

completed in accordance with the ROD and the Consent Decree including the construction of the cap and installation of the fence. Information on the site construction is contained in the Remedial Action Report dated September 2002.

The long-term groundwater monitoring program began once the construction of the cap was completed. The groundwater monitoring program includes 15 on-site monitoring wells completed both in shallow and deeper portions of the on-site aquifer. In addition, ten off-site residential drinking water supply wells in the immediate vicinity of the site were included in the program.

The continuing operation and maintenance (O&M) activities at the site are being performed by Lawler Matusky & Skelly Consultants Inc. under contract to Alfa-Laval. EPA and NYSDEC approved an O&M Plan for the site entitled "Long-Term Monitoring and O&M Plan" dated January 2002. O&M activities include: groundwater monitoring of ten nearby residential supply wells and 15 on-site monitoring wells as well as gas monitoring and routine inspections to insure that the capped area is functioning as designed.

Groundwater samples are analyzed by a New York State Department of Health approved laboratory and all of the data are reviewed by an independent data validation service. The ten residential wells that are in the long-term monitoring program were selected for inclusion in the sampling program based on anticipated groundwater flow directions, proximity to the site, and from which aquifer the well was drawing water. The groundwater results for the residential wells indicate that the site does not impact the quality of off-site groundwater in either the shallow overburden or deeper bedrock aquifer found in the vicinity of the site.

The objectives of the monitoring of the on-site monitoring wells are to evaluate and track groundwater flow patterns and chemistry and observe the natural attenuation of groundwater contamination.

On-site groundwater was found to be only minimally impacted by past site activities. Comparing the results to the applicable NYSDEC Class GA groundwater standards, only a few VOCs were detected above the standards during the past rounds of sampling. A total of ten individual metals were found above applicable standards. Of these, seven are believed to be site-related contaminants: arsenic, copper, antimony, thallium, chromium, nickel and lead. The concentrations of iron, manganese, and sodium which are

above standards appear to be due to naturally elevated levels of these constituents in the bedrock aquifer.

Institutional controls consisting of an easement and deed restriction limiting access to the Site and preventing use of contaminated water as a drinking water source were filed with the Dutchess County Register of Deeds in September of 2004.

Public participation activities for this Site have been satisfied as required by CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA Section 117,42 U.S.C. 9617. The RI/FS and the ROD were subject to a public review process. All documents and information which EPA relied on or considered in reaching the conclusion that this site can be deleted from the NPL are available for the public to review at the information repositories.

The remedy implemented at this site results in contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure. In accordance with CERCLA Section 121(c), EPA and/or NYSDEC will conduct a review of this remedy no less often than every five years. The first Five-Year Review is expected to be completed before June 2006 which is five years from the start of the on-site construction.

One of the three criteria for Site deletion specifies that a site may be deleted from the NPL if "responsible parties or other parties have implemented all appropriate response actions required". 40 CFR 300.425(e)(1)(ii). EPA, with concurrence of the State of New York, through the NYSDEC, believes that this criteria for deletion has been met and therefore, EPA is deleting this Site from the NPL.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 6, 2005.

George Pavlou,

Acting Regional Administrator, U.S. EPA Region II.

■ For the reasons set out in the preamble Part 300 Title 40 of Chapter I of the Code of Federal Regulations is amended as follows:

PART 300—[AMENDED]

■ The authority citation for Part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR,

1991 Comp., p. 351; E.O.12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

■ 2. Table 1 of Appendix B to Part 300 is amended under New York (NY) by removing the site name "Jones Sanitation" and the corresponding city designation "Hyde Park"

[FR Doc. 05–13346 Filed 7–6–05; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–25; FCC 05–75]

Creation of a Low Power Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission modifies its rules governing minor changes to low power FM (LPFM) authorized facilities and minor technical amendments to LPFM applications. The Commission clarifies the definition of locally originated programming for purposes of resolving mutually exclusive LPFM applications. The Commission also establishes standards for waiver of the LPFM 18-month construction deadline and the prohibition on assignment of LPFM authorizations or transfer of control of LPFM permittees or licensees. The Commission imposes a six-month freeze on the grant of FM translator new station construction permits.

