FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order*, MM Docket No. 90–66, adopted May 9, 1996 and released June 4, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc. (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–14618 Filed 6–7–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 76

[CS Docket No. 95–178; FCC 96–197]

Definition of Markets for Purposes of the Cable Television Must-Carry Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission amends its rules to continue to use Arbitron's 1991–1992 ''Area of Dominant Influence'' (''ADI'') market list for determining local markets for the must-carry/retransmission consent election that must be made by commercial broadcast television stations by October 1, 1996. The Commission will switch to Nielsen's ''Designated Market Area'' (''DMA'') list beginning with the 1999 election, and will use updated Nielsen market lists for subsequent elections. The Commission's previously established procedures to determine local television markets for signal carriage purposes assumed that Arbitron would continue to publish market designations and that updated ADI market lists would be available for each triennial must-carry/retransmission consent election. However, Arbitron has ceased publication of its ADI market list and it is now necessary for the Commission to adopt a revised mechanism for determining local markets for signal carriage purposes. By postponing the change to market designation procedures until the 1999 election, the Commission and affected parties will have an opportunity to consider transitional mechanisms to facilitate the switch from one market designation to another. The *Further Notice of Proposed Rulemaking* segment of this decision is summarized elsewhere in this issue of the Federal Register.

EFFECTIVE DATE: July 10, 1996.

FOR FURTHER INFORMATION, CONTACT: Marcia Glauberman or John Adams, Cable Services Bureau, (202) 418–7200.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, CS Docket No. 95–178, FCC 96–197, adopted April 25, 1996, and released May 24, 1996. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1919 M Street, NW., Washington, DC 20554.

Synopsis of the Report and Order

1. The *Report and Order* amends § 76.55(e) of the rules, 47 CFR 76.55(e), to continue to use Arbitron Ratings Company's *1991–1992 Television ADI Market Guide* as the source of local market designations for signal carriage purposes for the must-carry/retransmission consent election that must take place by October 1, 1996, and will become effective on January 1, 1997. The rule also is amended to use Nielsen Media Research's *DMA Market and Demographic Rank Report* to determine markets beginning with the 1999 election, which becomes effective January 1, 2000.

2. Under the signal carriage provisions added to the Communications Act (''Act'') by the Cable Television Consumer Protection and Competition Act of 1992 (''1992 Cable Act''), commercial broadcast television stations are permitted to elect once every three years whether they will be carried by cable systems in their local markets pursuant to the must-carry or retransmission consent rules. Section 614 of the Act, 47 U.S.C. 534, provides that a station electing must-carry status is entitled to insist on carriage of its signal. A station electing retransmission consent as set forth in Section 325 of the Act, 47 U.S.C. 325 negotiates a carriage agreement with each cable operator and may be compensated for its station's carriage. The next election must be made by October 1, 1996, and will become effective on January 1, 1997.

3. For purposes of these carriage rights, a station is considered local on all cable systems located in the same television market as the station. As enacted in 1992, section 614(h)(1)(C) of the Act required, through a cross-reference to a Commission rule dealing with broadcast ownership issues, that a station's market shall be determined using the Arbitron Ratings Company's ''areas of dominant influence'' or ''ADI.'' The rules adopted in 1993 to implement these signal carriage provisions established a mechanism for determining a station's local market for each must-carry/retransmission consent cycle based on ADI market lists. For the initial election in 1993, Arbitron's *1991–1992 Television ADI Market Guide* was used to define local markets and for each subsequent election cycle an updated ADI market list was to be used. For example, the rule specified that Arbitron's 1994–1995 ADI list would be used for the 1996 election.

4. However, since we established these procedures, Arbitron left the television research business and the market list specified in the rules for this year's election is unavailable. Congress recognized that Arbitron no longer publishes television market lists and the Telecommunications Act of 1996 (''1996 Act''), Pub. L. 104–104, 110 Stat. 56 (1996), amended the definition of local market that referenced ADIs. Specifically, section 614(h)(1)(C) of the Act was amended by Section 301 of the 1996 Act to provide that for purposes of applying the mandatory carriage provisions, a broadcasting station's market shall be determined ''by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns * * *.''

5. In addition, section 614(h) of the Act requires the Commission to consider petitions for market modifications to add communities to or exclude communities from a station's local market based on historical carriage, signal coverage, local service, and viewing patterns. The 1996 Act modified this provision to require the Commission to act on all petitions for market modifications within 120 days.

6. Prior to the 1996 Act, but consistent with its amended definition of local market, we issued the Notice of Proposed Rulemaking (''NPRM'') in this proceeding, *summarized* at 61 FR 1888 (January 24, 1996), seeking comment on three proposals for revising the mechanism for determining local markets. First, the Commission could substitute Nielsen Media Research's ''designated market areas'' or ''DMAs''

for Arbitron's ADIs. While similar in many ways, the differences between DMA and ADI market areas could result in a change in the area in which a station can insist on carriage rights and a change in the stations that a cable system is required to carry. The second option would be to continue to use Arbitron's *1991–1992 Television ADI Market Guide* to define market areas, subject to individual review and refinement through the section 614(h) process. Under this option, the local market definition would remain unchanged, subject only to future individual market modifications. A third proposal would be to retain the existing market definitions for the 1996 election period and switch to a Nielsen based standard for subsequent elections.

