In addition, a hybrid broadcast radio station must simulcast its analog audio programming on one of its digital audio programming streams. The DAB audio programming stream that is provided pursuant to this paragraph must be at least comparable in sound quality with a standard analog broadcast.

* * * * *

■ 4. Revise § 73.404 to read as follows:

§ 73.404 IBOC DAB operation.

(a) The licensee of an AM or FM station, or the permittee of a new AM or FM station which has commenced program test operation pursuant to § 73.1620, may commence interim hybrid IBOC DAB operation with digital facilities which conform to the technical specifications specified for hybrid DAB operation in the First Report and Order in MM Docket No. 99–325, as revised in the Media Bureau's subsequent Order in MM Docket No. 99–325. In addition, the licensee of an AM station, or the permittee of a new AM station that has commenced program test authority pursuant to § 73.1620, may commence all-digital IBOC operation with digital facilities that conform to the requirements set out in the First Report and Order in MB Docket No. 19–311 and MB Docket No. 13–249. An AM or FM station may transmit IBOC signals during all hours for which the station is licensed to broadcast.

(b) In situations where interference to other stations is anticipated or actually occurs, hybrid or all-digital AM licensees may, upon notification to the Commission, reduce the power of the primary DAB sidebands by up to 6 dB. Any greater reduction of sideband power requires prior authority from the Commission via the filing of a request for special temporary authority or an informal letter request for modification of license.

(c) Hybrid IBOC AM stations must use the same licensed main or auxiliary antenna to transmit the analog and digital signals.

(d) FM stations may transmit hybrid IBOC signals in combined mode; *i.e.,* using the same antenna for the analog and digital signals; or may employ separate analog and digital antennas. Where separate antennas are used, the digital antenna:

(1) Must be a licensed auxiliary antenna of the station;

(2) Must be located within 3 seconds latitude and longitude from the analog antenna;

(3) Must have a radiation center height above average terrain between 70 and 100 percent of the height above average terrain of the analog antenna.

■ 5. Add § 73.405 to subpart C to read as follows:

§ 73.405 Digital Audio Broadcasting Standard

Unless expressly authorized otherwise, all DAB stations must conform to the technical specifications set out in the NRSC–5–D In-band/on-channel Digital Radio Broadcasting Standard (Apr. 2017) (incorporated by reference, see § 73.8000).

■ 6. Add § 73.406 to subpart C to read as follows:

§ 73.406 Notification.

Licensees must provide notification to the Commission in Washington, DC, within 10 days of commencing IBOC digital operation or reverting from all-digital to analog operation.

(a) Every digital notification must include the following information:

(1) Call sign and facility identification number of the station;

(2) Date on which IBOC operation commenced;

(3) Name and telephone number of a technical representative the Commission can call in the event of interference;

(4) A certification that the operation will not cause human exposure to levels of radio frequency radiation in excess of the limits specified in § 1.1310 of this chapter and is therefore categorically excluded from environmental processing pursuant to § 1.1306(b) of this chapter. Any station that cannot certify compliance must submit an environmental assessment (''EA'') pursuant to § 1.1311 of this chapter and may not commence IBOC operation until such EA is ruled upon by the Commission.

(b) Every AM digital notification must also include the following information:

(1) Certification that the IBOC DAB facilities conform to the NRSC–5–D standard.

(2) Transmitter power output; if separate analog and digital transmitters are used, the power output for each transmitter;

(3) If applicable, any reduction in an AM station's primary digital carriers;

(c) Every FM digital notification must also include the following information:

(1) Certification that the IBOC DAB facilities conform to the NRSC–5–D standard;

(2) FM digital effective radiated power used and certification that the FM analog effective radiated power remains as authorized;

(3) If applicable, the geographic coordinates, elevation data, and license file number of the auxiliary antenna employed by an FM station as a separate digital antenna;

(4) If applicable, for FM systems employing interleaved antenna bays, a certification that adequate filtering and/or isolation equipment has been installed to prevent spurious emissions in excess of the limits specified in § 73.317;

■ 7. In § 73.1545, revise paragraph (a) to read as follows:

§ 73.1545 Carrier frequency departure tolerances.

(a) AM stations. The departure of the carrier frequency for monophonic transmissions or center frequency for stereophonic transmissions may not exceed ±1 Hz from the assigned frequency.

* * * * *

■ 8. In § 73.8000, revise the last sentence of paragraph (a) and add paragraph (e) to read as follows:

§ 73.8000 Incorporation by reference.