DATES: The rules in this document contain information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of these rules.

ADDRESSES: All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. See Supplementary Information for filing instructions. In addition to filing comments with the Office of the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Cathy Williams Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Natalie Roisman, Natalie.Roisman@fcc.gov, of the Media Bureau, Policy Division, (202) 418-2120. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams, Federal Communications Commission, 445 12th St, SW., Room 1-C823, Washington, DC 20554, or via the Internet to Cathy.Williams@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Second Order on Reconsideration (*2nd Reconsideration*) FCC 05-75, adopted on March 16, 2005, and released on March 17, 2005. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. These documents will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to fcc504@fcc.gov or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Paperwork Reduction Act of 1995 Analysis

This *2nd Reconsideration* contains modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and the OMB to comment on the modified information collection requirements contained in this *2nd Reconsideration*, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13. Written comments on the modified information collection requirements must be submitted by the public, the Office of Management and Budget (OMB), and other interested parties on or before September 6, 2005. In addition, we note that, pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107-198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the

Commission might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

Summary of the 2nd Reconsideration

I. Introduction

1. In January 2000, the Commission adopted a *Report and Order* establishing the low power FM (LPFM) service, Creation of Low Power Radio Service, 65 FR 7616, February 15, 2000. The Commission authorized the LPFM service to provide opportunities for new voices to be heard, while at the same time maintaining the integrity of existing FM radio service and preserving its ability to transition to a digital transmission mode. In the *Report and Order*, the Commission authorized two classes of LPFM service: The LP100 class, consisting of stations with a maximum power of 100 watts effective radiated power (ERP) at 30 meters antenna height above average terrain (HAAT), providing an FM service radius (1 mV/m or 60 dBu) of approximately 3.5 miles (5.6 kilometers), and the LP10 class, consisting of stations with a maximum power of 10 watts ERP at 30 meters HAAT, providing an FM service radius of approximately one to two miles (1.6 to 3.2 kilometers). The *Report and Order* also imposed separation requirements for LPFM with respect to full power stations.

2. In the *Report and Order*, the Commission also established ownership and eligibility rules for the LPFM service. The Commission restricted LPFM service to noncommercial educational (NCE) operation by non-profit entities and public safety radio services. With certain narrow exceptions, the Commission restricted ownership to entities with no attributable interest in any other broadcast station or other media subject to our ownership rules. The Commission prohibited the sale or transfer of an LPFM station. For the first two years of the LPFM service, the Commission prohibited multiple ownership of LPFM stations and limited ownership to locally-based entities. To resolve mutually exclusive applications, the Commission established a point system that favors local ownership and locally-originated programming, with time-sharing and successive license terms as tie-breakers.

3. The *Report and Order* directed the Mass Media Bureau to announce by public notice the opening of a national filing window for LP100 applications. In March 2000, the Mass Media Bureau announced that it would accept LPFM applications in five separate filing

windows, each limited to an application group of ten states and at least one other U.S. jurisdiction, in order to "ensure the expeditious implementation of the LPFM service and to promote the efficient use of Commission resources." See FCC Announces Five-Stage National Filing Window for Low Power FM Broadcast Station Applications, DA 00-621 (MMB rel. Mar. 17, 2000). The Commission conducted a lottery to determine the order of the application groups, and the Mass Media Bureau announced that the first LPFM filing window would open on May 30, 2000. Subsequent filing windows opened on August 28, 2000, January 16, 2001, and June 11, 2001. The fourth and fifth LPFM application groups were consolidated into a single window in order to speed the filing process for applicants in these states.

