

introductory text of newly designated (c); and by adding and reserving paragraph (d) to read as follows:

**§ 180.317 Propyzamide; tolerances for residues.**

(a) *General.* Tolerances are established for combined residues of the

herbicide propyzamide and its metabolites (containing the 3,5-dichlorobenzoyl moiety and calculated as 3,5-dichloro-*N*-(1,1-dimethyl-2-propynyl)benzamide) in or on the following raw agricultural commodities:

\* \* \* \* \*

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for the residues of propyzamide, in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances will expire on the dates specified in the following table.

Commodity	Parts per million	Expiration/Revocation Date
Cranberries .....	0.05	12/31/99
Grass, forage .....	1.0	12/31/99
Grass, hay .....	0.5	12/31/99

(c) *Tolerances with regional registrations.* Tolerances with regional registration are established for the combined residues of the herbicide propyzamide and its metabolites (containing the 3,5-dichlorobenzoyl moiety and calculated as 3,5-dichloro-*N*-(1,1-dimethyl-2-propynyl)benzamide) in or on the following raw agricultural commodities:

\* \* \* \* \*

(d) *Indirect or inadvertent residues.* [Reserved]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 97-138, RM-8855, 8856, 8857, 8858, 8872; FCC 98-175]

### Main Studio and Public Inspection File of Broadcast Stations

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this *Report and Order* ("R&O"), the Commission adopts amendments to its rules governing main studio and local public inspection file requirements for broadcast licensees. The Commission relaxes the standard governing the location of the main studio to allow a station to locate within the principal community contour of any station licensed to the community of license, and requires the local public inspection file to be located at the broadcast station's main studio, wherever located. The Commission also amended the public inspection file rules to streamline the contents of the public inspection file. For additional information, see Supplementary Information.

**EFFECTIVE DATE:** These rules contain information collection requirements that are not effective until approved by the Office of Management and Budget. FCC will publish a document in the **Federal Register** announcing the effective date of this document.

**ADDRESSES:** Federal Communications Commission, 1919 M Street, NW., Room 222, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, NW., Washington, DC 20554, or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** Victoria M. McCauley or Kim Matthews Mass Media Bureau, (202) 418-2130. For additional information concerning the information collections contained in this R&O contact Judy Boley at 202-418-0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 97-138, adopted July 27, 1998 and released August 11, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC, 20036, (202) 857-3800.

### Synopsis of Report and Order on Main Studio and Public Inspection File

#### I. Introduction

1. With this *Report and Order*, we amend our rules regarding the main studio and local public inspection file for broadcast stations. In the *Notice of Proposed Rule Making*, 62 FR 32061

(June 12, 1997), we proposed that modification of these rules could serve the public interest. We here conclude that it is possible to grant broadcast licensees additional flexibility in locating their main studios, together with their public files, and adhere to the original purpose underlying these rules: to maintain reasonable accessibility of station facilities, personnel and information to members of the station's community of license, which enables the residents of the community to monitor a station's performance, and encourages a continuing dialogue between the station and its community. In this way, a station is better integrated into the activities of the community and can be more responsive to local community needs in its programming. In order to facilitate this interaction, this R&O also amends Sections 73.3526 and 73.3527 of our rules to clarify and update the required contents of the public inspection files. The actions we take today are consistent with our ongoing effort to ensure that our rules continue to serve the public interest without imposing unnecessary regulatory burdens. These modifications in no way alter the obligation of each broadcast licensee to serve the needs and interests of its community.

#### II. Main Studio Rule

2. *Discussion.* In the *NPRM* in this proceeding, we set forth two goals in determining whether to modify the main studio rule. Our first goal is to strike an appropriate balance between ensuring that the public has reasonable access to each station's main studio and public file and minimizing regulatory burdens on licensees. Our second goal is to adopt clear rules that are easy to administer and understand. In the *NPRM*, sought comment on the option of permitting a station to locate its main studio anywhere in the principal community contour of any station licensed to the same community, or

within a set distance from the community center, whichever it chooses.

3. The *R&O* adopts this option. Specifically, we will allow a station to locate its main studio at any location that is within either the principal community contour of any station, of any service, licensed to its community of license or 25 miles from the reference coordinates of the center of its community of license, whichever it chooses. This approach fulfills our stated goals. By establishing a clear, bright line test for determining location of the main studio, it is clear and easy to administer. It also lessens regulatory burdens. It expands the area in which most licensees may locate their main studios while maintaining a close connection to the community. The contour aspect increases the area in which licensees in communities with multiple stations will be able to choose location, putting all licensees in a community on equal footing, and the mileage aspect increases the area for smaller radio stations, particularly those providing the sole local service in a community. Although this expansion is not limited to co-owned stations, the increased flexibility it provides should allow many more multi-station licensees to combine the resources of their jointly-owned stations, which can allow them to better serve the public. Revising the rule to permit greater co-location of main studios should also reduce the number of waiver requests we have received from licensees in the past, which will reduce the burden on both licensees and the Commission. We note that the action we take today will not affect any stations operating pursuant to a waiver of these rules, particularly licensees of noncommercial educational stations operating their stations as satellites of a main station which historically have been given distinct treatment from commercial stations. Absent a waiver, however, the rules apply equally to commercial and noncommercial stations.