(a) * * * For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

* * * * *

(e) The National Radio Systems Committee, Principal Contacts: David Layer, *dlayer@nab.org,* (202) 429–5339 and Mike Bergman, *mbergman@ce.org,* (703) 907–4366, *www.nrscstandards.org/standards-and-guidelines/standards-and-guidelines.asp.*

(1) NRSC–5–D In-band/on-channel Digital Radio Broadcasting Standard (Apr. 2017).

(2) [Reserved].

[FR Doc. 2019–27609 Filed 1–6–20; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket Nos. 19–347, 17–105, 10–71; FCC 19–132; FRS 16379]

Cable Service Change Notifications; Modernization of Media Regulation Initiative; Retransmission Consent

AGENCY: Federal Communications Commission

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on whether to update our rules concerning notice that cable operators must provide to subscribers and local franchise authorities (LFAs) regarding service or rate changes in order to reduce potential consumer confusion. Specifically, we

seek comment whether to amend the rules to make clear that cable operators must provide subscriber notice ''as soon as possible'' when service changes occur due to retransmission consent or program carriage negotiations that fail within the last 30 days of a contract. We also seek comment on whether to require notice to LFAs only if required by the LFA pursuant to its statutory authority and whether to adopt several technical edits to the rules to make them more readable and remove duplicative requirements.

DATES: Comments due on or before February 6, 2020; reply comments due on or before February 21, 2020.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (*NPRM*), MB Docket Nos. 19–347, 17–105, 10–71; FCC 19–132, adopted and released on December 12, 2019. 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. The full text of this document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word, 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 these documents in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

In today's video marketplace, retransmission consent and program carriage negotiations are often concluded within days—if not hours—of the expiration of existing agreements. And in those cases, it is frequently unclear, 30 days prior to a contract's expiration, whether a new agreement will be reached, there will be a short-term extension, or programming will be dropped. This uncertainty raises difficult questions regarding what notice cable operators should be required to provide to subscribers and when they should be required to provide it. On the one hand, subscribers must receive meaningful information regarding their programming options so they can make informed decisions about their service. On the other hand, inaccurate or premature notices about theoretical programming disruptions that never come to pass can cause consumer confusion and lead subscribers to change providers unnecessarily.

This Notice of Proposed Rulemaking (*NPRM*) seeks comment on whether to update our rules concerning notices that cable operators must provide to subscribers and local franchise authorities (LFAs) regarding service or rate changes. Specifically, in order to eliminate the potential for consumer confusion, we seek comment on whether to amend §§ 76.1601 and 76.1603 of our rules to make clear that cable operators must provide subscriber notice ''as soon as possible'' when service changes occur due to retransmission consent or program carriage negotiations that fail within the last 30 days of a contract. We also seek comment on whether to amend § 76.1603 to require notice to LFAs (for any service change) only if required by the LFA and whether to adopt other minor streamlining changes to the rule discussed below. In reviewing these rules, we seek to make consumer notices more meaningful and accurate, reduce consumer confusion, and ensure that subscribers receive the information they need to make informed choices about their service options. With this proceeding, we continue our efforts to modernize our regulations to better reflect today's media marketplace.

Background. Several provisions of the Communications Act of 1934, as amended (the Act) address the notices that cable operators must provide to their subscribers and local franchise authorities regarding service or rate changes. Section 632 directs the Commission to adopt ''standards by which cable operators may fulfill their customer service requirements,'' that govern, among other things, ''communications between the cable operator and the subscriber'' and specifies that a cable operator may ''provide notice of service and rate changes to subscribers using any reasonable written means at its sole discretion.'' In addition, section 623(b) of the Act, which directs the Commission to adopt regulations governing the rates for the basic service tier for cable systems not subject to effective competition, specifies that the standards must ''require a cable operator to provide 30 days' advance notice to a franchising authority of any increase proposed in the price to be charged for the basic service tier.'' Further, section 624(h) grants LFAs the authority to require a cable operator to ''[p]rovide 30 days' advance notice of any change in channel assignment or in the video programming service provided.''

The Commission adopted regulations implementing these notice and customer service requirements through several decisions issued in 1993. In 1999, the Commission revised and streamlined the cable television notice requirements contained throughout Part 76 of the Commission's rules and consolidated them into a newly created Subpart T. As part of that reorganization, the Commission moved to § 76.1601 a requirement that cable operators provide written notice to any broadcast television station and all of the system's subscribers at least 30 days prior to either deleting from carriage or repositioning that station. In addition, the Commission consolidated three other notice requirements into § 76.1603. Currently, § 76.1603 requires cable operators to: (1) Notify customers ''of any changes in rates, programming services, or channel positions as soon as possible in writing,'' and ''a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator;'' (2) ''notify subscribers 30 days in advance of any significant changes in the other information required by § 76.1602''; (3) ''give 30 days written notice to both subscribers and local franchising authorities before implementing any rate or service change,'' stating the precise amount of any rate change and a brief explanation in readily understandable fashion of the cause of the rate change; and (4) ''provide written notice to a subscriber of any increase in the price to be charged for the basic service tier or associated equipment at least 30 days before any proposed increase is effective'' and no more than 60 days if the equipment is provided to the consumer without charge under § 76.630 because the operator encrypts the basic service tier. Notably, these rules only apply to cable operators and not to other MVPDs.