4. On reconsideration in September 2000, the Commission issued some revisions and clarifications, but generally affirmed the decisions reached in the *Report and Order*. See 65 FR 67289 (*MO&O*). The Making Appropriations for the Government of the District of Columbia for FY 2001 Act (*2001 DC Appropriations Act*), Pub. L. No. 106-553 632, required the Commission to modify its rules to prescribe LPFM station third-adjacent channel spacing standards and to prohibit any applicant from obtaining an LPFM station license if the applicant previously had engaged in the unlicensed operation of a station. As a result of rule revisions adopted pursuant to the *2001 DC Appropriations Act*, facilities proposed in a number of otherwise technically sufficient applications filed in the first two LPFM filing windows became short-spaced to existing full-power FM and/or FM translator stations, and were subsequently dismissed. See 66 FR 23861, May 10, 2001 (*2nd R&O*). The *2001 DC Appropriations Act* also instructed the Commission to conduct an experimental program to evaluate whether LPFM stations would interfere with existing FM stations if the LPFM stations were not subject to the additional channel spacing requirements, and to submit a report to Congress, including the Commission's recommendations to Congress regarding reduction or elimination of the minimum separations for third-adjacent channels. The Commission selected an independent third party, the Mitre Corporation (Mitre), to conduct the field tests. On February 19, 2004, the Commission staff submitted the required report to Congress and, based on the Mitre study, recommended that

Congress “modify the statute to eliminate the third-adjacent channel distant separation requirements for LPFM stations.”

5. On February 8, 2005, the Commission held a forum on LPFM. The forum was intended to inform the Commission of achievements by LPFM stations and the challenges faced as the service marks its fifth year. As of March 2005, more than 1,175 LPFM construction permits have been granted. Of these 1,175 permits, approximately 590 stations are on the air, serving mostly mid-sized and smaller markets.

6. Since the LPFM service was created, the experiences of LPFM applicants, permittees, and licensees have demonstrated that the Commission’s LPFM rules may need some adjustment in order to ensure that the Commission maximizes the value of the LPFM service without harming the interests of full-power FM stations or other Commission licensees. The Commission’s actions in this *2nd Reconsideration*, based in part on testimony received at the LPFM forum, are designed to increase the number of LPFM stations on the air and strengthen the viability of those stations that are already operating.

II. Second Reconsideration Order

Ownership and Eligibility

7. In the *Report and Order*, the Commission established a point system for resolving mutual exclusivity among LPFM applicants. The point system includes three selection criteria for mutually exclusive applicants. First, applicants that have an established community presence of at least two years’ duration are awarded one point. Second, applicants that pledge to operate at least 12 hours per day are assigned one point. Finally, applicants that pledge to originate locally at least eight hours of programming per day are assigned one point. The Commission defined local origination for purposes of resolving mutual exclusivity in LPFM applications as the production of programming within 10 miles of the reference coordinates of the proposed transmitting antenna.

8. On reconsideration in 2000, the Commission considered a request to broaden the definition of locally originated programming to include programming that “covers local persons and/or their activities and/or local issues.” The Commission agreed that clarification was warranted, but declined to adopt the proposed language. Instead, the Commission explained that because the intent of awarding a point for a pledge to provide

locally originated programming is to encourage licensees to maintain production facilities and a meaningful staff presence within the community served by the station, a definition of local program origination as the production of programming by the licensee within 10 miles of the proposed transmitting site is most appropriate. The Commission clarified explicitly that this rule does not necessarily preclude an applicant from claiming a point for local origination based on coverage of a high school away game played more than 10 miles away, so long as the production involves facilities located within a 10-mile radius of the antenna.

9. The United Church of Christ, Office of Communication, Inc. (UCC) requests that the Commission further clarify the definition of locally originated programming. UCC states that it is concerned that certain LPFM applicants are construing this term liberally and intend to time-shift programming obtained via satellite and rebroadcast it in an attempt to meet the local program origination pledge. The Commission does not believe that there is any reason for concern that the definition of locally originated programming, as clarified on reconsideration, may be construed broadly enough to encompass programming delivered by satellite. Nevertheless, we will take this opportunity to re-emphasize that the local origination selection criterion is intended to encourage licensees to maintain production facilities and a meaningful staff presence within the community served by the station. Programming that is produced outside of the 10-mile radius and does not involve any local production facilities does not serve this goal. Accordingly, the Commission clarifies that such programming, including time-shifted programming obtained via satellite, may not be used to fulfill a locally originated programming pledge made as part of the mutually exclusive LPFM application selection process.