7. The Commission concludes that Nielsen's DMA market assignments provide the most accurate method for determining the areas served by local stations. DMAs have become the television market standard for commercial purposes in the absence of any alternative and represent the actual market areas in which broadcasters acquire programming and sell advertising. Moreover, in general, we continue to believe that our 1993 decision to use updated market designations for each election cycle to account for changing markets is appropriate. Nielsen also provides the only generally recognized source for information on television markets that would permit us to use updated market designations for each election cycle to account for changing markets, consistent with our 1993 decision.

8. However, from the data provided in the record, it is clear that a greater number of stations, cable systems, and cable subscribers would be affected by a switch to DMAs than would be affected by simply using an updated ADI market list, as the rules had contemplated. In particular, we are concerned about the impact of changing the market definition in certain types of situations, such as cases where the differences in methodology and procedures between Arbitron and Nielsen result in significant changes in market areas. In addition, the statements of costs and burdens put forth by cable operators do not provide a means to determine whether there are potential problems associated with a change in definition that could be ameliorated in some manner through transitional procedures. Further, while some cable subscribers will be affected by changing signal carriage requirements resulting from a switch to a DMA standard, there may be ways to minimize the disruptions to their service.

9. The Commission also is concerned about the impact of changing the market definition on the section 614(h) market modification decisions already in force. It is unclear whether cable operators could face conflicting obligations based on a revised market standard when these modifications are considered in conjunction with a new market definition. In addition, without extensive evidence, we are unable to determine the burden on the Commission to remedy such conflicts that might result from an immediate switch to DMAs.

10. Thus, the Commission decides to continue to use the 1991–1992 ADI market list for the 1996 election and to establish a framework that uses updated DMA market lists for the 1999 and subsequent elections. In addition, the home county exception is retained in order to ensure that a station is carried in its home county in the limited instances where the station is assigned to an ADI market by Arbitron or a DMA market by Nielsen that is not the same as its home county's market. For the time-being, the Commission also will rely on market modifications determined pursuant to Section 614(h) to refine market boundaries to account for changes in viewing patterns and market conditions.

Final Regulatory Flexibility Analysis

11. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–12, the Commission's final analysis with respect to the *Report and Order* is as follows:

12. *Need and Purpose of this Action*: This action is necessary because the procedure for determining local television markets for signal carriage purposes relies on a market list no longer published by the Arbitron Ratings Company.

13. *Summary of Issues Raised by the Public in Response to the Initial Regulatory Flexibility Analysis*: There were no comments submitted in response to the Initial Regulatory Flexibility Analysis.

14. *Significant Alternatives Considered and Rejected*. The Commission proposed three alternatives in its *NPRM* and comments were submitted that addressed the administrative burdens of each alternative. In order to minimize the administrative burdens on broadcasters and cable operators, the decision contained herein retains the existing market definitions and the existing market modification process for the 1996 must-carry/retransmission consent election cycle. This decision postpones a change in market definition from Arbitron's ADI to Nielsen's DMA until the 1999 election in order to provide an opportunity for the Commission and affected parties to consider transitional mechanisms that could minimize the effects of changing market definitions on broadcasters and cable operators, including small business entities.

Ordering Clauses

15. Accordingly, it is ordered that, pursuant to sections 4(i), 4(j) and 614 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) and 534, and section 301 of the Telecommunications Act of 1996, Pub. L. 104–104 (1996), Part 76 is amended as set forth below, July 10, 1996.

16. It is further ordered that, the Secretary shall send a copy of the *Report and Order*, including the Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission

William F. Caton,

Acting Secretary.

Rule Changes

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 76—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, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 552, 554, 556, 558, 560, 561, 571, 572, 573.

2. Section 76.55 is amended by revising paragraph (e) to read as follows:

§ 76.55 Definitions applicable to the must-carry rules.

* * * * *

(e) *Television market.* (1) Until January 1, 2000, a commercial broadcast television station's market, unless amended pursuant to § 76.59, shall be defined as its Area of Dominant Influence (ADI) as determined by Arbitron and published in the Arbitron *1991–1992 Television ADI Market Guide*, as noted below, except that for areas outside the contiguous 48 states, the market of a station shall be defined using Nielsen's Designated Market Area (DMA), where applicable, as published in the Nielsen *1991–92 DMA Market*

and Demographic Rank Report, and that Puerto Rico, the U.S. Virgin Islands, and Guam will each be considered a single market.

(2) Effective January 1, 2000, a commercial broadcast television station's market, unless amended pursuant to § 76.59, shall be defined as its Designated Market Area (DMA) as determined by Nielsen Media Research and published in its *DMA Market and Demographic Rank Report* or any successor publication, as noted below.

(3) A cable system's television market(s) shall be the one or more ADI markets in which the communities it serves are located until January 1, 2000, and the one or more DMA markets in which the communities it serves are located thereafter.