In 2011, the Commission sought comment on whether to revise § 76.1601 ''to require that notice of potential deletion of a broadcaster's signal be given to consumers once a retransmission consent agreement is within 30 days of expiration, unless a renewal or extension has been executed, and regardless of whether the station's signal is ultimately deleted.'' The Commission noted that while adequate advance notice of retransmission consent disputes can allow consumers

to prepare for service disruptions, ''such notice can be unnecessarily costly and disruptive when it creates a false alarm, *i.e.,* concern about disruption that does not come to pass, and induces subscribers to switch MVPD providers in anticipation [thereof].'' The Commission also sought comment on whether to expand the § 76.1601 consumer notice requirements in various ways, including whether they should apply to all MVPDs. Notably, the Retransmission Consent NPRM focused only on notice related to changes that resulted from broadcast retransmission consent negotiations and only on revisions to § 76.1601.

More recently, in response to a service notice change complaint that the Media Bureau ultimately dismissed at the complainant's request, Charter filed a letter urging us not to adopt an interpretation of § 76.1603 that would require that cable operators ''provide a 30-day advance notice to subscribers any time negotiations over the carriage of a channel enter the final month of an agreement solely because the channel might be dropped.'' Such an interpretation, they maintain, would ''harm[ ] consumers and disserve[ ] the public interest in ensuring fair bargaining.'' Charter explains that ''[n]egotiations between cable operators and programmers or broadcasters usually come down to the final 30 days of an agreement—indeed, often down to the final day or hours.'' And Charter notes that ''[t]he vast majority of those negotiations—as many as 99 percent—end successfully, but a few do not.'' Moreover, Charter contends any failed negotiations are not strictly within the cable operator's control. Accordingly, ''Charter proposes that the Commission clarify that the 30-day advance notice requirement does not apply when a cable operator and a programmer or a broadcaster remain in carriage negotiations, even during the final 30 days of an agreement. If those negotiations fail and the channel goes dark as a result, the cable operator would be required to provide notice to subscribers 'as soon as possible.' ''

Earlier this year, the Commission, in response to parties' feedback to the *Media Modernization Public Notice,* amended our rules to clarify the mechanism by which cable operators must notify subscribers and LFAs about service and rate changes. Specifically, the Commission modified our rules to allow certain notices required under Subpart T of the Commission's rules, including the notices required to be delivered to subscribers under §§ 76.1601 and 76.1603, to be delivered electronically via a verified email address, so long as an opt out mechanism for the subscriber to receive paper notices instead is provided. This flexibility applies to ''general notices,'' that provide ''a comprehensive catalog of information'' as opposed to the notices that convey ''targeted and immediate information about a single event'' at issue in this *NPRM.* We seek to build on these reforms to ensure that our rules about the timing of service and rate change notices best reflect marketplace realities and minimize customer confusion

Discussion. We seek comment on three specific issues related to the notice obligations in §§ 76.1601 and 76.1603: (1) Whether to make clear in § 76.1603(b) that cable operators have no obligation to provide notice to subscribers 30 days in advance of channel lineup changes when the change is due to retransmission consent or program carriage negotiations that fail during the last 30 days of a contract but, in that situation, they must provide notice ''as soon as possible''; (2) whether to modify § 76.1603(c) to require service and rate change notices to LFAs only if required by an LFA; and (3) whether to adopt several technical edits to §§ 76.1601 and 76.1603 to make the rules more readable and remove duplicative requirements. Finally, we seek comment on whether there are any other changes to these rules or other notice rules that we should consider.

