

FCC FACT SHEET*

**Modernization of Media Regulation Initiative: Amendment of Parts 27, 54, 73, 74, and 76
of the Commission's Rules to Delete Rules Made Obsolete by the Digital Television Transition
Order – MB Docket No. 17-105**

Background: Various provisions of FCC rules remain in the Code of Federal Regulations despite the fact that they no longer have legal effect and are obsolete. In response to a May 2017 Public Notice launching the Commission's *Modernization of Media Regulation Initiative*, parties have urged the Commission to eliminate such rules.

What the Order Would Do:

- Eliminate rules relating to the analog-to-digital television transition for full power television broadcast stations (DTV transition), which concluded on June 12, 2009.
- Eliminate rules that apply to full power analog television broadcasting, which is no longer permitted.

* Because the rule revisions adopted in the order merely eliminate provisions that are no longer effective and thus obsolete, the Commission finds good cause to conclude that notice and comment procedures are not required. *See* 5 U.S.C. § 553(b)(3)(B). Consistent with the Chairman's transparency policy, however, the Commission will voluntarily accept comments on the public draft, and the Commission will treat this proceeding as "permit-but-disclose." *See* 47 CFR § 1.1206. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in MB Docket No. 17-105, which may be accessed via the Electronic Comment Filing System (<https://www.fcc.gov/ecfs>). Before filing, participants should familiarize themselves with the Commission's *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week before the Commission's meeting. *See* 47 CFR § 1.1200 *et seq.*

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Modernization of Media Regulation Initiative:
Amendment of Parts 27, 54, 73, 74, and 76
of the Commission's Rules to Delete Rules Made
Obsolete by the Digital Television Transition
MB Docket No. 17-105

ORDER*

Adopted: []

Released: []

By the Commission:

1. In this Order, we make non-substantive, editorial revisions to Parts 27, 54, 73, 74, and 76 of the Commission's rules as part of our continuing efforts to modernize our media regulations and eliminate unnecessary rules.

2. We delete rules that impose consumer notification and station interference protection obligations relating to the analog-to-digital transition for full power television broadcast stations (DTV transition), which concluded on June 12, 2009.

* This document has been circulated for tentative consideration by the Commission at its January 2018 open meeting. The issues referenced in this document and the Commission's ultimate resolutions of those issues remain under consideration and subject to change.

1 Commission Launches Modernization of Media Regulation Initiative, Public Notice, 32 FCC Rcd 4406 (MB 2017) (Modernization Initiative Public Notice).

2 We delegate authority to the Media Bureau to make conforming amendments to other Commission rules that cross-reference the rule sections deleted in this Order.

3 DTV Delay Act, Pub. L. No.111-4, 123 Stat. 112 (2009). On February 11, 2009, the DTV Delay Act was signed by the President and enacted into law. In the DTV Delay Act, Congress extended the date for the completion of the nationwide DTV transition for full power stations from February 17, 2009 to June 12, 2009.

(continued....)

73.616(a) and the accompanying Note,⁶ 73.674,⁷ 73.3526(e)(11)(iv),⁸ 73.3527(e)(13)⁹ and 76.1630¹⁰ of the Commission's rules, which are without current legal effect and obsolete. We also delete the Note to Section 73.625(a)(1), which sets forth outdated DTV principal community coverage minimum field strength requirements applicable to certain television broadcast licensees.¹¹

3. In addition, we delete rules that were adopted in conjunction with full power analog television broadcasting, which is no longer permitted.¹² Specifically, we delete Sections 73.607,¹³ 73.610,¹⁴ 73.611,¹⁵ 73.671(d),¹⁶ 73.6011,¹⁷ 73.6016,¹⁸ and 74.705¹⁹ of the Commission's rules, which are

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337(e)(1) ("Any full-power television station licensee that holds a television broadcast license to operate between 698 and 806 megahertz may not operate at that frequency after June 12, 2009."). For Class A stations, the Commission established September 1, 2015 as the deadline to terminate analog operations. *Media Bureau Reminds Class A Television Stations of September 1, 2015 Digital Transition Date*, Public Notice, 30 FCC Rcd 8500 (MB, 2015).

⁴ 47 CFR § 27.20 (requiring certain wireless licensees to file quarterly reports with the Commission indicating whether they have made outreach efforts to educate consumers about the DTV transition).

⁵ *Id.* § 54.418 (requiring eligible telecommunications carriers that receive federal universal service funds to provide their Lifeline and Link-Up customers with notices about the DTV transition). Although neither this rule nor Section 27.20 (referenced in note 4 *supra*) are contained in parts of Title 47 of the Code of Federal Regulations identified in the *Modernization Initiative Public Notice*, 32 FCC Rcd at 4409, these rules establish regulatory obligations designed to facilitate the DTV transition and thus are within the scope of our review in MB Docket No. 17-105.

⁶ *Id.* § 73.616(a) and Note (imposing certain station interference protection obligations on applicants seeking facilities that "will operate prior to the end of the DTV transition").

