(c) If one or more engine manufacturers fail to meet commitments under the agreement described in paragraph (a) of this section and such a failure results in a delay in the final written report for PM emissions described in the agreement, the following provisions apply:

(1) If the delay is 3 months or less, we will delay the designation of engine families for testing in the applicable calendar year, as described in § 86.1905(d), by the same number of additional whole months (rounded up) needed to complete the report.

(2) If the delay is more than 3 months but less than 12 months, the provisions of this subpart will not apply for the otherwise applicable calendar year, subject to the following provisions:

(i) We may identify the number of engine families that would otherwise have been designated for testing in that calendar year for the delayed pollutant type and direct manufacturers to test that number of engine families under the special provisions described in § 86.1930 and additionally in any later calendar year once the provisions of this subpart begin for that pollutant type, without counting those accumulated engine families toward the allowable annual cap on the number of engine families specified in § 86.1905.

(ii) The normal 18-month period for testing and reporting results specified in § 86.1905(d) is extended to 24 months for any accumulated engine-family designation described in paragraph (c)(2)(i) of this section. The additional time extensions for testing and reporting results as specified in § 86.1905(d) also apply.

(3) If the delay is longer than 12 months, the following approach is established for the applicable calendar year.

(i) If the delay is longer than 12 months but less than 15 months, we will follow the steps described in paragraph (c)(1) of this section.

(ii) If the delay is longer than 15 months, but less than 24 months, we will follow the steps described in paragraph (c)(2) of this section for the applicable calendar year.

(iii) If the delay is longer than 24 months, we will continue to follow the steps described in paragraphs (c)(1) and (c)(2) of this section, including the accumulation of engine families for testing until the report is received and the fully implemented program commences.

(d) We may determine that any individual manufacturer's failure under paragraph (c) of this section constitutes a failure by all engine manufacturers.

(e) Nothing in this section affects our ability to select engines from any model year beginning with model year 2007, or for gaseous emission testing.

(f) If we determine that fundamental technical problems with portable in-use PM measurement systems are not resolvable in a reasonable time, the provisions of this subpart, as they apply to PM, will go into abeyance until we determine that suitable emission-measurement devices are available for in-use testing.

(g) Engine manufacturers contributing to the test programs described in the agreement referenced in paragraph (a) of this section may limit their testing under the special provisions described in § 86.1930 to five engines in each selected engine family.

[FR Doc. E8–4388 Filed 3–12–08; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket Nos. 00–168, 00–44; FCC 07–205]

Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations; Extension of the Filing Requirement for Children's Television Programming Report (FCC Form 398)

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts a standardized form for the quarterly reporting of programming aired in response to issues facing a television station's community and a requirement that portions of each television station's public inspection file be placed on the Internet. The Commission solicited and reviewed comments regarding whether the current requirements pertaining to television stations' public inspection files were sufficient to ensure that the public has adequate access to information on how the stations are serving their communities.

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

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Holly Saurer, *Holly.Saurer@fcc.gov* of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, FCC 07–205, adopted on November 27, 2007, and released on January 24, 2008. 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

Initial Paperwork Reduction Act of 1995 Analysis

This document contains information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the information collection requirements contained in this proceeding. The Commission will publish separate documents in the **Federal Register** at a later date seeking these comments. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how the Commission might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Summary of the Report and Order

I. Introduction

1. We commenced this proceeding to determine whether our current requirements pertaining to television

stations' public inspection files are sufficient to ensure that the public has adequate access to information on how the stations are serving their communities. We tentatively concluded in that *Notice of Proposed Rulemaking* (NPRM), 65 FR 62683, October 19, 2000 that our current requirements were not sufficient and that a standardized form to provide information on how stations serve the public interest would be desirable. Additionally, we proposed to enhance the public's ability to access information by requiring television licensees to make the contents of the public inspection files, including the standardized form, available on their stations' Internet Web sites or, alternatively, on the Web site of their state broadcasters association. In this *Report and Order* we adopt a standardized form for the quarterly reporting of programming aired in response to issues facing a station's community and a requirement that portions of each station's public inspection file be placed on the Internet.

2. In adopting these new disclosure requirements, we are not altering in any way broadcasters' substantive public interest obligations. Those obligations are being considered and will be addressed in other proceedings. We simply are making information about broadcasters' efforts more understandable and more easily accessible by members of the public.

II. Background

3. The Commission first adopted a public inspection file rule more than 40 years ago. The public file requirement grew out of Congress' 1960 amendment of sections 309 and 311 of the Communications Act of 1934 (Act). Finding that Congress, in enacting these provisions, was guarding ''the right of the general public to be informed, not merely the rights of those who have special interests,'' the Commission adopted the public inspection file requirement to ''make information to which the public already has a right more readily available, so that the public will be encouraged to play a more active part in dialogue with broadcast licensees.'' Although we are separated from that decision by more than four decades, during which period the public file rule has been changed many times, our goal remains the same. The action we are taking, which is based in part on the changes in technology that have occurred since 1965, will make the information in the public inspection file more useful and more accessible to the public, improving communications between broadcasters and the public they serve.

4. Over the past four decades, the Commission's public inspection file requirements were modified on several occasions. For instance, in 1984, the Commission required that television stations place in their public inspection file ''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.'' This issues/programs list also must include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment together with the time, date, duration, and title of each program in which the issue was treated. In adopting the issues/programs list requirement for television stations, the Commission expected it to be ''[t]he most significant source of issue-responsive information under the new regulatory scheme.'' Moreover, the list was intended to be a significant source of information for any initial investigation by the public, competitors, or the Commission when renewal of the station's license is at issue.

5. In 1998, the Committee on Public Interest Obligations of Digital Television Broadcasters issued its Final Report of the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters (Advisory Committee Report). The Advisory Committee Report considered, *inter alia*, the public inspection file and recommended that the currently required reports on issue-responsive programming and children's programming be augmented. The Advisory Committee found that such public information could be distributed to the public more effectively if it was placed on television stations' Internet Web sites and it designed a sample standardized form which could be used to that end. Subsequently, People for Better TV submitted proposals to the Commission in a Petition for Rulemaking and Petition for Notice of Inquiry asking the Commission to initiate a rulemaking proceeding to determine public interest standards and obligations of digital broadcasters.

6. After the issuance of the Advisory Committee Report, the Commission adopted a *Notice of Inquiry* (NOI), 65 FR 4211, January 26, 2000 seeking comment on several issues related to how broadcasters might best serve the public interest during and after the transition from analog to digital television. Some of the issues raised in that *NOI* related exclusively to television broadcasters' use of their digital spectrum. Other issues, however, related to how broadcasters could meet their public interest obligations on both their analog and digital spectrum. Among these were how to enhance the public's ability to access information on a station's performance of its public interest obligations with regard to both issue-responsive and children's programming, both during and after the analog-digital transition. As a result of comments on these latter issues received in response to the *NOI*, we issued the *NPRM* in this proceeding. The Commission proposed to replace the current issues/programs list for TV stations with a standardized form and to require TV broadcasters to make their public inspection files available on the Internet. For the reasons discussed below, we now adopt, with some modifications, these proposals.