Service Change Notice Due to Failed Carriage Negotiations. First, we seek comment on whether to amend § 76.1603(b) to make clear that there is no obligation on a cable operator to provide notice to subscribers of changes 30 days in advance when retransmission consent or program carriage negotiations between a cable operator and a broadcaster or programmer fail during the last 30 days of a contract. Rather, in that situation, they must provide notice ''as soon as possible'' when service changes occur. As noted above, section 632(b) of the Act directs the Commission to adopt ''standards by which cable operators may fulfill their customer service requirements,'' and section 632(c) affords cable operators the flexibility to ''provide notice of service and rate changes to subscribers using any reasonable written means at its sole discretion.'' These statutory provisions do not explicitly state that all notices must be provided in advance. In fact, section 632(c) refers only to ''notice,'' whereas various other provisions of the Act specifically require ''advance notice.'' We recognize, however, that the legislative history of the Telecommunications Act of 1996 indicates that Congress wanted ''to ensure that consumers have sufficient warning about rate and service changes so they can choose to disconnect their service prior to the implementation of the change.'' Although cable operators must currently provide notice of all channel lineup changes to subscribers, we recognize that providing 30-day advance notice in the context of carriage negotiations poses unique challenges to providers and risks creating consumer confusion, particularly given that consumers usually do not experience service disruption as a result of retransmission consent or program carriage negotiation disputes.

Charter asserts that providing 30-days' advance notice of a potential channel deletion is often impractical because ''[n]egotiations between cable operators and programmers or broadcasters usually come down to the final 30 days of an agreement—indeed, often down to the final day or hours.'' It maintains that requiring a cable operator to notify its subscribers and LFAs 30 days in advance ''any time negotiations over the carriage of a channel enter the final month of an agreement solely because the channel might be dropped harms consumers and disserves the public interest in ensuring fair bargaining.'' Charter proposes that if ''negotiations fail and the channel goes dark as a result,'' a cable operator should be required to provide notice ''as soon as possible.''

We seek comment on Charter's proposal and other ways we can make consumer notice more effective in the context of failed carriage negotiations. Specifically, if a channel is deleted because of a failure of negotiations in the last 30 days of a contract, should we require cable operators to provide notice of the deletion ''as soon as possible'' after the failure occurs, as Charter proposes? If so, how should we define ''as soon as possible,'' and would this provide subscribers sufficient notice? How would we determine when negotiations have failed so as to trigger the requirement? Is there an alternative event that could be used to trigger the notice requirement short of a blackout? The Commission has previously said that retransmission consent negotiations are under the ''control of both parties to the negotiations, and thus, failure to reach retransmission consent agreement would not be an excuse for failing to provide notice.'' While the Commission correctly acknowledged that there are two parties in ''control'' of the retransmission consent negotiations, we question, based on the experience the Commission has gained observing various retransmission consent disputes over the past eight years, whether

failure to reach agreement is essentially ''within the control'' of the cable operator such that the operator has an advance notice obligation. Accordingly, we seek comment on whether the better interpretation is that a single party to a negotiation cannot control the ultimate outcome of the negotiation and therefore cannot be required to give advance notice of a potential loss of a channel. If so, should we provide clarity to interested parties by codifying in our rules that failed retransmission consent or program carriage negotiations are not within the control of the cable operator for purposes of the advanced notice requirement of § 76.1603?

We seek comment on the impact to subscribers to the extent that we make clear that cable operators must provide channel deletions notices to subscribers ''as soon as possible'' in the case of retransmission consent and program carriage negotiations that fail during the last 30 days of a contract. We seek comment on whether requiring notice ''as soon as possible'' in these circumstances, rather than 30 days in advance, would be beneficial to subscribers because the notice they would receive would be clearer and more meaningful. As Charter points out, premature notices ''could create significant subscriber confusion, leading subscribers to unnecessarily change their cable provider, which could be costly for consumers.'' Assuming negotiations usually come down to the final 30 days, as Charter maintains, does requiring 30-days' notice anytime an agreement could not be reached create unnecessary subscriber confusion? Does the practice of agreeing to short-term extensions of carriage agreements while negotiations are ongoing add to this confusion? Or, is there a benefit to consumers in receiving 30-day advance notices even if such notices turn out not to be accurate that outweighs any harms? If the rules are revised to allow notice to be given to consumers only after a negotiation has failed and a channel has been deleted, could this practice cause other unintended harms for consumers? Should cable operators be required to provide notice at a time other than 30 days before loss of service in the context of a retransmission consent negotiation, such as a week or 48 hours before expiration of a contract? Do the available online video programming alternatives to traditional MVPD services eliminate the need for subscribers to have advance notice of any potential blackouts, as Charter suggests? Given that subscribers may have access to blacked out programming via online sources, does that reduce or eliminate the need to switch providers in order to continue receiving the blacked out content? Are there other factors that impact a consumer's ability to change providers in the event of a loss of programming? Is there a way to ensure that subscribers have sufficient warning that they may no longer have access to programming without unnecessarily alerting them every time carriage negotiations could result in an impasse? Are there ways for the Commission to track the use and effectiveness of these notices? Should cable operators be required to include these notices in their online public files?