4. At the same time, the standard we are adopting places the main studio in a reasonably accessible location to the community of license. The amended rule maintains broadcasters' obligations under Section 307(b) to provide service to their communities of license by continuing the main studio's connection to the community of license. Our relaxation of the main studio location requirement takes into account the evidence in the record that more people use remote rather than face-to-face means of communication for routine contact with their local stations, and that permitting stations greater

flexibility in locating their main studios should not unduly burden the public.

5. Our adoption of a 25-mile permissible range as an alternative option for the licensee is based on a number of factors. First, the 25-mile standard reflects an approximation of the weighted average of the principal community contour radii of FM radio and TV stations (actual weighted average: 23.08 miles). AM radio station contours, based on frequency, power, radiation and ground conductivity, and conceivably quite large, were not taken into account because they vary very significantly from station to station. Second, a 25-mile radius from city center gives stations a 50-mile diameter (1962.5 square miles) within which to locate the main studio. With this standard, citizens at the opposite end of the community would not be expected to have to travel more than 50 miles to reach the studio, which we believe is a reasonably accessible distance to expect members of the public to travel, given today's modern transportation and good roads.

6. *Alternative proposals.* Some commenters proposed variations to the rule we adopt today, some of which would further relax the rules, while others would be more restrictive. As an initial matter, some commenters suggest that we delete the main studio requirement altogether. We continue to believe that the main studio requirement is necessary to ensure that broadcast stations are reasonably accessible to the communities they serve, which provides important public interest benefits.

7. We also are not persuaded by the alternatives advanced by other commenters because those proposals provide relief to fewer stations and could, in some cases, make the studios less accessible than the rule we adopt today. We are satisfied that use of principal community contours or the mileage standard will give stations ample area within which to locate their main studios. Other commenters suggest that we require location of the main studio within the principal community contours of any mutually overlapping co-owned stations. We believe that this approach would benefit only the licensees of multiple stations, and could place the main studio location well beyond a reasonably accessible location to the station's community of license. Other suggestions include defining the permissible area to locate the main studio by TV Grade B contour, designated market area, Arbitron radio market, metropolitan statistical area, or "protected service contour," i.e., the .5 mV/m contour for AM and 1 mV/m

contour for FM. We believe that these suggestions would potentially place the main studio at too distant a location from the community to be considered reasonably accessible.

8. We also decline to adopt the proposal which would more restrictively permit location within any contour of any station licensed to the community, or 25 miles from the community center, whichever is *less*.

9. We also reject another variation, which argues that the Commission should continue to require each station to locate its main studio in the community of license because in-person visits will be deterred by a too distant main studio.

### **III. Local Public Inspection File Rules**

#### *A. Location of the Local Public Inspection File*

10. *Background.* The Commission's rules generally require a broadcast station to maintain its local public inspection file at its main studio, when the main studio is located within the station's community of license, or at any accessible place in the community of license (e.g., an attorney's office or local public library) if the station's main studio is located outside the community. As with the main studio rule, reasonable access to the public inspection file serves the important purpose of facilitating citizen monitoring of a station's operations and public interest performance and fostering community involvement with local stations. This in turn helps ensure that stations are responsive to the needs and interests of their local communities.

11. *Discussion.* Based on the proposals and comments before us, we believe that it is in the public interest to amend the public file rules, §§ 73.3526(d) and 73.3527(d) of our rules, to provide that the licensee of a station locate its public file at its main studio, wherever located. In addition, the rules we adopt today provide that an applicant for a new station or change of community locate its public inspection file in the proposed community of license or at its proposed main studio. We also are giving licensees the option of maintaining all or part of their public file in a computer database rather than in paper files, and are encouraging licensees who chose this option to post their "electronic" public files on any World Wide Web sites they maintain on the internet.