III. Report and Order

A. Placing the Public File on the Internet

7. In the *NPRM*, we tentatively concluded that television licensees should be obligated to place the contents of their public inspection file on their Web sites or the Web sites of their state broadcasters association. Commenters supporting this tentative conclusion argued that this would not be unduly burdensome given that the majority of broadcasters already have their own Web sites. United Church of Christ (UCC) cites a study by Ball State University and the Radio-Television News Directors Association that found that 88 percent of the 773 stations polled said they operated Web sites. The National Association of Broadcasters (NAB), which opposes our adoption of such a requirement, conducted a survey that found that 83.9 percent of television stations responding currently have their own Web sites. Thus, it appears that most TV stations are currently using the Internet to provide information and promotional material to the public. By their own actions broadcasters have confirmed that the Internet is an effective and cost-efficient method of maintaining contact with, and distributing information to, their viewership.

8. Most commenters opposing a requirement to place the public inspection file on the Internet cited the cost of converting and maintaining the public file electronically. According to Benedeck, to convert a public inspection file to electronic format and index the documents would cost an estimated $10,000. State Broadcasters Associations estimate that it would take a professional listserver approximately fifteen minutes to one and a half hours, at a cost of $65 per hour, to post each page of a broadcast station's public file.

This cost burden would, State Broadcasters Association continues, come at the very time when the industry's resources are being directed to ''implementation of the enormously expensive and risky new DTV service.'' Others echo these claims.

9. We believe that many of the estimates of the costs of complying with our requirement are grossly inflated. As an initial matter, our own cost estimates are considerably lower than those of a number of commenters. Even if a station's public inspection file, excluding those materials we have said could be excluded, contained as many as 10,000 pages, Commission staff estimates that the cost of placing that volume on a broadcaster's existing Web site would involve a one-time cost less than $15,000 and the cost of maintaining that volume on a server should be less than $20 a month. We expect that much of that material would already exist in electronic form, but even if it had to be converted into electronic form the staff estimates that this would cost from as little as $0.03 to as much as $1.50 per page. As discussed in the text, however, given our exclusion of certain material from the requirement, we expect the volume of material required to be posted to be dramatically less than 10,000 pages. Therefore, as a result of the fact that conversion into electronic form is likely to be towards the middle to lower end of our range, and the volume of material required to be posted is expected to be dramatically less than 10,000 pages, we think the upper bound of total one-time cost estimates are highly unlikely to be reached. First, we are not requiring stations that do not already have a Web site to create one. As proposed in the *NPRM*, we are only requiring a station to post its public inspection files on its Web site if it already has one. This will eliminate all costs of starting up a Web site that were included in the estimates supplied by commenters. Also, the volume of material will be less than estimated by some commenters as a result of our decision, discussed below, not to require posting of letters from the public and allowing licensees to link to material available on the Commission's Web site in lieu of posting it on their own Web sites.

10. Moreover, we believe that the benefits of licensees placing their public inspection files on the Internet outweigh the cost, especially since the requirement will only apply to stations already using the Internet for other purposes. Many of these stations are already equipped to place material on the Internet. For example, stations must already place EEO reports on their Web sites, to the extent that they have one. The ongoing additional costs of putting their public files on the Internet should be relatively modest once the initial conversion of the existing paper file is complete. While the cost of this initial conversion may be appreciable, it is a one-time expense and, in nearly all cases, should not be overly burdensome. Moreover, these costs are outweighed by the benefits to the public of Internet accessibility to the information. It is beneficial for the community to have Internet access to information it may not otherwise be able to obtain. Links to information available on the Commission's Web site, including a copy of ownership reports, and children's television programming reports, educate consumers on issues that they might not otherwise know about, absent an ability to visit a station to inspect the public file. Further information available in the public file, including information regarding Commission investigations and complaints, issues/programs lists, and citizen's agreements assist consumers in educating themselves as to the licensee and its programming. As discussed in previous Orders, the Commission has found that each of the items required to be placed in the public file are important, and need to be accessible to the public. Internet access to such information only improves public access. As such, we believe these interests justify potential increased costs. If a particular broadcaster finds the requirement beyond its means, we will entertain specific, documented waiver requests for relief to lessen the financial burden on the licensee.

11. Other commenters objecting to placing public file material on station Web sites argued either: (1) That few people actually have visited the stations' studios to view their public files, or (2) that placing public file material on the station's Web site would only enhance availability of that material to persons outside the station's service area and that such persons have a less compelling interest in accessing that information. NBC, for example, notes that it receives relatively few requests to examine its stations' public inspection files. Viacom characterizes visits to its stations' public inspection files as ''exceedingly rare * * * less than one annually, virtually all of whom are college students on assignment.'' The Walt Disney Company provides a similar estimate of public file usage at its stations. Educational Information Corporation, licensee of WCPE asserts that in twenty years it has had only a single member of the public ask to review its public file.

12. Before the Commission adopted the public file requirement in 1965, commenters argued that the rules were unnecessary because there would be little or no demand for the information contained therein. The Commission responded: ''we do not base our decision in this proceeding on a widespread articulate demand by the public for the information we propose to make locally available. Our primary purpose in the present proceeding is to make information to which the public already has a right more readily available, so that the public will be encouraged to play a more active part in a dialogue with broadcast licensees.'' Similarly, here we are merely making material more accessible to the public. By doing so we, like our predecessors in 1965, hope to encourage the public to play a more active role in a dialogue with broadcasters. The fact that our current rules may not have resulted in widespread review of the public files by members of the public only serves to underscore the desirability of improving the accessibility of these files. It may well be that the requirement of physically going to the station and viewing the file during normal business hours has discouraged public interest in viewing the public files. By making the file more available through the Internet, we hope to facilitate access to the file information and foster increased public participation in the licensing process.

13. We find it entirely consistent with Congressional intent in adopting section 309 of the Act to embrace a public file requirement that enhances the ability of both those within and those beyond a station's service area to participate in the licensing process. Additionally, we disagree with those arguing that stations placing their public inspection files on the Internet will only benefit those outside a station's service area; it will also benefit those within the service area who will be able to access the file without visiting the station during normal business hours.

14. Opponents also assert that the Commission lacks authority to impose such a requirement. For example, Viacom argues that ''[m]aintaining a Web site—let alone posting the voluminous contents of a public inspection file—is simply too far afield from the core activities of broadcasting for the Commission to regulate.'' Similarly, Sinclair argues that ''[t]he Commission does not have jurisdiction over Web sites and therefore simply lacks the authority to enforce these requirements.'' The Media Institute argues that a requirement to post the

public inspection file on a station's Internet Web site would pose problems of a constitutional dimension. It argues that ''[t]he proposal demands careful scrutiny on First Amendment grounds—particularly because the constitutional concerns here might easily be overlooked on the assumption that a Web site was merely an electronic filing cabinet * * *. The Commission is overreaching to suggest that it can compel broadcasters to post certain types of speech on their Web sites.''