How do cable operators comply with our notice rules today when faced with the prospect of failed retransmission consent and program carriage negotiations? Specifically, to what extent do cable operators currently provide notice 30 days in advance when negotiations may fail, and what mechanism do they use to provide notice in situations where it is unclear whether the channel in question will remain available? How often do those notices alert subscribers that they may lose a channel when the subscriber's service ultimately does not change because the cable operator and programmer negotiate a carriage agreement during the last 30 days of the expiring carriage agreement? How common is it for there to be multiple extensions of existing retransmission consent agreements, and do cable operators provide subscriber notice of each extension? Are there ways that cable operators currently keep subscribers informed of ongoing negotiations with content providers or expiring contracts that could be used here? What type of notice, if any, do other non-cable MVPDs, that are not regulated under § 76.1603, provide to their subscribers in such instances?

As stated above, the statute allows cable operators to provide notice to subscribers using ''any reasonable written means.'' We seek comment on the ''written means'' by which the cable operator should give notice were we to adopt an approach requiring notice as soon as possible following failed negotiations. Are there any ''reasonable written means'' in the context of carriage negotiation failures that would not be reasonable in situations outside of the retransmission consent or program carriage context? For example, NCTA states that cable operators may use ''channel slates''—notices that would replace the video feed in the event of a blackout—in order to quickly notify subscribers of a service change in the event of a negotiation failure. We seek comment on whether this mechanism would constitute a ''reasonable written means'' for alerting subscribers of failed negotiations because it is the most targeted means to alert all affected subscribers as soon as possible. We also seek comment on whether newspaper notice is a reasonable written means in this context given the distinct possibility that the notice would not reach all, or many of, the affected subscribers in a timely manner. That is, even assuming that the affected cable subscriber actually subscribed to a newspaper, it is not clear whether that particular newspaper would contain the requisite notice or that the subscriber would read it in time to make an informed decision about potential service changes.

Notice to LFAs for Service and Rate Changes. Second, we seek comment on whether to modify § 76.1603(c) to require that notice of rate or service changes be provided by cable operators to LFAs only if required by an LFA. We also seek comment on whether to amend § 76.1603(c) to direct cable operators to provide notice to LFAs 30 days in advance unless the change results from circumstances outside of the cable operator's control (including failed retransmission consent or program carriage negotiations during the last 30 days of a contract), in which case notice shall be provided as soon as possible. This would change § 76.1603(c)'s current requirement that cable operators provide written notice to LFAs of any change in rates or services 30 days in advance regardless of the circumstance. To what extent do LFAs rely on the current notice rules or the information about rate or other service changes provided to them pursuant to these rules? How can LFAs use this information given that almost no LFAs can regulate basic tier rates? We acknowledge the Commission has said that the purpose of § 76.1603(c) is ''to protect subscribers,'' and that ''[p]roviding advance notice to LFAs furthers this objective by enabling LFAs to respond to any questions or complaints from subscribers in an informed manner.'' We seek comment on whether our contemplated modifications are consistent with this precedent as we contemplate that LFAs may still obtain service and rate change information to the extent they determine that they need and will require the information to protect subscribers. In light of the ability of LFAs to require rate and service change information from cable operators, we also seek comment on whether the notice requirements in § 76.1603(c) still remain

necessary to enable LFAs to protect subscribers and, if so, why? Do LFAs receive similar information from non-cable MVPDs? Parties should discuss the costs and benefits of modifying this requirement.

We seek comment on whether the Commission has authority to revise its rule mandating 30-days advance notice to LFAs of any basic tier rate increase to instead require such notice only if required by an LFA. Section 623(b)(2) of the Act requires the Commission to ''prescribe, and periodically thereafter revise, regulations to carry out its obligations'' under section 623(b)(1) to ensure that the rates for the basic service tier are reasonable. And section 623(b)(6), in turn, provides that such regulations ''shall require a cable operator to provide 30 days' advance notice to a franchising authority of any increase proposed in the price to be charged for the basic service tier.'' But Congress directed the Commission to ''prescribe, and periodically thereafter revise'' its regulations adopted pursuant to section 623(b). We seek comment on whether the Commission has authority to revise this rule as described given these statutory provisions.