Technical Rules

10. In the *Report and Order*, the Commission adopted a window filing process for applications for new LPFM stations and major modifications in the facilities of authorized LPFM stations. New station and major modification applications are accepted only during window filing periods specified by the Commission. An application proposing a “minor change” to authorized LPFM facilities, however, may be filed at any time. See 47 CFR 73.870. The *Report and Order* defined a minor change as a transmitter site relocation of less than two kilometers for an LP100 station and

a relocation of less than one kilometer for an LP10 station. Minor change applications may also propose a change to an adjacent or IF frequency or, upon a technical showing of reduced interference, to any other frequency. As noted, new station and major modification applications may be amended only during specified window filing periods. Only “minor amendments” to such applications may be filed outside a filing window. In implementing the *2001 DC Appropriations Act* in the *2nd R&O*, the Commission determined that it was necessary to adopt a more restrictive approach for “minor amendments” to pending applications, compared with the approach adopted for “minor changes” to authorized facilities, in order to facilitate the expeditious processing of the numerous applications filed in the initial LPFM windows. Accordingly, the Commission barred channel change amendments outside window filing periods. The Commission concluded, however, that the goal of promptly licensing LPFM stations would not be compromised by permitting applicants to change proposed station locations by small distances. Thus, in order to provide “some flexibility for applicants that lose a proposed transmitter site or become aware of a more desirable nearby site after the close of a filing window,” the Commission defined minor amendments to include transmitter site relocations of less than two kilometers for LP100 stations and relocations of less than one kilometer for LP10 stations—identical to the transmitter site relocation limits permissible in applications seeking minor changes to authorized facilities. See 47 CFR 73.871(c).

11. In its petition for reconsideration of the *2nd R&O*, UCC requests that the Commission amend the definition of minor change (*i.e.*, an application that seeks modifications to authorized facilities and is permissibly filed outside a filing window) to include transmitter site relocation of up to 5.6 kilometers for LP100 licensees and 3.2 kilometers for LP10 licensees. Although UCC does not explicitly request that the Commission also amend the definition of minor amendment (*i.e.*, an amendment to a pending new station or major modification application that is permissibly filed outside a filing window) to parallel the requested expansion of the definition of minor change, the Commission interprets UCC’s request to encompass both the minor change and minor amendment definitions, both of which were

addressed in the *2nd R&O*. UCC claims that many LPFM applicants have not been able to obtain local government approval for their first choice transmitter locations and must apply for alternative sites. UCC states that the practical experience of UCC, LPFM applicants, and their technical advisors demonstrates that while a two kilometer limit often precludes a workable solution in such situations, a 5.6 kilometer limit will often provide the necessary flexibility for applicants to relocate.

12. The Commission recognizes that LPFM licensees have faced a number of legal and practical constraints in identifying, securing, and retaining transmitter sites. The Commission is also aware that in some circumstances, developments that occur during the pendency of an application may make it difficult or even impossible for an LPFM applicant to use the site originally proposed. Permitting transmitter site relocation of up to 5.6 kilometers for LP100 licensees and 3.2 kilometers for LP10 licensees would provide needed flexibility. Accordingly, the Commission amends 47 CFR 73.870 and 73.871 to permit the filing of minor change applications and minor amendments requesting authority for transmitter site relocation of up to 5.6 kilometers for LP100 licensees and 3.2 kilometers for LP10 licensees. Minor amendments may be filed only to applications that are currently pending. (UCC asserts that the *2001 DC Appropriations Act*, which required the Commission to establish third-adjacent channel spacing requirements for LPFM, effectively reduced the number of available frequencies and forced LPFM applicants to seek new locations for their transmitters; however, applications dismissed for any reason, including pursuant to the third-adjacent channel spacing requirements adopted in the *2nd R&O*, may not be amended because they are no longer pending).