15. We disagree. The manner in which broadcasters communicate with their communities is a core function of their role as licensees. Thus, for example, we require applicants to publish notice of their filing of certain applications in local newspapers. A requirement for broadcast stations to place their public inspection files on the Internet Web site does not constitute an assertion of jurisdiction over the medium on which it must be maintained or take us beyond those areas of a broadcaster's activity within the Commission's jurisdiction. Moreover, we see no constitutional infirmity in this requirement. As an initial matter, our public inspection file rules have, for more than 40 years, required broadcasters to make certain categories of information available to the public.

16. Even assuming that ''intermediate scrutiny'' is the appropriate standard, a content neutral regulation such as this will be sustained against claims that it violates the First Amendment if: (1) It advances important governmental interests unrelated to the suppression of free speech; and (2) does not burden substantially more speech than necessary to further those interests. The instant regulation meets both tests. First, it has been established that the public file requirement advances the important governmental interest that Congress found in public participation in the licensing process when it adopted the pre-hearing procedures contained in sections 309 and 311 of the Act. Second, the requirement does not burden speech more than necessary to further that interest. It is limited to only those items that members of the public would reasonably need to be aware of in order to have a dialogue with their local broadcaster and, if necessary, to participate in pre-hearing procedures with respect to the licensing process. Indeed, we are not requiring the posting of some public file material because doing so would impose excessive burdens and we are allowing broadcasters merely to link to material also found on our Web site. Thus, to the extent that our new regulation can be said to burden speech at all, we have assured that it ''does not burden substantially more speech than necessary'' to further the interest served by the public file rules.

17. Accordingly, we will require those television stations that have an Internet Web site to place their public inspection file on their station's Web site and to make this file available to the public without charge. These stations have already recognized the value of this tool to inform viewers about station programs and activities. In order to provide sufficient time for affected television broadcasters to come into compliance, we will require that stations currently having a Web site place their public inspection files on that Web site 60 days after the Commission publishes a notice in the **Federal Register** announcing Office of Management and Budget approval. Stations not having their own Web site as of the date that this *Report and Order* is adopted will have to place their files on any Web site they may later create by the date above or within 30 days of the date it makes the Web site available to the public, whichever is later.

18. As an alternative, stations having a Web site may place their public inspection files on their state broadcasters association's (SBA) Web site, where permitted by the SBA to do so. If a station places its public file on the Web site of its SBA, however, the station must provide a link from its own Web site to that of the SBA on which its public files are located. We are not persuaded by the comments filed in this proceeding that this alternative is unwarranted and unworkable. Although, as UCC points out, ''[m]ost viewers probably do not know what an SBA is, let alone the address of the local broadcaster's SBA Web site,'' they do not have to know this information in order to follow a link to that site from the station's Web site. State Broadcasters Associations argue that this would place an ''enormous strain on the personnel and resources of those associations.'' In addition, as Media Institute points out, we have no jurisdiction to require such organizations, which are not themselves under Commission regulatory control, to make their Web sites available for such a purpose. For these reasons, we will not require SBAs to permit stations to place their public inspection files on their Web sites. Instead, we will simply permit television stations, over which we do have jurisdiction, to comply with our requirements by placing their public files on their SBAs' Web sites, as long as their SBA permits, and the stations provide a link to their public inspection files from their own Web sites.

19. *Political File.* Sections 73.3526(e)(6), 73.3527(e)(5), and 73.1943 of the Commission's rules require that stations keep as part of their public inspection files a ''political file.'' The political file chiefly consists of ''a complete and orderly record * * * of all requests for broadcast time made by or on behalf of a candidate for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if the request is granted.'' These records must be placed in the political file as soon as possible. In amending our public inspection file rule to, *inter alia*, require that stations that maintain their main studios and public files outside their community of license must make available pursuant to telephone request photocopies of public file material, we exempted the political file from the requirement. We did this for two reasons. First, we recognized that candidates and their representatives make the heaviest use of the public inspection files, making daily or even more frequent requests for political file information during a campaign, because the information is in flux throughout each day of the campaign. We determined that, were they able to make requests for political file material by telephone, such a heavy volume of telephone calls could unduly disrupt a station's operations. Second, we found that candidates or their representatives, when seeking political file information in their professional capacities, are more likely to have greater resources and be more able to access the main studio and public file in person than would an average citizen.

20. This reasoning also applies to Internet access to the political file. Daily and even more frequent requests for access by political candidates and their campaign personnel, combined with a need for the station to update the file frequently, may make requiring the station to place this material on the Internet inappropriate. Resources available to political candidates likely provide them with greater access to the station and distinguish them from members of the general public who will benefit from ready access to Internet posting of other parts of the public file. Political candidates and campaigns make heavy use of the file and require quick access to material, and if the volume of material is too great, the station may not be able to update the Internet file quickly enough. Our rules currently require that records be placed in the political file as soon as possible, which the rule defines as meaning

''immediately absent unusual circumstances.'' This may mean multiple updates each day during peak periods of the election season. Some commenters argue that an Internet posting requirement for the political file would be unduly burdensome for licensees due to the need for frequent updating of the file and the volume of material it contains. While Internet access would obviate the need for physical access to each station and free station personnel from having to assist candidates and their political committees, we conclude that the burden of placing this material on the Internet outweighs the benefits.

21. *Children's Television Programming Reports (Form 398).* In MM Docket No. 00–44, the Commission, among other things, extended indefinitely the requirement that commercial broadcast television licensees electronically file their quarterly Children's Television Programming Reports (Form 398) with the Commission and required broadcasters in the future to place the reports in their public files at the time they are prepared. At that time we also issued a *Further Notice of Proposed Rulemaking* (FNPRM), 65 FR 67331, November 9, 2000 seeking comment on whether broadcasters should be required to provide their completed quarterly reports at their own Web sites. Because of the similarity of the issues presented in that proceeding to those present here, we will resolve them in this *Report and Order.*

22. Only two commenters filed in response to the *FNPRM.* Both the Center for Media Education (CME) and NAB supported requiring stations to create a link to station reports on the Commission's Children's Educational Television Web site. Unlike NAB, however, CME also supported requiring stations to post Reports on their Web sites and to maintain them until final action on their next renewal application.

23. Like the other non-exempted contents of licensees' public files, the Children's Television Programming Reports must now also be made available on the Internet. We find, however, that it is sufficient to allow television station licensees having a Web site to provide a link from the public inspection file portion of that Web site to the Commission's Children's Educational Television webpage. We agree with NAB that to replicate the reports on the licensee's Web site would be redundant and cause needless expense to licensees. Accordingly, we agree with NAB that a link to the Commission's Children's Educational Television webpage is sufficient and that the report forms need not be placed on any station's Web site that contains such a link.