We note that multiple provisions of the Communications Act give LFAs the authority to require this type of notice independent of the Commission's rules. Any individual LFA that wishes to be notified of rate or service changes may require such notices through the cable franchising process or pursuant to their authority under section 632(a) of the Act to ''establish and enforce . . . customer service requirements of the cable operator.'' Further, section 624(h) of the Act explicitly states that an LFA may require a cable operator to ''provide 30 days' advance written notice of any change in channel assignment or in the video programming service provided over any such channel.'' Given these statutory provisions, should we eliminate § 76.1603(c) altogether and allow LFAs to require this information under their own authority? Would LFAs be unreasonably burdened by having to require explicitly that cable operators under their jurisdiction provide this information? Is such a notice requirement already typically included in local franchise agreements or State or local franchise requirements?

Readability and Redundancy. Third, we seek comment on four technical changes to §§ 76.1601 and 76.1603 that would clean up these rules. As noted above, Subpart T was the product of an effort to streamline the Commission's cable rules that consolidated multiple disparate notice provisions into one new subpart. As a result, §§ 76.1601 and 76.1603 contain several redundancies that we propose to eliminate. First, we propose to delete the requirement in the second sentence of § 76.1601 that cable operators provide notice of the deletion or repositioning of a broadcast channel ''to subscribers of the cable system,'' a change that would not only delete a redundant provision but also consolidate all subscriber notice requirements regarding the deletion or repositioning of channels into § 76.1603(b).

Second, we propose to revise §§ 76.1603(b) and 76.1603(c) to clarify the notice obligations owed to subscribers and LFAs respectively. Currently, paragraph (b) applies only to subscribers, while paragraph (c) applies to both subscribers and LFAs. Both sections require cable operators to give notice of any changes in rates, programming services, or channel positions. In order to eliminate the redundancies in the notice requirements applicable to subscribers in paragraphs (b) and (c), we propose to revise § 76.1603(b) to explain what notice must be given to subscribers and § 76.1603(c) to explain what notice must be given to LFAs.

Third, we note that § 76.1603(d)'s requirement that cable operators notify subscribers about changes in rates for equipment that is provided without charge under § 76.630 was adopted pursuant to section 624A of the Act. We seek comment on whether to delete this requirement from § 76.1603, because it is duplicative of language in § 76.630(a)(1)(vi).

Fourth, we seek comment on whether to delete § 76.1603(e) of our rules as redundant of the statutory requirement in section 632(c). That is, the language contained in § 76.1603(e), ''any reasonable written means at its sole discretion'' mirrors the statutory requirement. Moreover, currently both § 76.1603(b) and (c) require written notifications of service and rate changes to subscribers. Thus, it is not clear what the requirement in § 76.1603(e) adds. We seek comment on the extent to which we need to elaborate in § 76.1603(b) or elsewhere what constitutes ''reasonable written means'' under the Act.

Other Proposals. Finally, we seek comment on whether the Commission should consider other modifications to §§ 76.1601 or 76.1603 unrelated to failed carriage negotiations. Frontier asserts that the Commission should ''shorten the 30-day timeframe to 5 or 15 days to better enable regulated providers [to] respond to competition.'' Should the Commission consider shortening notice timeframes and, if so, to which notices covered by §§ 76.1601 and 76.1603 should these timeframes apply? What is the appropriate timeframe that should be adopted for each rule under consideration? If the Commission were to shorten these notice periods, would subscribers still have adequate time to change service providers or make other changes in response to such notices?

Other stakeholders have suggested that the §§ 76.1601 or 76.1603 notice requirements include much information that does not actually assist subscribers in making decisions about their cable service. Does the volume of information required by these notice rules and the frequency with which notices must be given inundate subscribers with information that does not assist them in making decisions about their cable service? Would subscribers benefit more from more targeted notices? What information do subscribers actually require to make informed decisions about whether to continue or discontinue their cable service?

For example, should we eliminate the requirement in § 76.1603(b) that cable operators notify subscribers 30 days in advance of any significant changes in the information reported in annual notices required by § 76.1602, as NCTA and Frontier request? NCTA contends that this notice requirement ''imposes unnecessary burdens on operators to provide change notices,'' and that ''much of this information is of little value to customers and readily available on company websites.'' Would consumers be able to obtain such information elsewhere if this requirement were eliminated? Should we consider a more targeted rule that requires 30-day notice of only certain specified changes, such as changes in channel position, rather than notice of significant changes to any of the information delineated in § 76.1602?

We also seek comment on whether we should amend the notice requirements with respect to multiplexed broadcast signals. Specifically, we question the continued relevance of the language in § 76.1603(c) that states: ''[f]or the purposes of the carriage of digital broadcast signals, the operator need only identify for subscribers, the television signal added and not whether that signal may be multiplexed during certain dayparts.'' The Commission originally adopted this rule eight years prior to the full-power digital transition. Now that it has been more than 10 years since the digital transition, is this rule still relevant? This language, based on the Commission's predictive judgment regarding a nascent service, appears to exempt multicast programming streams that air only during certain dayparts

from the subscriber notification requirements (to the extent such streams are carried by a cable operator). We seek comment on that interpretation and whether such a rule is necessary or appropriate today. Do cable operators even carry such streams (*i.e.,* those that only air during certain dayparts) in their channel lineups? We seek comment on these issues.