12. We believe that having a licensee maintain its public file at its main studio will fulfill our stated goals. It takes into account the fact that many members of the public contact stations

by telephone, and the accommodation we set forth below will facilitate access to the public file by permitting individuals to call a station and request that it mail portions of the file to the caller's home or office. As several commenters point out, the main studio is the most logical and likely place for the public to expect to find a station's public inspection file. It is listed in the telephone book, and is usually well marked by commercial signage. These factors are likely to increase the convenience to the public in some cases, and could also facilitate public involvement at the station. The public would also be better served if the file is maintained and stored under the direct control of the station. Not only would there be greater assurance that the file is kept up-to-date and in proper order, but also the licensee would be able to provide assistance to those researching the public file, if necessary. As some commenters point out, collocating the public file and main studio will reduce the burdens on licensees who previously were required to maintain an off-premises public file in the community of license because their main studios are outside the city limits of the community of license. Moreover, we note that co-location of the main studio and public file will aid same-market, multiple-station owners by allowing them to channel their resources in ways that would better serve the public.

13. *Accommodation.* We will require stations to make available, by mail upon telephone request, photocopies of documents in the public file, including our revised version of "The Public and Broadcasting" (as drafted by the FCC staff; see *infra*) which shall also be placed on the FCC's internet site. This manual will generally describe broadcasters' public file obligations, and how the public can help monitor licensee performance. The station may require the person requesting the copies to pay the reasonable cost of photocopying and the station will pay postage. To facilitate requests for public file documents over the telephone, we will require stations to provide callers, if they wish to receive one, a copy of the new edition of "The Public and Broadcasting" free of charge. This description will assist callers in identifying documents they may ask to be sent to them by mail. We will require licensees to assist callers in this process and answer questions they may have about the actual contents of the station's public file. For example, stations, if asked, should describe to a caller the number of pages and time periods

covered by a particular ownership report or children's television programming report, or the types of applications actually maintained in the station's public file and the dates they were filed with the FCC. We also encourage stations to place the descriptions of their public files on any Internet home page that they maintain. We believe that this accommodation for the public should ensure that public file materials continue to be reasonably accessible to all members of the public. The revised "The Public and Broadcasting" should facilitate this access by educating the public about the contents of the file.

14. We reject the other accommodations mentioned in the *NPRM* and proposed by commenters. In addition to the accommodations raised in the *NPRM*, accommodations supported by commenters include courier, fax or e-mail delivery, toll-free telephone service, or requiring stations to make their studio available at non-business hours by appointment. Some commenters suggest that the actual method of provision of public file access be voluntary or left to licensee discretion, but within a set period of time from the time of the request. We have 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. Finally, Noncommercial Educational Licensees request that we place a limit on the number of requests to avoid harassing requests. We will not adopt such a limit; there is no evidence in the record that public requests for information are made in bad faith to any significant extent, or that stations are being overwhelmed by such requests. A licensee, may, of course, seek a waiver or special relief from the Commission in the event such circumstances arise.

15. Several commenters specifically disagree with making any accommodation, including the one we have adopted. Most cite the undue burden on broadcasters, discouragement from locating outside the community, and the ease with which the accommodations could be abused. One specifically notes that allowing requests by phone rather than in-person could encourage frivolous requests and that allowing requests without in-person

review by the requestor will burden licensees because the requestor will not be able to make an informed request without looking through the file, and stations will have to interpret these vague requests and become researchers to determine exactly what the requestor needs. We believe that the rules we adopt today address these concerns. First, a requestor is entitled to "The Public and Broadcasting," which should provide adequate guidance to make an intelligent request for information. In addition, the rules regarding the public file's contents in their revised form will be much easier to understand and administer for both licensees and the public seeking information. Finally, we expect that requiring a person seeking documents from a station's public file to pay the reasonable expenses of photocopying should reduce the possibility for abusive and frivolous requests.

#### *B. Contents of the Local Public Inspection File*

16. *Background.* In the *NPRM*, we sought comment on updating our requirements regarding the materials that a station must place in its public inspection file. Currently, both commercial and noncommercial broadcast licensees must maintain a local public inspection file containing copies of certain applications and related materials filed by the station with the FCC, ownership reports, employment reports, and a list of programs aired by the station during the previous three months that provided its most significant treatment of community issues (the "issues/programs list"). Commercial broadcast licensees must also retain written comments and suggestions received from the public regarding operation of their stations. In addition, broadcast licensees must maintain a separate public file concerning requests by political candidates for broadcast time on the station, and commercial television licensees must maintain a file containing information regarding the educational and informational programming they air for children.

17. *Updates to the Rules.* In the *NPRM*, we proposed the following specific amendments to update and clarify the public inspection file rules:

(a) We proposed to delete the requirement that licensees maintain in their public file a copy of the 1974 manual entitled "The Public and Broadcasting," noting that this manual is long out-of-date.

(b) We proposed to delete the reference in § 73.3526(a)(11) of our rules regarding the maintenance of reports

required under our financial interest and syndication rules, which have been repealed.

