

## Rules for Program- Originating FM Boosters Refined

In a *Report and Order* (FCC 24-235) adopted earlier this year in Docket 20-401, the FCC established rules to permit FM booster stations to originate programming. Responding to concerns in the record that such boosters could be disruptive to their primary stations' signals, and otherwise disruptive to FM service to the broader community, the Commission adopted some cautionary measures. It determined that originating transmissions should be limited to a maximum of three minutes per hour. Licensees must notify the Commission prior to commencing such operations. Booster stations must receive and transmit EAS signals. The Commission committed to actively monitor the marketplace to ensure that boosters are not used to disadvantage communities or locations. Now the FCC has fine-tuned these regulations in a *Second Report and Order and Order on Reconsideration* (FCC 24-121).

*continued on page 3*

## Updates Proposed for Broadcast Rules

The FCC has proposed to revise and update a number of its regulations for broadcast stations in Parts 1, 73, and 74 of its Rules. These proposals are set out in a *Notice of Proposed Rulemaking* (FCC 24-126) in Docket 24-626. Many of the proposed changes are administrative or house-keeping in nature. Obsolete rules would be updated or deleted. Inconsistent or confusing cross-references to rules would be corrected and/or clarified. The names of some forms would be updated. The most significant and substantive proposals are described below.

Section 73.3571(e)(1) of the Commission's Rules specifies that an AM station modification application proposing a power increase (that does not also propose a change in the location of the transmitter site) must request an increase of at least 20 percent. The Commission proposes to delete this rule. This requirement was adopted in 1985 in the context of implementing newly-enacted international agreements.

*continued on page 2*

## NAB Proposes Amendment to Accessible Emergency Information Rule

The FCC's Media Bureau has released a *Public Notice* (DA 24-1184) inviting public comment on a Petition for Rulemaking submitted by the National Association of Broadcasters ("NAB") in Docket 12-107 concerning the requirements to ensure that emergency information broadcast by television stations is accessible to the visually impaired as codified in Section 79.2(b)(2)(ii) of the Commission's Rules. NAB proposes to simplify and clarify the rule as it relates to nontextual visual content that is technologically difficult to convert to audio.

The rule requires video programming providers to ensure that emergency information displayed visually during non-newscast programming is made accessible to visually-impaired individuals aurally on a secondary audio stream. The aural description of visual elements (such as weather maps and other graphic displays) must

*continued on page 7*

### IN THIS ISSUE

FinCEN BOI Reporting Temporarily Enjoined...	2
Mandate for Audio Description Expands to Markets 101-110.....	2
Deadlines to Watch.....	4-5

For more information about or help with any of the items reported in *Antenna*™ please contact:

**Donald E. Martin, P.C.**

P.O. Box 8433

Falls Church, Virginia 22041

Tel: (703) 642-2344

Fax: (703) 940-0473

E-mail: dempc@prodigy.net

# FinCEN BOI Reporting Temporarily Enjoined

A United States District Court in Texas has enjoined enforcement of the Corporate Transparency Act (“CTA”) and the regulations implementing it. This means that the requirement for most small corporations and limited liability companies to file Beneficial Ownership Interest (“BOI”) reports with the Financial Crimes Enforcement Network in the U.S. Treasury Department is temporarily suspended. For business entities created before 2024, the filing deadline was January 1, 2025.

The BOI report requires disclosure of personal data about any officer, director, partner, or holder of at least a 25 percent interest in the equity of the company. Required information includes name, address, birth date, and a PDF copy of a government-issued identification document. Congress enacted the CTA for the purpose of detecting and deterring financial crimes such as money laundering, tax evasion, and the financing of terrorism. The law includes significant penalties for failing to file reports.

A group of plaintiffs with small business interests sued the federal government, asking the federal court in Texas to strike down CTA as unconstitutional. They requested a

temporary injunction to suspend enforcement of the law pending resolution of the case. With a 45-page *Memorandum Opinion and Order*, the court granted the motion for a temporary injunction.