13. Although the Commission expands the permissible distance for transmitter site relocation in an amendment to a pending application, the Commission continues to believe that efficient LPFM window application processing requires a relatively fixed database of technical proposals and, therefore, that a narrow definition of "minor" amendment remains necessary. Thus, the Commission does not expand the definition of minor amendment to encompass channel changes. Nevertheless, it is in the public interest to provide LPFM applicants as much technical flexibility as possible. Accordingly, the Commission delegates authority to the Media Bureau to open

settlement windows for closed LPFM groups to permit applicants entering into settlement agreements to file major change amendments specifying new FM channels. (In 2003, the Commission established a similar filing window which successfully facilitated the rapid licensing of a number of LPFM stations). For applications amended in such windows, the Commission delegates authority to the Media Bureau to waive 47 CFR 73.871(a) on a case-by-case basis upon a determination that such waiver will promote expeditious application processing and maximize new LPFM station licensing opportunities. Any settlement agreement submitted under these procedures must be universal.

14. In the Further Notice of Proposed Rulemaking (*FNPRM*) issued concurrently with this *2nd Reconsideration*, the Commission seeks a comment on a number of technical and ownership/eligibility issues relating to LPFM authorizations. Among other issues, the Commission seeks comment on whether to introduce some level of transferability to the LPFM service. The Commission states that the current rule prohibiting the transfer of LPFM stations is hampering the LPFM service by, for example, impeding routine transitions to new governing boards and limiting the ability of an LPFM licensee to assign its license to a new, jointly-controlled entity composed of several similarly focused organizations. The Commission believes that delaying relief to LPFM stations until the proceeding is completed will not serve the public interest. Accordingly, the Commission delegates to the Media Bureau authority to consider, on a case-by-case basis, requests for waivers of 47 CFR 73.865. The Media Bureau may grant a waiver upon determination that such waiver will maximize spectrum use for low power FM operations. For example, waiver may be appropriate, assuming the public interest would be served, in certain circumstances: a sudden change in the majority of a governing board with no change in the organization's mission; development of a partnership or cooperative effort between local community groups, one of which is the licensee; and transfer to another local entity upon the inability of the current licensee to continue operations. This is not an exhaustive list of circumstances appropriate for waiver. However, until the Commission has further considered the transferability issue, waiver is not appropriate to permit the for-profit sale of an LPFM station to any entity or the transfer of an LPFM station to a non-local entity or an entity that owns another LPFM station.

15. The *FNPRM* also proposes to extend the LPFM construction period to three years, the same period afforded other broadcast permittees, and seeks comment on this proposal. Some LPFM construction permits are scheduled to expire in the near future, while the Commission is considering this issue, and other LPFM permittees with expired permits have requests pending before the Media Bureau for additional time to construct. The Commission adopts an interim waiver policy to increase the likelihood that these permittees will complete construction and commence operation. Although the rules do not generally permit waiver of broadcast construction permit deadlines, all other broadcast permittees are afforded 36 months to construct facilities. Here, where the construction period is half as long, the Commission believes that waivers generally are warranted to extend outstanding LPFM construction permits to three years. Pending Commission action on the *FNPRM*, the Commission delegates to the Media Bureau the authority to consider requests for waiver of the construction period even if the requirements under the tolling rules are not met. The Media Bureau may determine that a waiver is appropriate if an LPFM permittee demonstrates that it cannot complete construction within the allotted 18 months for reasons beyond its control, that it reasonably expects to be able to complete construction within the additional 18 months that the construction extension would provide, and that the public interest would be served by the extension.

III. Procedural Matters

Regulatory Flexibility Act

16. This Final Regulatory Flexibility Analysis (FRFA) conforms to the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 604.