(c) We stated that we will correct the cross-reference in the public inspection file rules to the rule section governing a licensee's political file.

(d) We proposed to delete the note set forth under §§ 73.3526(a)(1) and 73.3527(a)(1) of the public inspection file rules exempting from the rules certain applications filed on or before May 13, 1965. We noted that, even without the exemption, the retention periods for maintaining such applications have long since expired.

18. We will adopt the three specific proposals, described as (b), (c), and (d) above, to amend our public inspection file rules. No commenters objected to these revisions, and they will serve to clarify and make current licensees' obligations under these rules. With respect to our first proposal regarding the 1974 manual "The Public and Broadcasting," we will no longer require licensees to maintain this out-of-date document. Rather, the FCC Staff will update this manual and the new manual will describe our new requirements regarding the contents of the public file, and discuss ways in which the public can help monitor licensee performance. We believe that this updated manual will provide a useful description of the documents that are available for public inspection, and will facilitate interaction between licensees and their communities that may lead to improved service to the public. The Commission staff will prepare the manual, and issue a Public Notice notifying licensees when it is complete. We expect that the staff will be issuing the new version of this manual in the fourth quarter of this year. The Commission will place the new manual on its World Wide Web site on the internet, where it can be accessed and downloaded by licensees and the public. The address for the Commission's internet home page is: <http://www.fcc.gov>. We will require all commercial and noncommercial licensees to replace their 1974 manuals with the updated version when it is available.

19. *Assignment of License.* Our current rules provide that after the Commission approves an application for assignment of license and the transaction has been consummated, the assignee is responsible for ensuring that the public file contains all the documents previously required to be maintained in the file by the assignor. We stated in the *NPRM* that we had received a petition for rule making requesting that the Commission amend the public file rule to delete this

requirement. The petitioner argued that the proposed change is warranted because the public file need only contain information concerning the *current* licensee or permittee, as the public has no practical use for information regarding the ownership, programming, and EEO practices of a station's prior licensees. The petitioner also contended that a new licensee should not bear the burden of locating documents missing from a prior licensee's public file. We stated our belief that there is merit to these arguments regarding licensee-specific information, but noted that there may be information in the public file relevant to a station's facilities that is not licensee-specific (e.g., engineering material in a modification application filed by the assignor) and therefore should be maintained by the assignee. We invited commenters to address this issue.

20. In the case of an assignment of license, we will continue to require the assignee to retain public file documents obtained from the assignor for the period required by our revised rules. However, we will not hold assignees responsible for correcting any omissions in the file that exist at the time of the assignment. We believe that, on balance, requiring licensees to retain the assignor's public file intact is a minimal burden which is outweighed by the benefit to the public of continued access to these materials for the entire retention period. We are persuaded by those commenters who argued that relatively little effort and expense is required to simply retain public file materials obtained from an assignor, rather than disposing of all or part of those materials. Documents that relate to the operations of a previous licensee can be relevant and useful in the context of a challenge to or investigation of the qualifications of that licensee to hold other FCC authorizations. In view of the large number of station sales in recent years, especially in the radio market, and the longer eight-year license period, it increasingly occurs that a station is assigned to a new owner before the license term is complete. To ensure that the previous owner's record is available for review, we will require that the file inherited from the assignor be retained for the full period specified by our rules.

21. While we will continue to require an assignee to retain records obtained from an assignor, we will not hold licensees strictly liable for omissions created by predecessors. However, we expect parties engaged in the purchase of a station to make a good faith effort to correct deficiencies in the assignor's file that exist at the time of the assignment through the due diligence

process typically undertaken by a purchaser of a station. Given the other rule changes we are adopting today, we expect that as a general matter there will be fewer instances where a licensee's public file will be missing required documents, whether at the time of an assignment or any other time. In particular, we are making revisions today both to reduce the number of documents required to be maintained in the public file and to clarify the retention requirements. This should help reduce the number of instances in which the public file is found to be incomplete. Moreover, the revisions we are making today to our rules governing public file location should improve management and maintenance of the file by licensees, further facilitating compliance. We emphasize that all licensees have a duty to comply with our public file rules, and expect that licensees will find this obligation easier to meet in light of the revisions we are making today.

22. *Electronic mail.* We proposed in the *NPRM* to clarify the requirement that "[a]ll written comments and suggestions received from the public by licensees of commercial AM, FM, and TV broadcast stations regarding operation of their station shall be maintained in the local public inspection file." We stated our wish to clarify that such "written comments and suggestions" include electronic mail messages transmitted via the internet. We noted that internet "e-mail" is an increasingly popular means of communication, and invited comment on this proposed clarification.