24. *Other Material Available on the Commission's or Other Web sites.* We will not require stations to post on their Web sites any other material that is also available on the Commission's Web site, as long as they provide a link directly to the information on the Commission's Web site. For example, stations need not post a copy of ''The Public and Broadcasting'' on their own Web sites as long as they provide a link to the manual on the Commission's Web site. It is not necessary for more than 1,600 television stations to each have this Commission publication on their Web site. It is sufficient that they each have a hard copy in their public files at the main studio, and a link to it on the Commission's Web site from their own Web site. This measure will also serve to reduce the amount of material that must be placed on a station's Web site, thereby reducing the cost of the requirement. Similarly, licensees can provide links to other Web sites containing relevant information rather than also placing the information on the station's own Web site as long as that other site is freely available to the public and no registration is required.

25. *Letters from the Public.* We will not require stations to keep items covered by § 73.3526(e)(9) of the rules, ''Letters and e-mail from the public,'' on their Web site. One commenter contends that these letters are one of the more voluminous components of the public file. Tribune estimates that one of its stations, WGN–TV, has a file of letters from the public that consumes nearly 32 linear feet of file space consisting of more than 72,000 pages. Comments filed in this proceeding raised the specter of having to reproduce on a station's Web site as much as six-plus feet of material. To alleviate stations' burden and cost, we will allow them to refrain from posting these letters on their Web sites as long as they retain them in their stations' ''hard copy'' public inspection files located at their main studios and make them available to the public at that location. Comments made by the public by e-mail will have to be placed on the station's Web site—because stations will incur no cost other than the cost of electronic storage—and also either printed out and placed in a station's public file at its main studio, or made available on a publicly accessible computer database, per § 73.3526(c). This will ensure that there is one location where all of the letters from the public will be maintained (*i.e.*, at the main studio). The Web site must also provide notice that a complete set of letters from the public is available at the main studio.

26. *Accessibility of Web sites to Persons with Disabilities.* In the *NPRM* we solicited comment on whether we should require or encourage television broadcasters to make Web sites, including those on which they will place their public inspection files, accessible to persons with disabilities using the World Wide Web Consortium's Web Content Accessibility (W3C/WAI) guidelines. Commenters were split on this issue. Several were in favor of making broadcaster webpages, including those containing their public files, accessible to persons with disabilities. People for Better TV (PBTV) asserts that ''it would make little sense for the Commission to establish reporting requirements without clarifying the goal of making the reports fully accessible to the community of license.'' Others argue that that it will take substantially longer to make a Web site disability friendly, as much as two-and-a-half to three times longer, and would increase costs.

27. We conclude that in designing the public inspection file portion of their Web sites, television licensees must make them accessible to the disabled through a minimal level of compliance with the most recent W3C/WAI guidelines. As noted by one commenter, ''[i]t is urgent that the Commission ensure that the technological capabilities offered by new technologies, such as making web content accessible to persons with disabilities, are used to maximize the potential of persons with disabilities to benefit from technological innovation to the same extent as any other person.'' These guidelines discuss accessibility issues and provide accessible design solutions for them. Furthermore, they provide checkpoints against which Web site designers can measure the accessibility of their site. Each of these checkpoints has a priority level assigned by the W3C/WAI Working Group based on the checkpoint's impact on accessibility. For example, a ''Priority 1'' checkpoint means that the web content developer must satisfy the checkpoint or one or more groups will find it impossible to access information in the document. Satisfying this checkpoint is a basic requirement for some groups to be able to use Web documents. Other priorities either ''should'' or ''may'' be addressed in order to remove barriers to access. Additionally, the guidelines define three different levels of conformance to the guidelines—Levels A, Double-A and

Triple-A. Level A means that all Priority 1 checkpoints have been satisfied in the design of the Web site. Level Double-A means that all Priority 1 and 2 checkpoints have been satisfied, and so on.

28. We will require television station licensees who maintain their public inspection file on their Internet Web site to adhere to the most recent Conformance Level A with regard to the public inspection file portion of their Web site. By satisfying the minimal requirement of satisfying Priority 1 checkpoints, no group should find it impossible to access the contents of the public files.

29. Commenters suggested additional ways to make the public file more accessible over the Internet to persons with disabilities. WGBH urged that we require licensees to post public file information on a toll-free telephone line. TDI suggested that ''broadcasters can make chat rooms or listservs available for on-line discussions and to disseminate information to individuals with disabilities.'' We believe that requiring such measures would impose excessive costs on licensees. A disabled-accessible electronic public inspection file is, we continue to believe, the best way to make the information accessible to those with disabilities while imposing the least additional costs on licensees.

30. *Other Means of Communicating with the Public.* In the *NPRM* we also asked whether there were other methods by which we could foster licensee interaction with the public through Internet Web sites. We did not propose to mandate any such method. Instead, we encouraged broadcasters to use their Web sites to conduct discussions with members of the public and sought comment on this approach. We agree with the sole comment filed in this regard. Capitol Broadcasting Company, while supporting the notion that broadcasters should interact with their community by means of broadcaster-sponsored online forums, asserts that any mandatory requirement on licensee interaction with the public through the Internet would be premature. Although broadcaster/public interaction is desirable, we do not see a need in this case to mandate any specific measures beyond those being adopted herein.

31. We also solicited comment on other methods for distributing public interest information to the public. Our tentative conclusion was that we should not require on-air notifications of the contents and location of the issues/programs list or mandatory publication of public interest information in local newspapers. A few commenters supported adoption of such methods. Upon further consideration, we believe that viewers should be notified of the existence, location and accessibility of the station's public file. This will increase viewer awareness and help promote the ongoing dialogue between a station and the viewers they are licensed to serve. We believe that the most appropriate time for licensees to provide such notice is during the regular station identification announcements required under our rules. The notice must state that the station's public file is available for inspection and where consumers can view it—*e.g.*, at the station's main studio and on its Web site. In order to minimize the burden on stations, we will only require such notice twice daily. At least one of the announcements must occur between the hours of 6 p.m. and midnight.

B. Standardized Form

32. In addition to proposing that public file information be accessible through Internet connections, we also proposed to adopt a standardized form for inclusion in the file that would replace the existing quarterly issues/programs disclosure. In 1984, the Commission eliminated many of its specific programming obligations and substituted a general requirement that commercial television broadcast station licensees must provide coverage of issues facing their communities and place lists of programming used in providing significant treatment of those issues (issues/programs lists) in the station's public inspection files on a quarterly basis. In this proceeding we proposed to adopt a standard programming disclosure format to be used in place of the issues/programs list. In making this proposal, we noted the difficulties that members of the public had encountered in accessing programming information in the existing format. We felt that the use of a standardized disclosure form would facilitate access to this information and would make broadcasters more accountable to the public. In addition, a standardized form would benefit the public by reducing the time needed to locate information and by providing the public with a better mechanism for reviewing broadcaster public interest programming and activities.