Need for, and Objectives of, the Second Order on Reconsideration

17. The Commission received petitions for reconsideration of the *2nd R&O* that requested reconsideration of a variety of issues. This *2nd Reconsideration* resolves those issues that were timely raised. We do not change most of the determinations made in the *2nd R&O*. We do, however, amend the definitions of minor change and minor amendment to permit greater flexibility in transmitter site relocation for LPFM authorizations.

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

18. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules, if adopted. See 5 U.S.C. 603(b)(3). The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small government jurisdiction." 5 U.S.C. 601(6). In addition, the term "small business" has the same meaning as the term "small business concern" under the SBA. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

19. The Small Business Administration (SBA) defines a radio broadcasting station that has \$5 million or less in annual receipts as a small business. See 13 CFR 121.201. 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. 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.

20. The Commission's LPFM rules apply to a new category of FM radio broadcasting service. As of the date of release of this *FNPRM*, the Commission's records indicate that more than 1,175 LPFM construction permits have been granted. Of these 1,175 permits, approximately 590 stations are on the air, serving mostly mid-sized and smaller markets. It is not known how many entities ultimately may seek to obtain low power radio licenses. Nor does the Commission know how many of these entities will be small entities. The Commission expects, however, that due to the small size of low power FM stations, small entities would generally have a greater interest than large ones in acquiring them.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

21. Most of the provisions of the *2nd R&O* are unchanged by the *2nd Reconsideration*. Establishing the LPFM service requires the collection of information for the purposes of processing applications for (among other things) initial construction permits, assignments and transfers, and

renewals. We also require lower power radio stations to comply with some of the reporting, recordkeeping, and other compliance requirements as full power radio broadcasters. This *2nd Reconsideration* amends the definitions of minor change and minor amendment to permit increased flexibility in transmitter site relocation for LPFM authorizations. In order to receive authorization for such site relocation, LPFM applicants, permittees, and licensees must file minor change applications or minor amendments to pending applications.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

22. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. See 5 U.S.C. 603(c)(1)-(c)(4).

23. The LPFM service has created and will continue to create significant opportunities for new small businesses. In addition, the Commission generally has taken steps to minimize the impact on existing small broadcasters. To the extent the *2nd Reconsideration* imposes any burdens on small entities, the Commission believes that the resulting impact on small entities is favorable because the proposed rules, if adopted, would expand opportunities for LPFM applicants, permittees, and licensees to commence broadcasting and stay on the air.

24. The Commission will send a copy of this *2nd Reconsideration* in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

25. Accessibility Information. To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document can also be downloaded in Word and Portable Document Format (PDF) at: <http://www.fcc.gov>.

List of Subjects in 47 CFR Part 73

Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rule Changes

■ For the reasons discussed in the preamble, the FCC amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The citation authority for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

■ 2. Section 73.870 is amended by revising paragraph (a) to read as follows:

§ 73.870 Processing of LPFM broadcast station applications.

(a) A minor change for an LP100 station authorized under this subpart is limited to transmitter site relocations of 5.6 kilometers or less. A minor change for an LP10 station authorized under this subpart is limited to transmitter site relocations of 3.2 kilometers or less. Minor changes of LPFM stations may include changes in frequency to adjacent or IF frequencies or, upon a technical showing of reduced interference, to any frequency.

* * * * *

■ 3. Section 73.871 is amended by revising paragraph (c) to read as follows:

§ 73.871 Amendment of LPFM broadcast station applications.

* * * * *

(c) Only minor amendments to new and major change applications will be accepted after the close of the pertinent filing window. Subject to the provisions of this section, such amendments may be filed as a matter of right by the date specified in the FCC's Public Notice announcing the acceptance of such applications. For the purposes of this section, minor amendments are limited to:

(1) Site relocations of 3.2 kilometers or less for LP10 stations;

(2) Site relocations of 5.6 kilometers or less for LP100 stations;

(3) Changes in ownership where the original party or parties to an application retain more than a 50 percent ownership interest in the application as originally filed; and

(4) Other changes in general and/or legal information.

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[FR Doc. 05-13368 Filed 7-6-05; 8:45 am]

BILLING CODE 6712-01-P