23. We will adopt our proposal to clarify that our rules require the retention by licensees of e-mail messages as well as traditional printed communications. We concur with those commenters that expressed the view that there is no fundamental distinction between e-mail and printed letters that would justify treating those forms of communication differently for purposes of this rule. Both means of communication can be used to convey important comments or suggestions regarding programming, and should be treated in a similar fashion. We will give licensees the option of retaining e-mail messages either in a computer or a paper file. Rather than printing out hard copies of these e-mail communications, licensees that choose the computer file option may provide the public upon request with a computer diskette containing copies of the e-mails received by the station, or may make available to the public a computer terminal where these communications may be accessed. In the case of identical

e-mails or letters received from different parties, we will also give licensees the option of retaining, either on paper or in a computer file, a single sample copy of the e-mail or letter as well as list of all parties that sent identical e-mails or letters to the station.

24. For reasons of clarity, rather than retaining our rules governing the retention of letters received by commercial broadcast stations in a separate rule section, § 73.1202, we have moved those rules to § 73.3526, our public file rule section for commercial broadcast stations. The obligation to retain letters received from the public is fundamentally a public file obligation, and should therefore be part of the public file rules themselves.

25. Retention requirements. We also sought comment in the *NPRM* on whether the retention periods for the materials in the public inspection file and political file should be revised to update and clarify those provisions. At a minimum, we proposed to revise those retention periods tied to the broadcast license term to reflect the new license term of eight years. We also proposed to amend the rules to require that all documents required to be retained for the license term be retained not only for the eight-year term but until the grant of the renewal application is final, *i.e.*, no longer subject to reconsideration, review, or appeal either at the FCC or in the courts. In addition, we sought comment on whether any of the public file retention periods can be shortened to reduce regulatory burdens. In particular, we noted that we currently require that certain applications filed with the FCC be retained until "the expiration of one license term \* \* \* or until grant of the first renewal application of the television or radio broadcast license in question." We proposed shortening the required retention period for license assignment and transfer applications and applications for major facilities modifications to the period in which they are pending before the FCC or the courts. We noted that this is the period of time these applications are of particular relevance to the public, and that after this period other public file materials such as ownership reports may provide an alternative source for the information contained in these applications. Finally, we also sought comment on other ways to clarify and streamline our retention period requirements, and on the appropriate retention periods for letters received from the public, annual employment reports, and annual ownership reports.

26. We believe there is significant room for clarification of our public file

retention requirements, and agree with those commenters who argue that some of the current rules are unnecessarily complex. We also believe that our public file requirements can be streamlined, either by shortening the retention period where appropriate or eliminating the retention requirement altogether for documents that are not useful to the public.

27. As we proposed in the *NPRM*, for those documents we believe should be retained for the entire license term (including issues/programs lists and Children's Television Programming Reports), we will update our rules to reflect the current eight-year license term for both television and radio licenses. We will also require that those documents required to be retained for the full eight-year term be retained until the grant of the renewal application is final, *i.e.* no longer subject to reconsideration, review, or appeal either at the FCC or in the courts. This revision will ensure that those documents we believe should be available to the public for the entire license term remain available until final action has been taken on the license renewal application, thus facilitating monitoring of licensee performance by interested parties and their participation in the license renewal process. We disagree with those commenters who argued that the retention period for issues/programs lists, which is now 5 or 7 years based on the former license term for radio and TV stations, be reduced. The lists contain information about licensee compliance with public interest obligations which is relevant to the evaluation of licensee performance at renewal, and must continue to be available throughout the license term and until final grant of the next renewal application. Similarly, we decline to reduce the retention period for Children's Television Programming Reports, as one commenter suggested. Compliance with our children's programming requirements is an important issue to be examined at time of renewal. Consequently, these reports also must remain available through the entire license term and until final grant of the next renewal application.

28. In addition, as we proposed in the *NPRM*, we have decided to shorten the public file retention period for most applications filed with the FCC. Our current rules generally require that all applications be retained for the term of the license. The applications subject to this retention period include, for example, license assignment and transfer applications and applications for major facilities modifications. As we noted in the *NPRM*, and as many

commenters agreed, these applications are most relevant to the public during the period they are pending before the FCC or the courts. Moreover, much of the information contained in these applications is available in other public file documents; information about the applicant's ownership structure, for example, is also available in the ownership reports. Accordingly, we will require that applications and related materials be retained in the public file only until final action has been taken on the application, except that new construction permit applications and applications for assignment or transfer of license that are granted pursuant to a waiver showing must be retained for as long as the waiver is in effect. With respect to these latter applications, the Commission has granted the waiver based, in part, on representations contained in the application and waiver exhibit. We believe these applications must remain available to the public for the entire period the waiver is in effect to ensure the public can assist the FCC in evaluating licensee performance in light of the representations made in the application and waiver request. Commenters that addressed this issue generally agreed that applications granted pursuant to a waiver request should be retained. Finally, we will also require that renewal applications granted on a short-term basis be retained throughout the short-term license period and until completion of the next renewal review. As the performance of these licensees has led to imposition of a short-term renewal sanction, it is especially important that these renewal applications remain available to the public over the entire, shortened license term.