33. We also tentatively concluded that the standardized form should ask questions about categories of programming and should include information on broadcasters' provision of closed captioning and video description. Furthermore, we solicited comment on whether licensees should provide a narrative description of the actions taken, in the normal course of business, to assess a community's programming needs and interests. We specifically stated, however, that we did not intend this obligation to constitute a detailed and formal ascertainment requirement but, instead, only intended it to provide the public with information on how, in the normal course of business, licensees assess community needs and interests. We did not propose to include on the form non-broadcast community service activities by broadcasters. We sought comment on whether licensees should forward an electronic copy of the disclosure form to the Commission for inclusion in the license file.

34. In this *Report and Order,* we adopt a standardized programming report form to replace the current issues/programs list. We intend this form to provide the public with easily accessible information in a standardized format on each television station's efforts to serve its community. The form includes information about efforts that have been made to ascertain the programming needs of various segments of the community, and information regarding closed captioning and video described content. Adoption of this revised disclosure requirement is, we believe, amply supported by the record and will not be unduly burdensome for licensees.

35. Commenters urging the adoption of such a form have noted the difficulties that they have encountered in obtaining information on public interest programming from broadcasters, as well as the benefits of standardized disclosure. They report that broadcasters are confused about what they should put in their public files and describe instances in which documents were missing and files outdated. UCC reviewed the issues/programs lists of several broadcast stations in preparing its comments in this proceeding. It found that some broadcasters listed everything and anything they considered to qualify while others listed only a few programs. It found that ''[t]he lack of uniformity and consistency of the issues/program lists make it difficult to discern both how much and what types of public interest programming a broadcaster provided,'' which makes any ''overall assessment or comparison between broadcasters virtually impossible.'' One commenter noted that its most consistent finding was the lack of consistency in station public inspection files. Such commenters have pointed to the benefits that a standardized form can bring, including enhanced access to information on the

extent to which broadcasters are meeting their public interest obligations, ease of use by the public and broadcasters alike, and the promotion of a dialog between stations and the public they serve.

36. Broadcast interests uniformly oppose use of a standardized form. Several contend that the proposals made by the Commission in the instant *NPRM* would be unconstitutional because the proposed form would constitute programming ''quotas'' in violation of the First Amendment. This fear is misplaced. Our decision here does not adopt quantitative programming requirements or guidelines. This *Report and Order* does not require broadcasters to air any particular category of programming or mix of programming types. Accordingly, we reject the claim that our decision mandates programming quotas or guidelines, or otherwise improperly intervenes in licensee discretion.

37. Some opponents of the form assert that, if there are problems with the level of issue-responsive programming being offered by a specific station, the Commission's concern should be directed to the particular station(s) involved rather than imposing a standardized form on all television broadcasters. In addition, they assert that the issues/programs list has worked well for two decades and that any shortcomings of the current issues/programs list can more appropriately be addressed through modest changes to that process rather than adoption of a new form. Our action is not premised on the existence of rule violations by licensees or the failings of a particular station. Rather, the problem addressed here is the lack of accessibility and uniformity in the issues/programs list information. These defects in the current requirements are not susceptible to cure through the issuance of forfeitures. The problem is systemic. According to those who have used the current list, it has not worked well; the changes we are making are narrowly tailored and an effective response.

38. Others argue that a lack of uniformity in issues/programs lists is desirable and simply reflects the diversity of issues identified by broadcasters and the programming aired in response to those issues in different markets. We disagree that a lack of uniformity in reporting is desirable or that diversity of issues identified by broadcasters is the problem. For those attempting to make use of the list and to compare the efforts of various stations, uniformity of reporting is desirable and, indeed, may be essential. As noted above, users of the issues/programs list have chronicled the difficulties they face when reviewing issues/programs lists compiled by different stations. Moreover, diversity of issues is not a problem, and our adoption of a standardized form should not limit broadcasters' flexibility to address various issues. We are not trying to impose uniformity in issue or program selection by adopting a standardized form; we are simply attempting to obtain uniformity in reporting.

39. Further, the record in the Commission's ongoing Localism Proceeding—especially that portion amassed during a series of public hearings conducted across the country—suggests that there may be a communications breakdown between licensees and their communities concerning the breadth of their local licensees' efforts to air programming that serves communities' local needs and interests. Written comments submitted in the Localism Docket and testimony received during several localism field hearings indicate that many members of the public are not fully aware of the community-responsive programming that their local stations have aired. This lack of knowledge extends in many cases to the existing issues/programs lists, which broadcasters have long been required to compile and make available through their public files. Because the lists are designed to help the public evaluate the performance of broadcasters in their communities, the Commission takes the mandate seriously and has sanctioned licensees that have failed to properly maintain them. Evidence in the Localism Docket, however, indicates that the decades-old public file concept is not serving today's public well. At a minimum, the current public file regulatory regime imposes unnecessary inconvenience on the public because it essentially requires that interested individuals travel to the station during business hours to review the material. Although such inconvenience was unavoidable generations ago, we find that it is not so today, given the development of the Internet over the past decade. According to the record in the Localism Docket and other proceedings, broadcasters themselves are well aware of the communicative potential of the Internet and most maintain station-specific Web sites to stay in close touch with their audiences. Evidence in the Localism Docket indicates that many members of the public are web-savvy as well.

40. We believe that affording the public readier access to a station's public file through online posting requirements and use of the Standardized Television Disclosure Form will foster a better understanding of stations' localism efforts within their communities. That development, in turn, may produce notable benefits for the public. First, online posting of the completed standardized form could prompt more active dialogue between licensees and their audiences concerning issues of public importance to local communities and how broadcasters might go about addressing those issues on the air—which may quickly lead to the airing of more responsive programming. Second, by enhancing that dialogue, online posting of the standardized reporting form should help licensees develop, air, and document in an understandable way the kind of responsive programming directly relevant to license renewals and assist the Commission in determining whether the licensees are serving the public interest. Third, the disclosure form provides information that will be useful to the Commission and the public in assessing the effectiveness of current policies (*e.g.*, closed captioning).

1. Programming Information

41. The first section of the Standardized Television Disclosure Form we are adopting asks for general information on the station: The station's call sign, channel number, community of license, ownership information, name of the licensee and other basic facts that identify the station. The next section calls for the summary reporting of overall programming in various categories during the preceding three month period. The following sections ask for more specific information concerning the programming provided in several categories. Following this is a section that asks whether the licensee undertook any efforts to determine the programming needs of its community, designed any programming to address the needs identified and, if so, a description of the steps the licensee took.. Next, there is a section on the provision of service for persons with disabilities. It asks for information on closed captioning, voluntary video description efforts, and access to emergency information provided to the disabled.