(4) In addition, the county in which a station's community of license is located will be considered within its market.

Note to paragraph (e): For the 1996 must-carry/retransimission consent election, the ADI assignments specified in the *1991–1992 Television ADI Market Guide*, available from the Arbitron Ratings Co., 9705 Patuxent Woods Drive, Columbia, MD, will apply. For the 1999 election, which becomes effective on January 1, 2000, DMA assignments specified in the 1997–98 *DMA Market and Demographic Rank Report*, available from Nielsen Media Research, 299 Park Avenue, New York, NY, shall be used. The applicable DMA list for the 2002 election will be the 2000–2001 list, etc.

* * * * *

[FR Doc. 96–14571 Filed 6–7–96; 8:45 am]

BILLING CODE 6712–01–P

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1501, 1509, 1510, 1515, 1532, 1552 and 1553

[FRL–5516–4]

Acquisition Regulation; Monthly Progress Reports; Submission of Invoices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document revises the EPA Acquisition Regulation (EPAAR) contract clauses for monthly progress reports, submission of invoices, and other related information. Authority for two internal EPA reviews is also redelegated.

EFFECTIVE DATE: June 25, 1996.

ADDRESSES: Environmental Protection Agency, Office of Acquisition Management (3802F), 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Larry Wyborski, Telephone: (202) 260–6482.

SUPPLEMENTARY INFORMATION:

I. Background Information

The proposed rule was published in the Federal Register (60 FR 51964–51968) on October 4, 1995, providing for a 60 day comment period.

Interested parties were afforded the opportunity to participate in the making of this rule. The following is a summary of each comment and the Agency disposition of these comments.

1. *Comment:* Paragraphs (c)(1) and (2) of the Submission of Invoices clause references invoice preparation instructions ''. . . identified as a separate attachment in Section J . . .'' Perhaps the intent of your proposed provision is to reference the current EPA Form 1900 or 1900–34A or some similar document, in which case we, and other EPA contractors, are familiar with its requirements. On the other hand, if you have another document in mind we would be particularly interested in its proposed contents.

Response: The reference is to invoice preparation instructions under each contract, which will convey similar information now conveyed in the EPA Form 1900–34 and 1900–34A. Contracting Officers will be able to devise the instructions to fit the specific circumstances of the acquisition. The EPA Form 1900–34 and 1900–34A are obsolete. See items 16 and 17 of this rule which delete these forms from use by EPA.

2. *Comment:* Submission of Invoices clause, paragraph (c)(1) and the Monthly Progress Report clause, paragraph (d)(2) call for amounts claimed ''for the contract total.'' It is not clear what is meant by that phrase particularly in light of the requirements of the proposed Monthly Progress Report provision. If you mean the contract period, that presents no additional burden. If you mean the ''cumulative contract life'' (your expression from the Monthly Progress Report provision), this would be more difficult as your cost accounting system does not currently add contract year information together.

Response: ''Contract total'' refers to cumulative contract life. This is a change from the prior Agency requirements which will improve the Agency's ability to assess cost reasonableness.

3. *Comment:* The Submission of Invoices clause, paragraph (c)(3) calls for subcontract amounts to be ''further detailed in a supporting schedule showing major cost elements for each subcontract.'' This raises the potential issue of proprietary information on cost-plus fixed-fee (CPFF) subcontracts where subcontractors may be unwilling to provide fully disclosed cost detail to prime contractors. The Agency would have to determine how they would like to have subcontractors to provide that detail if it was still requested. For example, subcontractors could provide in sealed envelopes the proprietary backup to their invoices which contain the desired information and primes could then enclose all the envelopes with their invoices. This would be bulky and postage costs would increase as a result.

Response: The ''Subcontracts'' clause of the Federal Acquisition Regulation makes it the responsibility of contractors to obtain information that ensures subcontractor costs are reasonable, if such a requirement is established in other contract provisions. The Agency suggests that a prime contractor enter into confidentiality agreements with subcontractors to ensure that they provide the necessary data, if such data is considered proprietary.

4. *Comment:* Monthly Progress Report, paragraph (c), calls for the prime contractor to maintain the Contracting Officer's list of pending actions.

Response: Paragraph (c) is not a requirement to maintain the Contracting Officer's ''list.'' It is a requirement for contractors to specify contractor requests awaiting Contracting Officer authorization.

5. *Comment:* Several requirements for information have the potential for being quickly outdated and thus may lose whatever value they may be expected to offer.

Response: If the information requested is updated monthly, as required by the monthly progress report, the Agency believes it will be useful in making cost reasonableness determinations.

6. *Comment:* Paragraph (d)(4) of the Monthly Progress Report clause calls for the tracking of costs against contract ''ceilings''. Many of the items listed are not normally the subject of contract ceilings. It is not clear if your provision literally means ceilings or if you mean the amounts proposed in each of those areas as part of the total estimated cost. Further, the concept of ''remaining amounts'' has little meaning unless you are referring to contract ceilings. Lastly, reporting costs by individual contractor is not within the capability of the invoicing module of our current cost accounting and would thus take a modification to that system or manual invoice preparation.