The court found that this federal mandate marked a drastic two-fold departure from history. First, the CTA is the federal government’s attempt to monitor companies created under state law. However, the federalist system has left such matters almost exclusively to the states. Secondly, the CTA disrupts a feature of corporate formation designed under state law – the anonymity of the stakeholders. The plaintiffs argued that this statute is contrary to the United States’ dual system of government, and that it therefore violates the Constitution. The court was not persuaded by the government’s attempt to reconcile the CTA with the Constitution. The court ruled that the “CTA appears likely unconstitutional,” and temporarily enjoined enforcement of it while this case proceeds to trial or summary judgement.

The decision is *Texas Top Cop Shop, Inc. v. Garland*, 2024 U.S. Dist. LEXIS 218294.

---

## Mandate for Audio Description Expands to Markets 101-110

Section 79.3 of the FCC’s Rules requires certain television stations and multichannel video programming distributors to provide audio description for a portion of the video programming they present to viewers. This technology inserts audio narrated descriptions of a video program’s key visual elements into natural pauses in the dialogue for the benefit of visually-impaired members of the audience.

Commercial stations affiliated with the ABC, CBS, Fox, and NBC networks in the top 100 markets must include audio description in at least 50 hours of video programming in prime time or during children’s programming during each calendar quarter, and 37.5 additional hours of audio described video programming between 6:00 am and 11:59 pm during the quarter.

When this rule was adopted in 2019, it pertained only to stations in the top 60 markets. Each year on New Year’s

Day, the 10 next largest markets are added to the list of markets where audio description is required. As of January 1, 2025, this requirement will be expanded to cover affiliates of the top four networks in markets 101-110. These markets are the following:

Tri-Cities, Tennessee-Virginia  
Reno  
Greenville-New Bern-Washington  
Davenport-Rock Island-Moline  
Tallahassee-Thomasville  
Lincoln & Hastings-Kearney  
Evansville  
Ft. Wayne  
Johnstown-Altoona-State College  
Augusta-Aiken

---

## Updates Proposed for Broadcast Rules continued from page 1

At the time, there was a concern that the international changes would engender a large number of AM modification applications that would create a heavy administrative load for the FCC to process them. The minimum value for power increases was intended to curb the volume of applications. Those concerns are no longer extent, and the Commission tentatively concludes that this restriction is outdated. The rationale for the 20 percent figure came from a study that indicated that an increase of less than 20 percent power

would yield less than a 9.5 percent increase in radiation and less than five percent extension of the station’s signal. The Commission invites comment on whether these figures remain accurate, and whether there is public benefit in allowing increases of less than 20 percent.

The Commission proposes to revise the rule that requires signatures on all broadcast applications. Section 73.3513 of the Rules presently requires that an application filed by a

continued on page 6

# Rules for Program-Originating FM Boosters Refined continued from page 1

The application process for new FM booster stations will continue to be on a first-come, first-served basis. Because boosters are limited to operating within the service area of their co-channel primary stations, the prospect for mutually exclusive applications filed on the same date seems remote. However, if two applications do become mutually exclusive, the Commission will give the applicants an opportunity to adjust their proposals so that both can be granted. If the applicants cannot find a technical solution, they can request a time-share arrangement. The Commission expects that time-sharing should not be difficult to arrange since each station would be originating programming for no more than three minutes per hour. Each primary station will be limited to having a maximum of 25 booster stations.

The licensee of a booster station will be required to file a notice of its intention to originate programming on the station. The Commission directed the Media Bureau to create a new form for this purpose that will be available in the agency's Licensing and Management System ("LMS"). The notification form will require the licensee to state (1) the station's call sign and facility identification number, (2) the date on which the station plans to begin or has ceased originating programming, (3) the name and telephone number of a technical representative who can be contacted in the event of technical problems, (4) a certification that the programming originating on the station complies with the EAS rules, (5) a certification that the station will originate programming no more than three minutes per hour, and (6) certification that the station minimizes interference to the primary station through synchronization or terrain shielding. This form must be filed in LMS at least 15 days prior to commencing origination and within 30 days of permanently terminating origination.

All booster stations, including those that originate programming, must be off the air when their primary station is off the air. A booster may not broadcast content that its primary station is not permitted to air. That is, a booster with a noncommercial primary station may not broadcast commercial programming.