29. Regarding other possible means of streamlining our retention period requirements, we have concluded that we will require licensees to retain only the most recent, complete ownership report (FCC Form 323) in the public file, together with any subsequent statements filed with the FCC certifying that the current report is accurate. The current rule requires retention of all ownership reports for the term of the license. We agree with those commenters who argued that the most recent ownership report contains current information regarding the licensee's ownership structure, and that it is unnecessary to require licensees to retain previous ownership reports filed during the license term that contain out-of-date information. In the unusual case that a member of the public desires access to previous ownership information, these reports can be obtained from the

Commission. We note that the Commission has proposed, in a proceeding examining ways to streamline Mass Media applications, rules, and processes, to decrease the frequency with which Ownership Reports for commercial and noncommercial broadcast stations must be filed with the Commission. The changes to our public file requirements adopted herein will, of course, be subject to the outcome of that proceeding.

30. To further reduce the paperwork burden on licensees, as suggested by some licensees we will revise our current requirement that licensees retain in their public inspection files contracts required to be filed with the Commission under § 73.3613 of the rules. Rather than requiring copies of all such contracts to be kept in the public file, we will permit stations, as an alternative option, to maintain an up-to-date list identifying all such contracts and to provide copies to requesting parties within seven days. We believe this revision will reduce the burden on licensees, and especially on group owners who presently may have to retain multiple copies of the same agreement. At the same time, the public will have immediate access to a complete list of such contracts pertaining to the licensee, and can rapidly obtain any specific documents they wish to review.

31. Finally, with regard to communications (including e-mail) received from the public by commercial broadcasters regarding operation of their station and required to be maintained in the public file pursuant to current § 73.1202 of the rules, we will retain the current three year retention period for such communications. We will not extend the retention period for such letters to coincide with the eight year license term. We believe that an eight year retention requirement would be overly burdensome, and that older letters are less relevant to current licensee performance. While we will not extend the retention period for such communications beyond the existing three year term, we decline to shorten the retention period, or to eliminate the retention requirement altogether, as advocated by some commenters who argued that these letters are rarely requested by the public or used by the licensee or others in connection with a contested license renewal, especially in light of the expedited renewal procedures mandated by the 1996 Telecommunications Act. We are not persuaded by these arguments, and continue to believe that these letters and e-mails, retained for a three-year period,

can play a helpful role in assisting the public in monitoring station performance. A member of the public may, for example, wish to know whether others have expressed similar concerns in letters to the station during the previous several years. We consequently believe a three-year retention period for letters and e-mails is warranted and will help promote a dialogue between stations and their communities.

32. In light of our goal to reduce unnecessary paperwork burdens, we will delete the requirement that letters from the public received by commercial TV licensees be separated into programming and non-programming subject categories. The burden imposed on licensees by this requirement seems to outweigh the relatively minimal benefit to those members of the public interested in reviewing these letters. Our rules will still require that licensees maintain a separate file containing letters requesting broadcast time for political candidates, making these letters more readily available. In addition, we note that licensees are required to prepare a summary at time of renewal of any letters they have received regarding violent programming, thereby assisting members of the public interested in letters received by licensees on this issue.

33. *Electronic Public File Option.* We will adopt our proposal to give stations the voluntary option of maintaining all or part of their public inspection file in a computer database rather than in paper files. We noted in the *NPRM* that many stations are equipped with computers and make information available to the public on their own World Wide Web home pages on the internet. Stations that post their "electronic" public files on the World Wide Web increase the number of locations from which these files may be accessed. Such measures can facilitate communication between licensees and their communities that can lead to better service to the public. Commenters generally supported giving stations the option to use computer technology to maintain and improve access to their public file, as long as such use is voluntary and not required. As proposed in the *NPRM*, a station that chooses the option of maintaining an "electronic" public file will be required to make a computer terminal available to members of the public interested in reviewing the station's file, and will be required to provide paper copies of such public file materials upon request.

34. *Contents of Local Public Inspection File.* To summarize the

actions we are taking today to update, clarify, and revise our public inspection file rules, following is a list of our revised public file requirements. In addition to the revisions discussed above, this list includes certain other revisions and clarifications addressed in the *NPRM* and in comments as well as other modifications, more editorial in nature, designed to shorten and clarify the rules.

