term "all related material" includes all exhibits, letters, and other documents tendered for filing with the FCC as part of an application, report, or other document, all amendments to the application, report, or other document, copies of all documents incorporated therein by reference and not already maintained in the public inspection file, and all correspondence between the FCC and the applicant pertaining to the application, report, or other document, which according to the provisions of §§ 0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC.

4. Section 73.3527 is revised as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

(a) Responsibility to maintain a file. The following shall maintain for public inspection a file containing the material set forth in this section.

(1) Applicants for a construction permit for a new station in the noncommercial educational broadcast services shall maintain a public inspection file containing the material, relating to that station, described in paragraph (e)(2) and (11) of this section. A separate file shall be maintained for each station for which an application is pending. If the application is granted, paragraph (a)(2) of this section shall apply.

(2) Every permittee or licensee of an AM, FM, or TV station in the noncommercial educational broadcast services shall maintain a public inspection file containing the material, relating to that station, described in paragraphs (e)(1) through (11) of this section. In addition, every permittee or licensee of a noncommercial educational TV station shall maintain for public inspection a file containing material, relating to that station, described in paragraphs (e)(12) of this section. A separate file shall be maintained for each station for which an authorization is outstanding, and the file shall be maintained so long as an authorization to operate the station is outstanding.

(b) Location of the file. The public inspection file shall be maintained at the main studio of the station. An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license or at its proposed main studio.

(c) Access to material in the file. (1) The file shall be available for public inspection at any time during regular business hours. All or part of the file may be maintained in a computer database, as long as a computer terminal is made available, at the location of the file, to members of the public who wish to review the file. Material in the public inspection file shall be made available for printing or machine reproduction upon request made in person. The applicant, permittee, or licensee may specify the location for printing or reproduction, require the requesting party to pay the reasonable cost thereof, and may require guarantee of payment in advance (*e.g.*, by requiring a deposit, obtaining credit card information, or any other reasonable method). Requests for copies shall be fulfilled within a reasonable period of time, which generally should not exceed 7 days.

(2) The applicant, permittee, or licensee shall make available, by mail upon telephone request, photocopies of documents in the file, and the station shall pay postage. Licensees shall mail the most recent version of "The Public and Broadcasting" to any member of the public that requests a copy. Licensees shall be prepared to assist members of the public in identifying the documents they may ask to be sent to them by mail, for example, by describing to the caller, if asked, the period covered by a particular report and the number of pages included in the report.

(d) Responsibility in case of assignment or transfer. (1) In cases involving applications for consent to assignment of broadcast station construction permits or licenses, with respect to which public notice is required to be given under the provisions of § 73.3580 or § 73.3594, the file mentioned in paragraph (a) of this section shall be maintained by the assignor. If the assignment is consented to by the FCC and consummated, the assignee shall maintain the file commencing with the date on which notice of the consummation of the assignment is filed with the FCC. The assignee shall retain public file documents obtained from the assignor for the period required under these rules.

(2) In cases involving applications for consent to transfer of control of a permittee or licensee of a broadcast station, the file mentioned in paragraph (a) of this section shall be maintained by the permittee or licensee.

(e) Contents of the file. The material to be retained in the public inspection file is as follows:

(1) Authorization. A copy of the current FCC authorization to construct or operate the station, as well as any other documents necessary to reflect any modifications thereto or any conditions that the FCC has placed on the authorization. These materials shall be retained until replaced by a new authorization, at which time a copy of the new authorization and any related materials shall be placed

in the file.

(2) Applications and related materials. A copy of any application tendered for filing with the FCC, together with all related material, and copies of Initial Decisions and Final Decisions in hearing cases pertaining thereto. If petitions to deny are filed against the application and have been served on the applicant, a statement that such a petition has been filed shall be maintained in the file together with the name and address of the party filing the petition. Applications shall be retained in the public inspection file until final action has been taken on the application, except that applications for a new construction permit granted pursuant to a waiver showing and applications for assignment or transfer of license granted pursuant to a waiver showing shall be retained for as long as the waiver is in effect. In addition, license renewal applications granted on a short-term basis shall be retained until final action has been taken on the license renewal application filed immediately following the shortened license term.

(3) Contour maps. A copy of any service contour maps, submitted with any application tendered for filing with the FCC, together with any other information in the application showing service contours and/or main studio and transmitter location (State, county, city, street address, or other identifying information). These documents shall be retained for as long as they reflect current, accurate information regarding the station.

(4) Ownership Reports and related materials. A copy of the most recent, complete ownership report filed with the FCC for the station, together with any subsequent supplemental report or statement filed with the FCC certifying that the current report is accurate, and together with all related material. These materials shall be retained until a new, complete ownership report is filed with the FCC, at which time a copy of the new report and any related materials shall be placed in the file. The permittee or licensee must retain in the public file either a copy of the contracts listed in such reports in accordance with § 73.3615(d)(3), or an up-to-date list of such contracts. Licensees and permittees who choose to maintain a list of contracts must provide a copy of any contracts to requesting parties within 7 days.

(5) Political file. Such records as are required by § 73.1943 to be kept concerning broadcasts by candidates for public office. These records shall be retained for the period specified in § 73.1943 (2 years).

(6) Annual Employment Reports. A copy of every annual employment report (Form 395) filed by the licensee or permittee for the station, together with all related material. These materials shall be retained until final action has been taken on the station's next license renewal application.

(7) The Public and Broadcasting. At all times, a copy of the most recent version of the manual entitled "The Public and Broadcasting."

(8) Issues/programs lists. For nonexempt noncommercial educational broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October - December, April 10 for the quarter January - March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this

treatment. The description of the programs shall include, but shall not be limited to, the time, date, duration, and title of each program in which the issue was treated. The lists described in this paragraph shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.

(9) Donor lists. The lists of donors supporting specific programs. These lists shall be retained for two years.

(10) Local public notice announcements. Each applicant for renewal of license shall, within 7 days of the last day of broadcast of the local public notice of filing announcements required pursuant to § 73.3580(h), place in the station's local public inspection file a statement certifying compliance with this requirement. The dates and times that the pre-filing and post-filing notices were broadcast and the text thereof shall be made part of the certifying statement. The certifying statement shall be retained in the public file for the period specified in § 73.3580 (for as long as the application to which it refers).

(11) Material relating to FCC investigation or complaint. Material having a substantial bearing on a matter which is the subject of an FCC investigation or complaint to the FCC of which the applicant, permittee, or licensee has been advised. This material shall be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded.

(12) Must-carry requests. Noncommercial television stations requesting mandatory carriage on any cable system pursuant to § 76.56 of this chapter shall place a copy of such request in its public file and shall retain both the request and relevant correspondence for the duration of any period to which the request applies.

NOTE: For purposes of this section, a decision made with respect to an application tendered with the FCC becomes final when that decision is no longer subject to reconsideration, review, or appeal either at the FCC or in the courts.

NOTE: For purposes of this section, the term "all related material" includes all exhibits, letters, and other documents tendered for filing with the FCC as part of an application, report, or other document, all amendments to the application, report, or other document, copies of all documents incorporated therein by reference and not already maintained in the public inspection file, and all correspondence between the FCC and the applicant pertaining to the application, report, or other document, which according to the provisions of §§ 0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC.

5. Section 73.1202 is removed and reserved.