An ongoing concern expressed in this proceeding has been that boosters would interfere with the primary station. This could be especially disruptive when the booster is broadcasting different content than the primary station. Where the booster is not terrain-shielded from the primary station's signal, synchronization of the two signals can mitigate the problem. Commenters in this proceeding suggested that the Commission should adopt a mandatory standard for synchronization. However, the agency declined to adopt any additional interference standards beyond the provisions of the existing rule in Section 74.1203(c). This rule tolerates "limited interference" to the booster's primary station signal, provided that it does not disrupt the primary station's service within the boundaries of the primary station's community of license. The Commission believes that broadcasters have a strong economic incentive

to avoid interference to their signals. The agency says that it is persuaded that individually engineered synchronization parameters optimized for each station would be better than a one-size-fits-all FCC-developed synchronization standard. Nonetheless, the Commission left the matter open for review if it finds that stations fail to minimize self-interference on their own initiative.

Under the current rules, an objection alleging interference caused by a booster station cannot be submitted to the FCC until the booster actually goes on the air and causes interference. On the other hand, Section 74.1204(f) allows for objections to applications for FM translator stations calculated with predictions made on the basis of the application rather than actual on-air operation. The Commission amended this rule section so as to also permit objections against booster applications on the basis of predicted interference.

In the previous *Report and Order* in this proceeding, the FCC required program originating boosters to have their own discreet EAS facilities for receiving and transmitting emergency alerts. Despite the fact that EAS equipment is designed to override regular programming with the emergency alert message on both primary and booster stations, some commenters remained concerned that the monitored transmission chain for emergency alerts could be disrupted if an EAS primary station deploys originating boosters and one or more of them fails to transmit the alert message. In response to these concerns, the Commission mandated that if a station that is an EAS monitoring source plans to deploy a program-originating booster it must notify its State Emergency Communications Committee ("SECC") at least 30 days in advance. The Committee then will have the responsibility to inform EAS participants that a monitored alert source is using such a booster in the State EAS Plan. SECCs are advised to avoid naming a station with a program-originating booster as a source for EAS monitoring unless there is no alternative.

The political broadcasting rules are applicable to originating booster stations. These include the expectation by candidates to reasonable access to the air, lowest unit rate for political advertising, and equal opportunities for opposing candidates. For political programming that is broadcast only on a booster and not on the primary station, the opportunities and comparisons are to be made only with respect to the booster. Full service stations are required to maintain records about political broadcasting in the political programming folder in their online public inspection files. If a booster station carries political programming separately from the primary station, the licensee is required to maintain the same categories of political programming records and hold them in the primary station's online public file.

Commenters in this proceeding expressed concerns that a station's geo-targeted programming or advertising might result in intentional or inadvertent socio-economic "redlining" or exclusion of minorities. While the FCC said that it found no evidence that this would occur, it did ask