42. In the *NPRM,* we tentatively concluded that the standardized form should ask questions about categories of programs and noted the categories of programs proposed by the Presidential Advisory Committee on the Public Interest Obligations of Digital Broadcasters. The Committee proposed to include the following categories: Local and national news programming,

local and national public affairs programming, programming that meets the needs of underserved communities, programming that contributes to political discourse, other local programming that is not otherwise addressed in the form, and PSAs. In response to the NPRM, the Public Interest, Public Airwaves Coalition (PIC) submitted a proposed standardized form suggesting use of the following categories: Local civic programming, local electoral affairs programming, public service announcements, paid public service announcements, and independent programming. Definitions were included with each of these categories, providing, for example, that local civic programming ''includes broadcasts of interviews with or statements by elected or appointed officials and relevant policy experts on issues of importance to the community, government meetings, legislative sessions, conferences featuring elected officials, and substantive discussion of civic issues of interest to local communities or groups.'' In addition, PIC proposed that we collect information regarding independently produced programming, which they defined as ''programming produced by an entity not owned or controlled by an owner of a national television network, including ABC, CBS, NBC, FOX, UPN, and WB. If an owner of a national television network owns or controls more than a one-third financial interest in the program, acts as the distributor of such program in syndication, or owns the copyright in such program, the owner of a national television network will be considered to be the producer of that program for the purposes of this processing guideline.''

43. Based on the record, we conclude that in order to ensure the maximum benefit from standardizing broadcasters' disclosure obligations, it is appropriate to list specific programming categories on the form. The Commission has developed a list of categories drawn from the comments filed in this proceeding. We have reviewed the categories and definitions proposed by PIC and consider most of them appropriate. For instance, in response to PIC's proposal that we include a question on the form regarding independently produced programming, we agree that the public would benefit from broadcasters providing information about the amount of programming they air that is not produced by a national television network. As the Supreme Court has recognized, ''[s]afeguarding the public's right to receive a diversity of views and information over the airwaves is * * * an integral component of the FCC's mission.'' Allowing broadcasters complete discretion to decide what kinds of programming to list in their quarterly forms may result in a broadcaster's failure to give a complete picture of how they are trying to fulfill their public interest obligations. This can lead to a significant gap between what broadcasters say they are doing and what the public perceives the broadcasters are doing to serve local audiences. For example, the broadcaster could simply ignore electoral programming (even if it aired some), leaving members of the public reviewing the report in the dark concerning this aspect of the broadcaster's service. We emphasize, however, that neither the form nor this *Report and Order* establishes any new programming obligations. Editorial control will remain in the hands of the licensee. All that we require is that broadcasters report the quantities of different types of programming that they choose to air. Accordingly, we reject the claims of some commenters that having to list program types on the standardized form will create program quotas, or result in the Commission selecting licensees' programming for them. Moreover, in determining whether a program falls within these categories, the Commission will, as it does in other contexts, generally rely on the good faith judgment of the broadcaster. We believe that this approach appropriately balances the interests of the public in having adequate access to information about how stations are serving their communities with broadcasters' ability to make programming choices.

44. We do not share the concerns of some commenters that the standardized form will discourage broadcaster creativity or result in homogenization of television nonentertainment programming. Each licensee will remain free to determine how best to address the issues facing its community. We see no reason the standardized form would result in uniform responses by stations. Indeed, the dialog that will result from the enhanced disclosure and standardized reporting form requirements may provide broadcasters with input that stimulates creative responses to community issues rather than homogenizing programming responses. We recognize that the standardized form's requirement that each relevant program or program segment be listed is a change from the current rule that requires only listing of programs that have provided the ''most significant treatment'' of community issues during the preceding three-month period. We agree with commenters that the current issues/programs lists have not provided an effective means for the public to assess licensees' performance. The requirement to present a comprehensive list of programming in each category, rather than merely samples of programming in each category, will provide the public with a better basis on which to evaluate whether a broadcaster has substantially fulfilled its public interest obligation to provide programming responsive to the needs and interests of its community. The more comprehensive disclosure will also allow the public to participate more effectively in license renewal proceedings. We also note that commenters have discussed a lack of uniformity and consistency in the way that broadcasters maintain their lists, and commented that these practices make any overall assessment extremely difficult. As such, we believe that the benefits of a standardized form that requires broadcasters to list all relevant programming outweighs the burdens placed upon broadcasters.

2. Identifying Community Issues

45. The standardized form we are adopting asks two fundamental questions with regard to the identification of community issues. First, it asks whether the licensee has undertaken efforts to assess the programming needs of its community. Second, it asks whether the licensee has designed its programming to address those needs. These questions may be answered simply ''Yes'' or ''No.'' Second, the form will provide space to describe efforts taken in this regard. Critics of the proposals assert that by requiring licensees to report how they determined what issues are facing their communities, we would essentially be re-imposing substantive ascertainment obligations. The requirement we are adopting does not remotely approach re-imposition of the detailed ascertainment obligations the Commission previously eliminated. Unlike prior ascertainment requirements, our standardized form does not mandate the nature, frequency, or methodology to be used by licensees in determining how to assess and meet their communities' needs; identify the community members that must be consulted; require that only certain levels of station employees conduct ascertainment; or even identify the programming needs of particular segments of the community. It is only asking the licensee whether and how it assessed and addressed the community's programming needs.

3. Closed Captioning and Video Description

46. In the *NPRM* we tentatively concluded that the standardized disclosure form should include information on broadcasters' provision of video description and closed captioning. The standardized form we are adopting today will ask broadcasters whether or not they have met the closed captioning requirements contained in § 79.1 of the rules. Additionally, it will require licensees to provide the number of hours and percentage of various categories of nonexempt video programming that included captioning, and to list programs that were not captioned due to an exemption and the basis for that exemption. Similarly, it will provide space for information on licensees' provision of video description services which make television programming more accessible to members of the audience who are blind or visually impaired.

47. Some commenters assert that this requirement would be of little benefit to individuals with disabilities since it is a retrospective look at what programming was captioned rather than a guide to what upcoming programming would be accessible. We adopt this requirement not to turn the standard reporting form into a programming guide for persons with disabilities, but in order to allow the public, including the disability community, to meaningfully participate in the licensing process. It will provide a basis upon which both individuals with disabilities and those interested in disability access issues will be able to provide meaningful input on licensee compliance with § 79.1 of the rules. Moreover, the form will allow licensees voluntarily providing video description to disclose this means of addressing the needs of their community.

48. Because of the importance the Commission places on the accessibility of emergency information, particularly considering our nation's priority of homeland security, we are including in the Standardized Television Disclosure Form space in which we will require television stations to report on their efforts to make emergency information available to further the protection of life, health, safety, and property as defined in § 79.2 of the rules. We are also asking stations to provide information on whether they made the information accessible to persons with disabilities. Our rules currently require stations to make emergency information available to individuals with disabilities through a variety of methods. We conclude that reporting in the Standardized Television Disclosure Form on the provision of emergency programming to persons with disabilities, the provision of which is already required by our rules, would provide the station's community with valuable public interest information.