(i) *Authorization.* All licensees will be required to 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. Our current rule does not require that authorizations be maintained in the public file. This revision will ensure that the public has ready access to the technical parameters of the station license and any conditions on station operation imposed by the FCC.

(ii) *Applications and related materials.* We will require retention of applications filed with the FCC 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, in either case, pursuant to a waiver must be retained for as long as the waiver remains in effect. In addition, 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.

(iii) *Citizen Agreements.* As under the current rules, we will continue to require that a copy of every written citizen agreement be retained in the file for the term of the agreement.

(iv) *Contour maps.* As under the current rules, we will continue to require that applicants, permittees, and licensees retain in the file copies 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. 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. 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. 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).

(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. 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. 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.

(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*, 57 FR 18089 (April 29, 1992).

(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.

35. *Noncommercial Educational Stations.* Section 73.3527 of our rules governing public 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.

36. *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. 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. 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. 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.

37. *Ownership Reports.* We will revise § 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.

38. *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. 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 by whom they are being persuaded. 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. The donor lists therefore provide the only complete information regarding program sponsorship on noncommercial stations, and will be retained.

#### IV. Administrative Matters

39. *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.

#### V. Final Regulatory Flexibility Analysis

40. As required by the Regulatory Flexibility Act (RFA), 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")*, 12 FCC Rcd 6993, 7011 (1997). 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.

#### Need for Objectives and Action

41. 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.

42. 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.

43. 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 the public.

#### Significant Issues Raised by Public Comments in Response to the IRFA

44. No comments were received specifically in response to the IRFA attached to the *NPRM*. Most commenters, agree generally that the Commission should amend the rule. Many commenters, 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.

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

##### Definition of a "Small Business"

45. 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**."

##### Issues in Applying the Definition of a "Small Business"

46. 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.

47. 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.

48. With respect to applying the revenue cap, the SBA has defined "annual receipts" specifically in 13 CFR 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.

49. 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 CFR 121.104(d)(1). The SBA defines affiliation in 13 CFR 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 CFR 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 CFR 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.

#### *Estimates Based on Census Data*

50. 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. Television broadcasting stations consist of 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 are establishments primarily engaged in

television broadcasting and which produce taped television program materials. Separate establishments primarily engaged in producing taped television program materials are classified under another SIC number.

51. There were 1,509 television stations operating in the nation in 1992. That number has remained fairly constant as indicated by the approximately 1,580 operating television broadcasting stations in the nation as of June 1998. For 1992 the number of television stations that produced less than \$10.0 million in revenue was 1,155 establishments. Thus, the proposed rules will affect approximately 1,569 television stations; approximately 77%, or 1,208 of those stations are considered small businesses. 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. 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 commercial television stations in the United States. 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.

52. 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. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial religious, educational, and other radio stations. Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce ratio program materials are similarly included. However, radio stations which are separate establishments and are primarily engaged in producing radio program material are classified under another SIC number. 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. Official Commission records indicate that 11,334 individual radio stations were operating in 1992. As of June 1998, official Commission

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

#### *Alternative Classification of Small Television Stations*

53. 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. Thus, radio or television stations with fewer than five full-time employees are exempted from certain EEO reporting and recordkeeping requirements.

#### **Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements**

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

55. 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.

56. With respect to the contents of the local public inspection file, several

changes affect reporting, recordkeeping and compliance. 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.

57. 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.

58. 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.

59. 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.

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

61. 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.

62. 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.

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

64. 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.

65. 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.

#### **Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

66. 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.

67. 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. 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.

68. 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.

#### **Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules**

None.

69. 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.

70. 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 CFR §§ 73.1125, 73.1202, 73.3526 and 73.3527 are amended.

71. 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 by October 16, 1998 to show why the relief they request continues to be warranted given the newly revised main studio and public file rules.

72. These rules contain information collection requirements that are not effective until approved by the Office of Management and Budget. FCC will publish a document in the **Federal Register** announcing the effective date for these sections.

73. 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.

71. It is further ordered that this proceeding is terminated.

#### List of Subjects in 47 CFR Part 73

Radio, Television.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

#### Rule Changes

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 and 336.

2. Section 73.1125 is revised to read 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).

**Note to paragraph (a):** 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.

(b) The following stations are not required to maintain their main studio at the locations described in paragraph (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.

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 paragraphs (e)(2) and (e)(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 (e)(10) and paragraph (e)(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 (e)(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 paragraphs (e)(12) and (e)(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 to paragraph (e)(3):** 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. 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.

(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.