*continued on page 6*



# DEADLINES TO WATCH



## License Renewal, FCC Reports & Public Inspection Files

<p>December 1    Deadline to place EEO Public File Report in Public Inspection File and on station’s Internet website for all nonexempt radio and television stations in <b>Alabama, Colorado, Connecticut, Georgia, Maine, Massachusetts, Minnesota, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota, and Vermont.</b></p> <p>December 2    Deadline for all broadcast licensees and permittees of stations in <b>Alabama, Colorado, Connecticut, Georgia, Maine, Massachusetts, Minnesota, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota, and Vermont</b> to file annual report on all adverse findings and final actions taken by any court or governmental administrative agency involving misconduct of the licensee, permittee, or any person or entity having an attributable interest in the station(s).</p> <p>December 2    Mid-Term EEO review begins for certain radio stations in <b>Colorado, Minnesota, Montana, North Dakota, and South Dakota</b>, and certain television stations in <b>Alabama and Georgia.</b></p> <p>December 2    Deadline for television stations that provided ancillary or supplementary services during the 12-month period ending September 30, 2024, to file annual Ancillary/Supplementary Services Report.</p> <p>January 10    Deadline to place Issues/Programs List for previous quarter in Public Inspection File for all full service radio and television stations and Class A TV stations.</p>	<p>January 10    Deadline for noncommercial stations to place quarterly report re third-party fundraising in Public Inspection File.</p> <p>January 10    Deadline for Class A Television stations to place quarterly documentation about Class A eligibility in Public Inspection File.</p> <p>January 30    Deadline for commercial full service and Class A television stations to place Children’s Television Programming Report for 2024 in Public Inspection File.</p> <p>February 1    Deadline to place EEO Public File Report in Public Inspection File and on station’s Internet website for all nonexempt radio and television stations in <b>Arkansas, Kansas, Louisiana, Mississippi, Nebraska, New Jersey, New York, and Oklahoma.</b></p> <p>February 3    Deadline for all broadcast licensees and permittees of stations in <b>Arkansas, Kansas, Louisiana, Mississippi, Nebraska, New Jersey, New York, and Oklahoma</b> to file annual report on all adverse findings and final actions taken by any court or governmental administrative agency involving misconduct of the licensee, permittee, or any person or entity having an attributable interest in the station(s).</p> <p>February 3    Mid-Term EEO review begins for certain radio stations in <b>Kansas, Nebraska, and Oklahoma</b>, and certain television stations in <b>Arkansas, Louisiana, and Mississippi.</b></p>
---	--

## Cut-Off Date for AM and FM Applications to Change Community of License

The FCC has accepted for filing the applications identified below proposing to change the community of license for each station. These applications may also include proposals to modify technical facilities. The deadline for filing comments about any of the applications in the list below is **January 13, 2025**. Informal objections may be filed any time prior to grant of the application.

PRESENT COMMUNITY	PROPOSED COMMUNITY	STATION	CHANNEL	FREQUENCY
Riverside, AL	Lincoln, AL	WLJL	219	91.7
Las Animas, CO	Swink, CO	KVJB	211	90.1
Niles, IL	Evanston, IL	WPNA-FM	276	103.1
Buffalo, MO	Fair Grove, MO	KBFL-FM	229	93.7
East Prairie, MO	Bertrand, MO	KYMO-FM	287	105.3
Piedmont, MO	Marquand, MO	KPWB-FM	270	101.9
Dammeron Valley, UT	Enterprise, UT	KCAY	264	100.7



# DEADLINES TO WATCH



## Deadlines for Comments in FCC and Other Proceedings

DOCKET	COMMENTS	REPLY COMMENTS
(All proceedings are before the FCC unless otherwise noted.)		
Docket 12-107; Public Notice (DA 24-1184) Accessibility of emergency information	Dec. 26	Jan. 9
Docket 24-626; NPRM (FCC 24-146) Updating broadcast rules	FR+30	FR+45

*FR+N means that the filing deadline is N days after publication of notice of the proceeding in the Federal Register.*

## Paperwork Reduction Act Proceedings

The FCC is required by the Paperwork Reduction Act to periodically collect public information on the paperwork burdens imposed by its record-keeping requirements in connection with certain rules, policies, applications, and forms. Public comment has been invited about this aspect of the following matters by the filing deadlines indicated.

TOPIC	COMMENT DEADLINE
FM translator modifications, Section 74.1251	Dec. 23
Equipment performance measurement, Section 73.1590	Dec. 30
Dismissal of petitions to deny and informal objections, Section 73.3588	Jan. 7
FM translator protection rules, Sections 74.1203(a)(3), 73.1204(f)	Jan. 7
Sponsorship identification, Section 73.1212	Jan. 13
Broadcast licensee conducted contests, Section 73.1216	Jan. 13
Commercial broadcast ownership report, Form 323	Jan. 21
Noncommercial broadcast ownership report, Form 323-E	Jan. 21
Digital audio notification, Form 2100, Schedule 335	Jan. 31
EAS, Part 11	Feb. 7
Auction procedures, Sections 1.2105(c), 1.2205	Feb. 10
Audio description of video programming, Section 79.3	Feb. 11

## Proposed Amendments to the FM Table of Allotments

The FCC is considering requests to amend the FM Table of Allotments by adding and/or substituting the channels described below. The deadlines for submitting comments and reply comments are shown. Counterproposals must be filed by the deadline for comments.