4. Mechanics of Making the Standardized Form Available

49. The *NPRM* tentatively concluded that each licensee must make the form available on a quarterly basis. We also proposed that television broadcasters retain the standardized form in their public inspection files and on their Web sites until final action has been taken on the stations' next renewals. We received little comment on this issue. The comments that did address this issue were uniformly in favor of requiring the form to be updated quarterly. We will require that the standardized form be updated on a quarterly basis in the same manner as the issues/programs list which it replaces. Also, the standardized public interest forms must be retained by licensees until their next renewal has become final.

50. Although we stated in the *NPRM* that we were not inclined to require the electronic filing of the standardized form with the Commission, some commenters urged us to do so. UCC contends that by requiring broadcasters to electronically file the form with the Commission, public interest groups and academics would have easier access to the information of hundreds of broadcasters in one place. Additionally, UCC contends that such filing would enable the Commission to use the aggregate information to monitor trends and determine whether the public interest is being served. PBTV similarly urges the form be filed with the Commission so that it can be reviewed by the Commission at renewal time.

51. Our goal in standardizing the form is to help foster communications between the broadcaster and the public it serves. We agree with UCC that requiring licensees file the form with the Commission will also enable us to use aggregate information to monitor trends in the industry. We also agree that mandatory filing will make the forms more easily accessible by public interest groups and academics. Aggregating this information on the Commission's Web site substantially decreases the burden on those interested in this information. Instead of searching the Web sites of all stations, those interested in compiling and comparing the information will find one database much easier to use. We believe this outweighs the burden of submitting a form that is already required to be compiled. Submission of the form does not place a substantial burden on licensees. We will therefore require stations to file electronically with the Commission on a quarterly basis on the 30th day of the succeeding calendar quarter (*i.e.*, April 30 for the first quarter report; July 30 for the second quarter report; October 30 for the third quarter report; and January 30 of the succeeding year for the last quarter report).

IV. Procedural Matters

A. Final Regulatory Flexibility Act Analysis

52. Pursuant to the Regulatory Flexibility Act of 1980, as amended, *see* 5 U.S.C. 604, the Commission's Final Regulatory Flexibility Analysis in this *Report and Order* is below.

53. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *NPRM*. Prior to issuing that *NPRM* we had developed a record in our television public interest obligation proceeding *NOI*, that indicated that members of the public had encountered difficulties in trying to access information that our current rules require be maintained in stations' public inspection files. 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, and Objectives of, the Adopted Rules

54. The purpose of this proceeding is to determine whether our current requirements pertaining to television stations' public inspection files are sufficient to ensure that the public has adequate access to information on how the stations are serving their communities. We tentatively concluded in the *NPRM* that our current requirements were not sufficient and that a standardized form to provide information on how stations serve the public interest would be desirable. Additionally, we proposed to enhance the public's ability to access public interest information by requiring television licensees to make the contents of the public inspection files, including the standardized form, available on their stations' Internet Web sites or, alternatively, on that of their state broadcasters association. In this *Report and Order* we adopt a standardized form for the quarterly reporting of programming aired in response to issues facing a station's community and a requirement that portions of each station's public inspection file be placed on the Internet.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

55. As noted, prior to our *NPRM* the record in our television public interest obligation proceeding (*NOI*) indicated that members of the public had encountered difficulties in trying to access information that our current rules require be maintained in stations' public inspection files. Although not submitted in direct response to the IRFA, comments also asserted that the new requirements would be costly. In the *NPRM*, which contained an IRFA, we tentatively concluded that our current requirements were not sufficient and that a standardized form to provide information on how stations serve the public interest would be desirable. Additionally, we proposed to enhance the public's ability to access information by requiring television licensees to make the contents of the public inspection files, including the standardized form, available on their stations' Internet Web sites or, alternatively, on the Web site of their state broadcasters association. We received no comments directly in response to the IRFA.

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

56. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small business concern'' under section 3 of the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

57. Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data. A ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2002, there were approximately 1.6 million small organizations. The term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. We estimate that, of this total, 84,377 entities were ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

58. Television Broadcasting. The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public.'' The SBA has created a small business size standard for Television Broadcasting entities, which is: such firms having $13 million or less in annual receipts. According to Commission staff review of the BIA Publications, Inc., Master Access Television Analyzer Database as of May 16, 2003, about 814 of the 1,220 commercial television stations in the United States had revenues of $12 (twelve) million or less. We note, however, that in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

59. In addition, 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 television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also as noted, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

60. There are also 2,117 low power television stations (''LPTV''). Given the nature of this service, we will presume that all LPTV licensees qualify as small entities under the above SBA small business size standard.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

61. Television broadcasters that currently maintain a Web site would be required to place the major portion of their public inspection files on that Web site or, if permitted, on their state broadcasters association's Web site. (A station that places public inspection files on its state broadcasters association's Web site must link to that site from its own Web site.) Broadcast stations would also continue to maintain a hard copy of the public inspection files at their main studios, as is currently required by the Commission's rules.

62. In addition, a standardized public interest reporting form would replace the current issues/programs list for television station licensees. This form would ask for information on the broadcast of a number of types of nonentertainment programming including the date, time, and duration of the programming, the program stream it was broadcast on (in the case of digital television multicasting), whether the program was captioned, and the steps taken by the licensee to acquaint itself with the issues facing its community. (This form will not establish programming guidelines or an ascertainment methodology.)

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

63. Several steps were taken, in part, to minimize any possible significant impact on small entities. For instance, we determined that only the television broadcasters that currently maintain a Web site would be required to place the major portion of their public inspection files on that Web site or, if permitted, on their state broadcasters association's Web site. Thus, if television broadcasters do not already maintain a Web site, they will not be required to create one. It is probable that the smaller the television station entity is, the less likely it is to have a Web site. In addition, television stations would not be required to place letters from the public on their Web sites, given the volume of material involved. Stations would also be permitted to link to the Commission's Web site rather than place the Commission publication ''The Public and Broadcasting'' and their quarterly Children's Television Programming Report (Form 398) on their own Web site.

Report to Congress

64. The Commission will send a copy of the *Report and Order*, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *Report and Order*, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**. See 5 U.S.C. 604(b).

B. Congressional Review Act

65. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

C. Paperwork Reduction Act Analysis

66. This document contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (''PRA''), Public Law 104–13. It will be submitted to the Office of Management and Budget (''OMB'') for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding.

67. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 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.'' In this present document, we have assessed the effects of requiring all television broadcasters to utilize a Standardized Television Disclosure Form for reporting on their public interest programming in lieu of the currently-required issues/programs list. We find that television stations with fewer than 25 employees will have to use the new form but that the economic impact on such businesses, and, indeed, on stations with any number of employees, will be attenuated by reason of the fact that much of the information required for the new standardized form is already required for the issues/programs list it replaces.

D. Additional Information

68. This document is available in alternative formats (computer diskette, large print, audio record, and Braille). Persons with disabilities who need documents in these formats may contact Brian Millin at (202) 418–7426 (voice), (202) 418–7365 (TTY), or via e-mail at *bmillin@fcc.gov*. For additional information on this proceeding, contact Holly Saurer of the Media Bureau, Policy Division, (202) 418–7283, or via e-mail at *holly.saurer@fcc.gov*.