Initial Regulatory Flexibility Act Analysis. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) relating to this *NPRM.* The IRFA is set forth below.

Paperwork Reduction Act. This *NPRM* may result in new or revised information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 through 3520). If the Commission adopts any new or revised information collection requirement, the Commission will publish a notice in the **Federal Register** inviting the public to comment on the requirement, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Ex Parte Rules—Permit-But-Disclose. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Ex parte presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are generally prohibited. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. Memoranda must contain a summary of the substance of the ex parte presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with § 1.1206(b) of the rules. In proceedings governed by § 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

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

Electronic Filers: Comments may be filed electronically using the internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*

Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW, TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

People with Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Availability of Documents. Comments and reply comments will be publicly available online via ECFS. These documents will also be available for public inspection during regular business hours in the FCC Reference Information Center, which is located in Room CY–A257 at FCC Headquarters, 445 12th Street SW, Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m.

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

Need for, and Objectives of, the Proposed Rules. In today's video marketplace, retransmission consent and program carriage negotiations are often concluded within days—if not hours—of the expiration of existing agreements. And in those cases, it is frequently unclear, 30 days prior to a contract's expiration, whether a new agreement will be reached, there will be a short-term extension, or programming will be dropped. This uncertainty raises difficult questions regarding what notice cable operators should be required to

provide to subscribers and when they should be required to provide it. On the one hand, subscribers must receive meaningful information regarding their programming options so they can make informed decisions about their service. On the other hand, inaccurate or premature notices about theoretical programming disruptions that never come to pass can cause consumer confusion and lead subscribers to change providers unnecessarily.

This *NPRM* seeks comment on whether to update our rules concerning notices that cable operators must provide to subscribers and local franchise authorities (LFAs) regarding service or rate changes. Specifically, in order to eliminate the potential for consumer confusion, we seek comment on whether to amend §§ 76.1601 and 76.1603 of our rules to make clear that cable operators must provide subscriber notice ''as soon as possible'' when service changes occur due to retransmission consent or program carriage negotiations that fail within the last 30 days of a contract. We also seek comment on whether to amend § 76.1603 to require notice to LFAs (for any service change) only if required by the LFA and whether to adopt other minor streamlining changes to the rule discussed below. In reviewing these rules, we seek to make consumer notices more meaningful and accurate, reduce consumer confusion, and ensure that subscribers receive the information they need to make informed choices about their service options.

Legal Basis. The proposed action is authorized pursuant to sections 1, 4(i), 4(j), 623, 624, and 632 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 543, 544, and 552.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply—Small Governmental Jurisdictions. A ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2012 Census of Governments indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37,132 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category shows that the majority of these governments have populations of less than 50,000. Based on this data we estimate that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

Cable Companies and Systems (Rate Regulation Standard). The Commission has developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers, nationwide. Industry data indicate that, of 4,200 cable operators nationwide, all but 9 are small under this size standard. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Industry data indicate that, of 4,200 systems nationwide, 3,900 have fewer than 15,000 subscribers, based on the same records. Thus, under this second size standard, the Commission believes that most cable systems are small.

Cable System Operators. The Act also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' There are approximately 49,011,210 cable subscribers in the United States today. Accordingly, an operator serving fewer than 490,112 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on the available data, we find that all but five independent cable operators are affiliated with entities whose gross annual revenues exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, we note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, and therefore we are unable to estimate more accurately the number of cable system operators that would qualify as small under the definition in the Communications Act.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements. Today, cable operators must provide notice to subscribers and LFAs at least 30 days prior to any service or rate change if the change is within the control of the cable operator and explain the reason for any rate change. If we were to adopt the rule changes upon which we seek comment, two reporting requirements would change. First, cable operators would not need to provide notice to subscribers 30 days in advance of channel lineup changes when the change is due to unsuccessful carriage negotiations, but rather the cable operator would need to provide notice ''as soon as possible'' to its subscribers and LFAs. Second, cable operators would only need to notify LFAs of any relevant rate or service changes if the LFA requires such notice.

Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.''