COMMUNITY	PRESENT CHANNEL	PROPOSED CHANNEL	COMMENTS	REPLY COMMENTS
Ethete, WY	---	260C0	Jan. 17	Feb. 3

## Rules for Program-Originating FM Boosters Refined continued from page 3

for public comment on the issue. A number of commenters suggested that licensees should certify that they are continuing to meet their public interest obligations to their communities. In response, the Commission adopted a self-certification requirement for licensees operating program-originating booster stations. The certification will identify the station call sign and state that in originating programming over the booster, the licensee has considered the characteristics and needs of the coverage area of the booster station and has not used the station to exclude or diminish service to other populations within that area or other areas within the service of the booster's primary station. Licensees may include other optional information

about their use of the booster. This certification is to be made quarterly and placed in the primary station's public inspection file concurrently with the primary station's quarterly issues and programs list.

This *Second Report and Order* was published in the Federal Register on December 13. The amended rules will become effective as of January 12, except for provisions that have new or modified information collection requirements, such as the notification of commencement of service and the public interest certification. Those items must be reviewed and approved by the Office of Management and Budget as required by the Paperwork Reduction Act. The Media Bureau will announce the effective date for those rules subsequently.

---

## Updates Proposed for Broadcast Rules continued from page 2

corporation must be signed by a corporate officer. The Media Bureau has accepted signatures by corporate directors on the theory that a corporation's officers are subordinate to the board of directors. Consequently, if an officer's signature is acceptable, the signature of the officer's superior should also be acceptable. To date, this has been the Media Bureau's practice under its interpretation of the rule. The Commission proposes to add language explicitly stating that a corporate director can sign applications. The Commission seeks comment on the Bureau's rationale for its interpretation.

Beyond that, the Commission seeks to broaden the range of people who could sign applications. The agency proposes to permit a corporation, partnership, or unincorporated association to designate a "duly authorized employee" to sign applications on its behalf. The Commission solicits comment about how to define "duly authorized employee" and what types of employees would qualify. The Commission also asks whether allowing an employee to sign an application on behalf of a corporation, partnership, or association would provide adequate assurance that the applicant has personally reviewed the application. Commenters are asked to address whether to require a written delegation of authority that predates the filing of the application or a certification from an officer or partner concerning the authorization for an employee to sign a form.

Section 73.1635(a)(4) of the Rules provides that an initial special temporary authorization ("STA") necessitated by technical or equipment problems may be granted for 90 days with a limited number of extensions. STAs for other irregularities can last 180 days. The Commission proposes to lengthen the engineering STA to 180 days as well. Experience has shown that it often takes longer than 90 days to resolve

an engineering problem. Requesting an extension after only 90 days places an undue burden on both the licensee and the Commission's staff.

The Commission proposes to modify the rule about informal objections so as to make their operation similar to that of formal petitions to deny an application. To qualify to file a petition to deny, a person must have standing, i.e., be an interested party in the proceeding. The rules specify time limits for submitting a petition, and for responsive pleadings. On the other hand, an informal objection may be filed by anyone. Standing is not required. The pleading may be filed at any time prior to the grant of the application, and it need not be served on the applicant. The rules are silent about pleadings that respond to an informal objection.

Now the agency proposes that the proceeding for informal objections should be nearly parallel to that for petitions to deny. The objection would be served on the applicant by postal mail or electronic mail. The applicant would be allowed to file one opposition, and the objector, one reply. The schedule for responsive pleadings would be the same as that for petitions. An applicant for license renewal would have 30 days in which to respond to an informal objection. The objector would have 20 days in which to reply. For all other applications, the applicant would have 10 days in which to oppose the objection, and the objector would have five days in which to reply. The Commission does not propose to establish a deadline for filing an informal objection.

Comments about these proposals will be due 30 days after publication of notice of the proceeding in the Federal Register. The deadline for reply comments will be 45 days after the Federal Register notice.