V. Ordering Clauses

69. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 2, 4(i), 303, and 307 of the Communications Act, 47 U.S.C. 151, 152, 154(i), 303, and 307, this *Report and Order* is *adopted* and §§ 73.1201, 73.3526 and 73.3527 of the Commission's rules, 47 CFR 73.1201, 73.3526 and 73.3527, *are amended* as set forth below. Rule §§ 73.3526(e)(11)(i) and 73.3527(e)(8) contain a collection requirement under the PRA and are not effective until after approval by OMB, as discussed below.

70. *It is further ordered* that the Consumer and Governmental Affairs Bureau, Reference Information Center, *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 the requirement that stations place their public inspection files on their Web sites *shall be effective* 60 days after the Commission publishes a notice in the **Federal Register** announcing OMB approval.

72. *It is further ordered* that the requirement that stations use the Television Standardized Disclosure Form, which is subject to approval by the Office of Management and Budget (OMB), *shall be effective* 60 days after the Commission publishes a notice in the **Federal Register** announcing OMB approval of the form, or upon the next quarterly reporting date, whichever is later.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 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, 307, and 554.

■ 2. Section 73.1201 is amended by adding paragraph (b)(3) to read as follows:

§ 73.1201 Station identification.

* * * * *

(b) * * *

(3) Twice daily, the station identification for television stations must include a notice of the existence, location and accessibility of the station's public file. The notice must state that the station's public file is available for inspection and that consumers can view it at the station's main studio and on its Web site. At least one of the announcements must occur between the hours of 6 p.m. and midnight.

* * * * *

■ 3. Section 73.3526 is amended by revising paragraph (b), adding paragraph (e)(9)(iii) and revising paragraph (e)(11)(i) to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

* * * * *

(b) *Location of the file.* The public inspection file shall be located as follows:

(1) A hard copy of 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.

(2) A television station licensee or applicant that had a Web site for its station[s] as of January 24, 2008 shall also place the contents of its public inspection file on its Web site or, if permitted, the Web site of its state broadcasters association as of 60 days after the Commission publishes a notice in the **Federal Register** announcing OMB approval. A station not having their own Web site as of November 27, 2007, must place their files on any Web site they may later create or, if permitted, on the Web site of its state broadcasters association, by 60 days after the Commission publishes a notice in the **Federal Register** announcing OMB approval or within 30 days of the date it makes the Web site available to the public, whichever is later. A station that places public inspection files on its state broadcasters association's Web site must link to that site from its own Web site. A television licensee or applicant does not have to place on its Web site any material that is available on another freely accessible Web site for which no registration is required as long as it provides a link to that Web site. This applies, for example, to material that is posted on the FCC's Web site, such as

material required by paragraph (e)(8) of this section (''The Public and Broadcasting'') and paragraph (e)(11)(iii) of this section (''Children's Television Programming Reports''). A licensee does not have to post letters from the public on the electronic version of its public inspection files but must post on its Web site e-mails from the public.

* * * * *

(e) * * *

(9) * * *

(iii) Written communication does not need to be posted to the public file placed on a station's Web site, but e-mail messages must be placed on the station's Web site, in addition to being placed in a station's public file at its main studio. The Web site must also provide notice that a complete set of letters from the public is available at the main studio.

* * * * *

(11)(i) *TV Standardized Public Interest Reporting Form.* For commercial TV and Class A TV broadcast stations, every three months a completed Standardized Television Disclosure Form with regard to the station's efforts to determine the issues facing its community and the programming aired during the preceding three month period in response to those issues. The form for each calendar quarter is to be filed by the thirtieth day of the succeeding calendar quarter (*e.g.*, January 30 for the quarter October–December, April 30 for the quarter January–March, etc.). The forms 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.

* * * * *

■ 4. Section 73.3527 is amended by revising paragraphs (b) and (e)(8) to read as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

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(b) *Location of the file.* The public inspection file shall be located as follows:

(1) A hard copy of 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.

(2) A television station licensee or applicant that had a Web site for its station[s] as of January 24, 2008, shall also place the contents of its public inspection file on its Web site or, if permitted, the Web site of its state broadcasters association as of 60 days after the Commission publishes a notice in the **Federal Register** announcing OMB approval. A station not having their own Web site as of November 27, 2007, must place their files on any Web site they may later create or, if permitted, on the Web site of its state broadcasters association, by 60 days after the Commission publishes a notice in the **Federal Register** announcing OMB approval or within 30 days of the date it makes the Web site available to the public, whichever is later. A station placing its public inspection files on its state broadcasters association's Web site must link to that site from its own Web site. A television licensee or applicant does not have to place on its Web site any material that is available on another freely accessible Web site for which no registration is required as long as it provides a link to that Web site. This applies, for example, to material that is posted on the FCC's Web site, such as material required by paragraph (e)(7) of this section (''The Public and Broadcasting'').

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(e) * * *

(8) *TV Standardized Public Interest Reporting Form.* For noncommercial educational TV and Class A TV broadcast stations, every three months a completed Standardized Public Interest Reporting Form with regard to the station's efforts to determine the issues facing its community and the programming aired during the preceding three month period in response to those issues. The form for each calendar quarter is to be filed by the thirtieth day of the succeeding calendar quarter (*e.g.*, January 30 for the quarter October–December, April 30 for the quarter January–March, etc.). The forms 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.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071030625–7696–02]

RIN 0648–XG20

Fisheries of the Northeastern United States; Scup Fishery; Reduction of Winter I Commercial Possession Limit

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS announces the reduction of the scup coastwide commercial possession limit from Maine through North Carolina for the Winter I period. Regulations governing the scup fishery require publication of this notification to advise the coastal states from Maine through North Carolina that 80 percent of the commercial quota allocated to the Winter I period is projected to be harvested and to announce that the possession limit for a Federal vessel permit holder is reduced to 1,000 lb (454 kg) of scup per trip. This possession limit will remain in effect until the end of the Winter I period (through April 30, 2008) or until the Winter I quota allocation has been fully harvested, which ever occurs first.

DATES: Effective 0001 hours, March 16, 2008, through April 30, 2008.

FOR FURTHER INFORMATION CONTACT: Emily Bryant, Fishery Management Specialist, (978) 281–9244.

SUPPLEMENTARY INFORMATION: Regulations governing the scup fishery are found at 50 CFR part 648. The regulations at § 648.120(c) require the Northeast Regional Administrator to publish annual scup quota allocations and the percentage of landings attained during the Winter I period at which the possession limits would be reduced. On December 31, 2007, NMFS published the final rule for the summer flounder, scup, and black sea bass specifications in the **Federal Register** (72 FR 74197). This final rule requires NMFS to publish a notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that the commercial scup possession limit will be reduced once 80 percent of the Winter I Period quota is projected to be harvested. Based upon recent projections, the Regional Administrator anticipates that the 80