We do not propose any specific steps to treat small entities differently from other entities because we see no statutory authority for such treatment. We seek comment on this analysis. The NPRM's proposals would reduce the burdens on all cable operators, including small operators, because the operators would not need to provide as many notices. Likewise, they could reduce the burdens on small local governments, which would not have to review as many filings. We believe, however, that some subscriber and LFA notice is necessary to effectuate the requirements of the Communications Act and provide subscribers and LFAs with information they need to make reasoned decisions.

Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rule. None.

It is ordered that, pursuant to the authority found in sections 1, 4(i), 4(j), 623, 624, and 632 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 543, 544, and 552 this Notice of Proposed Rulemaking *is adopted. It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center,

shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 76

Cable Television, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

■ 2. Revise § 76.1601 to read as follows:

§ 76.1601 Deletion or repositioning of broadcast signals.

A cable operator shall provide written notice to any broadcast television station at least 30 days prior to either deleting from carriage or repositioning that station.

■ 3. Amend § 76.1603 by revising paragraphs (b) and (c) to read as follows, removing paragraphs (d) and (e), and redesignating paragraph (f) as paragraph (d):

§ 76.1603 Customer service—rate and service changes.

* * * * *

(b) Cable operators shall provide written notice to subscribers of any changes in rates, services, or any of the other information required to be provided to subscribers by § 76.1602 using any reasonable written means at the operator's sole discretion. Notice shall be provided to subscribers at least 30 days in advance of the change, unless the change results from circumstances outside of the cable operator's control (including failed retransmission consent or program carriage negotiations during the last 30 days of a contract), in which case notice shall be provided as soon as possible. Notice of rate changes shall include the precise amount of the rate change and explain the reason for the change in readily understandable terms. Notice of changes involving the addition or deletion of channels shall individually identify each channel affected.

(c) Upon the request of the local franchising authority, cable operators shall provide written notice to local franchising authorities of any changes in rates or services using any reasonable written means at the operator's sole discretion. Notice shall be provided to local franchising authorities 30 days in advance of the change, unless the change results from circumstances outside of the cable operator's control (including failed retransmission consent or program carriage negotiations during the last 30 days of a contract), in which case notice shall be provided as soon as possible. Notice of rate changes shall include the precise amount of the rate change and explain the reason for the change in readily understandable terms. Notice of changes involving the addition or deletion of channels shall individually identify each channel affected.

* * * * *

[FR Doc. 2019–28430 Filed 1–6–20; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1812, 1831, 1846, and 1852

RIN 2700–AE38

NASA Federal Acquisition Regulation Supplement: Detection and Avoidance of Counterfeit Parts (NFS Case 2017–N010)

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: NASA is proposing to amend the NASA Federal Acquisition Regulation Supplement (NFS) to add new text that requires covered contractors and subcontractors at all tiers to use electronic parts that are currently in production and purchased from the original manufacturers of the parts, their authorized dealers, or suppliers who obtain such parts exclusively from the original manufacturers of the parts or their authorized dealers. If the contractor does not purchase electronic parts as described above, they must purchase the parts from a NASA identified supplier or contractor-approved supplier. The contractor will then assume responsibility and be required to inspect, test and validate authentication of the parts. The contractor will also be required to obtain traceability information and provide this information to the contracting officer upon request. The selection of contractor-approved suppliers is subject to review and audit by the contracting officer.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before March 9, 2020, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by NFS Case 2017–N010, using any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''NFS Case 2017–N010'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''NFS Case 2017–N010'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''NFS Case 2017–N010'' on your attached document.
- *Email: Dorice.M.Kenely@nasa.gov.* Include NFS Case 2017–N010 in the subject line of the message.
- *Mail:* National Aeronautics and Space Administration, Headquarters, Office of Procurement, Policy, Training and Pricing Division, Attn: Dorice Kenely, LP–011, 300 E Street SW, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Dorice Kenely, NASA HQ, Office of Procurement, Policy, Training and Pricing Division, LP–011, 300 E Street SW, Washington, DC 20456–0001. Telephone 202–358–0443; facsimile 202–358–3082.

SUPPLEMENTARY INFORMATION:

I. Background

This proposed rule implements section 823(c)(2)(B) of Public Law 115–10, the National Aeronautics and Space Administration Transition Authorization Act of 2017. In this Section Congress stated it found in a 2012 Investigation by the Committee on Armed Services counterfeit electronic parts in the Department of Defense supply chain. From 2009 through 2010 the investigation uncovered 1,800 cases and over 1,000,000 counterfeit parts. This exposed the threat counterfeit parts pose to service members and national security. Since 2010, the Comptroller General of the United States has discussed in three reports the risks and challenges associated with counterfeit parts and counterfeit prevention at both the Department of Defense and NASA, including inconsistent definitions of counterfeit parts, poorly targeted quality control practices, and other potential