# NAB Proposes Amendment to Accessible Emergency Information Rule

*continued from page 1*

accurately and effectively convey the critical details about the emergency and how to respond to it. Upon adoption of this rule several years ago, the original compliance deadline was set for May 26, 2015.

Subsequently, NAB requested an 18-month blanket waiver of the rule, explaining that an automated text-to-speech solution could not be used to aurally describe graphic materials because they do not contain text files that can be converted to speech and that further work would be needed to develop reliable automated solutions. That request for a temporary waiver and several extensions of the waiver were granted, resulting in the most recent compliance deadline being set for November 26, 2024. NAB has requested that the waiver be extended again with respect to that deadline as well.

In its Petition, NAB asserts that strict compliance with the existing rule remains impossible. NAB explains that to convert information depicted in images into accessible speech, a station must first convert the video content into audio, integrate that audio into its facilities, route the audio through its systems, and code the audio onto a secondary audio stream for broadcast. Technology currently exists to make this possible for textual material, such as crawls. However, converting visual, nontextual moving images like a radar map to speech is not currently feasible because the software that creates such graphics does not contain metadata text files that can be converted to text, which in turn can be used to generate spoken audio. NAB has searched for but found no existing providers of weather information that can furnish a workable system. Artificial intelligence technology may some day provide a solution. But currently available applications lack sufficient reliability and accuracy to satisfy the need to deliver fast-moving emergency information.

Secondly, NAB contends that the rule itself is unclear as to whether compliance can be accomplished when a station displays a visual image conveying information that is duplicated in text crawls which are then converted to speech for the aural secondary channel. Because of this ambiguity, NAB posits that some broadcasters presently do or will limit and/or refrain from offering emergency information in order to avoid the risk of FCC enforcement actions. The NAB asks the FCC to clarify that such a practice would in fact satisfy the requirements of the rule.

NAB notes that in actual practice, this rule usually pertains to only a very brief period of time for any given incident. Emergency information is defined as information about a “current” emergency that is intended to further the protection of life, health, safety, and property. The aural recounting of graphic content on the secondary channel is required during non-newscast programming. Hence, the additional aural transmission is necessary only between the time that the severity, location, and timing of an event are certain enough to be considered a current emergency and the time when the station breaks into its regular non-news programming with voiced reporting of the emergency. NAB states that in practice, during these often brief periods of time when the rule would apply, in most cases information provided in a textual crawl that accompanies the video content duplicates the information in the visual display. Therefore, converting the textual crawl to speech for the secondary channel would appear to result in rule compliance.

Specifically, NAB asks the Commission to clarify and confirm that compliance accomplished when a station that displays a visual, nontextual image about an emergency during non-newscast programming provides textual crawls (which are converted to audio on the secondary channel) that provide emergency information equivalent to or duplicative of the emergency information conveyed by the image. NAB says that such a clarification would provide regulatory certainty for broadcasters.

As an addendum to its Petition, NAB offered a draft “best practices” memo to facilitate compliance with the revised rule. This document made two recommendations. First, when displaying a non-textual graphic about an emergency that is subject to the rule, stations should display text crawls that “accurately and effectively convey the critical details regarding the emergency and how to respond to the emergency.” The textual information should duplicate or at least be equivalent to the information depicted by the graphic. Secondly, stations should run text crawls frequently enough to facilitate access to the information in the crawls for vision-impaired people.

The Commission invites public comment on NAB’s Petition for Rulemaking in Docket 12-107. The deadline for comments is December 26. Reply comments will be due January 9.

ANTENNA™ is an information service about current events in communications law edited and published by Donald E. Martin. This publication is produced only to report on current events and factual matters in the field of communications law. Publication and dissemination of this material is not intended to constitute the practice of law or the rendering of legal advice. No attorney-client relationship shall be deemed to exist between the publisher or provider and any other party as a result of the publication, dissemination, distribution or other use of this material. The publisher attempts to ensure that the information reported is accurate, but no warranty, express or implied, is given as to the accuracy or completeness of any information or statement published herein. All material published herein is protected by copyright and all rights are reserved. © 2024 Donald E. Martin, P.C.