(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 1 to paragraph (e):** 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 2 to paragraph (e):** 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 this part are open for public inspection at the offices of the FCC.

4. Section 73.3527 is revised to read 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 (e)(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 (e)(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 (1) to paragraph (e):** 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 (2) to paragraph (e):** 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.

**§ 73.1202 [Removed]**

5. Section 73.1202 is removed.

[FR Doc. 98-24004 Filed 9-15-98; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[I.D. 082798A]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Community Development Quota Program

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

**ACTION:** Partial approval of the Community Development Plans for Multispecies Groundfish and Prohibited Species for the years 1998 through 2000.

**SUMMARY:** NMFS announces the partial approval of recommendations made by the State of Alaska (State) for the 1998 through 2000 multispecies groundfish and prohibited species Community Development Plans (CDPs) under the Western Alaska Community Development Quota (CDQ) Program. This action announces the decision by

NMFS to approve the State's recommended CDPs, including the percentage allocations of the multispecies groundfish CDQ reserves and prohibited species quota (PSQ) reserves to each CDP, with the exception of certain vessels listed in the CDPs that NMFS determined are ineligible for approval at this time. This action also announces the availability of findings underlying NMFS's decision. This action is intended to further the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act.

**DATES:** Partial approval of the CDPs is effective October 16, 1998.

**ADDRESSES:** Copies of the findings made by NMFS in partially approving the State's recommendations may be obtained from the Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel.

**FOR FURTHER INFORMATION CONTACT:** Sally Bibb, 907-586-7228.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Multispecies CDQ Program was developed by the North Pacific Fishery Management Council (Council) as Amendment 41 to the Fisheries Management Plan for the Bering Sea/Aleutian Islands Groundfish. Amendment 41 was approved by NMFS on September 12, 1997, and implemented under regulations at subpart C of 50 CFR part 679. Regulations establishing the groundfish CDQ reserves and PSQ reserves were published in the **Federal Register** on February 19, 1998 (63 FR 8356), and a final rule implementing the administrative and catch monitoring requirements for the multispecies (MS) CDQ Program was published in the **Federal Register** on June 4, 1998 (63 FR 30381).

Eligible western Alaska communities submitted six proposed CDPs to the State under § 679.30. The CDPs include requests for allocations of the available multispecies groundfish CDQ reserves and PSQ reserves established at § 679.31. The State conducted a public hearing on September 9, 1997, in Anchorage, Alaska, during which all interested persons had an opportunity to be heard. The hearing covered the substance and content of the proposed CDPs in such a manner that the general public, and particularly the affected parties, had a reasonable opportunity to understand the impact of each proposed CDP. The State made available for public review all State of Alaska materials pertinent to the hearing at the

time the hearing was announced. The public hearing held by the State satisfied the requirements of § 679.30(b).

The State consulted the Council concerning the proposed CDPs during the Council's September 1997 and April 1998 meetings. The Council reviewed copies of the CDP executive summaries, summary sheets, and the State's recommended allocations and concurred in the State's recommendations.

The State sent its recommendations for approval of the proposed CDPs to NMFS on July 6, 1998. The State's allocation recommendations are effective for 1998 through 2000 for all species groups allocated to the groundfish CDQ reserves and PSQ reserves, except arrowtooth flounder, squid, "other species", chinook salmon, and non-chinook salmon. Allocation recommendations for these five species groups are effective for 1998 only. Delaying the 1999 and 2000 allocation recommendations for these five species groups will allow the State to provide for bycatch needs for (1) the fixed gear sablefish CDQ fishery when it is integrated into the multispecies groundfish CDQ fisheries in 1999, and (2) the pollock CDQ fishery if Amendment 45 and its implementing regulations are approved by NMFS.

New regulations governing the MS CDQ fisheries promulgated by NMFS on June 4, 1998, require that a fishing plan for each vessel and processor proposed as eligible to participate in the MS groundfish CDQ be submitted in the CDP. NMFS has reviewed fishing plans for 39 catcher vessels, 24 catcher/processors, and five shoreside processing plants and determined that 38 catcher vessels, 13 catcher/processors, and five shoreside processing plants can be approved at this time as eligible for the MS CDQ fisheries. The remaining catcher vessel and 11 catcher/processors do not meet the requirements for eligibility because incomplete or incorrect information was provided in the proposed CDP. NMFS has notified the CDQ groups of the deficiencies in the fishing plans for these vessels and the specific information that must be provided before these vessels will be approved. Vessels not approved as eligible vessels with the CDP may be added later through an amendment to the CDP.

With the exception of the vessels mentioned above, NMFS has determined that the State's recommendations for approval of proposed CDPs are consistent with the community eligibility conditions and evaluation criteria and other applicable provisions of the Federal regulations