⁷ *Id.* § 73.674 (requiring full power educational television broadcast licensees and permittees to air specified educational campaigns about the DTV transition).

⁸ *Id.* § 73.3526(e)(11)(iv) (requiring full power commercial television broadcast stations to place in their public inspection files a completed DTV Consumer Education Quarterly Activity Report).

⁹ *Id.* § 73.3527(e)(13) (requiring full power noncommercial educational television broadcast stations to place in their public inspection files a completed DTV Consumer Education Quarterly Activity Report).

¹⁰ *Id.* § 76.1630 (requiring multichannel video programming distributors to inform subscribers about the DTV transition via monthly bills or notices).

¹¹ *Id.* § 73.625(a)(1), Note.

¹² 47 U.S.C. § 309(j)(14)(A). We note that low power television and TV translator stations are permitted to continue to operate in analog until their DTV transition date of July 13, 2021. See *The Incentive Auction Task Force and Media Bureau Announce Procedures for Low Power Television, Television Translator and Replacement Translator Stations During the Post-Incentive Auction Transition*, Public Notice, 32 FCC Rcd 3860, 3874, para. 36 (2017). The Commission will eliminate rules that have become obsolete as a result of that transition after the transition is completed.

¹³ 47 CFR § 73.607 (governing applications for construction of television broadcast stations filed by analog full power stations).

¹⁴ *Id.* § 73.610 (establishing requirements for minimum distance separations between full power analog television broadcast stations).

¹⁵ *Id.* § 73.611 (establishing reference point and distance computation requirements to be applied by the Commission in considering petitions to amend the Table of Allotments applicable to full power analog television broadcast service).

¹⁶ *Id.* § 73.671(d) (establishing a processing guideline for assessing whether an analog television broadcast licensee has complied with children's programming requirements).

¹⁷ *Id.* § 73.6011 (establishing requirements for protection of full power analog television broadcast stations by Class A television stations).

without current legal effect and obsolete. In addition, we amend Section 73.606 of our rules²⁰ by deleting the Table of Allotments applicable to full power analog television broadcast service and cross-referencing Section 73.622(i), which sets forth the Post-Transition Table of DTV Allotments and is the “successor regulation” to Section 73.606.²¹

4. The rule revisions adopted in this Order and set forth in the attached Appendix are non-substantive, editorial revisions. Because these revisions merely eliminate provisions that are no longer effective and thus obsolete, we find good cause to conclude that notice and comment procedures are unnecessary and would not serve any useful purpose.²² For the same reason, and to expedite the elimination of such obsolete references for the benefit of the public, we find good cause to make these rule revisions effective upon publication in the Federal Register.²³

5. Because these rule changes do not require notice and comment, the Regulatory Flexibility Act²⁴ does not apply.

6. This Order does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA).²⁵ In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002.²⁶

7. The Commission will send a copy of the Order in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act.²⁷

8. For more information about this proceeding, contact Raelynn Remy of the Policy Division, Media Bureau, at raelynn.remy@fcc.gov or (202) 418-2120.

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¹⁸ *Id.* § 73.6016 (establishing requirements for protection of full power analog television broadcast stations by Digital Class A stations).

¹⁹ *Id.* § 74.705 (establishing requirements for protection of full power analog television broadcast stations by low power television and television translator stations).

²⁰ *Id.* § 73.606.

²¹ Section 73.606 (the analog TV Table of Allotments) is referenced in the statutory definition of a “qualified noncommercial educational television station” that qualifies for must carry rights, although the statute also refers to “any successor regulation” to Section 73.606. 47 U.S.C. § 535(l)(1)(B) (defining “qualified noncommercial educational television station” as, among other things, “a full-service station or translator if such station or translator is licensed to a channel reserved for noncommercial educational use pursuant to section 73.606 of title 47, Code of Federal Regulations, or any successor regulations thereto”). *See also* 47 CFR § 76.55(a)(3)(ii) (same). The “successor regulation” to Section 73.606 is Section 73.622(i), the Post-Transition Table of DTV Allotments. During the post-incentive auction transition process, the Commission has explained that it will not use a codified Table of Allotments to implement post-auction channel changes and that the Media Bureau intends to initiate a proceeding to amend Section 73.622 of the rules to reflect all new full power channel assignments as well as NCE status in a revised Table of Allotments. *See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567, 6789-90, para. 544 and n.1545 (2014).

²² 5 U.S.C. § 553(b)(3)(B).

²³ *Id.* § 553(d)(3).

²⁴ *Id.* § 601 *et seq.* *See id.* § 601(2).

²⁵ Public Law 104-13.

²⁶ Public Law 107-198; *see* 44 U.S.C. 3506(c)(4).

²⁷ *See* 5 U.S.C. § 801(a)(1)(A).

9. Accordingly, **IT IS ORDERED THAT**, effective upon publication in the Federal Register, Parts 27, 54, 73, 74, and 76 of the Commission's rules **ARE AMENDED**, as set forth in the attached Appendix, pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r) and in Sections 553(b)(3)(B) and 553(d)(3) of the Administrative Procedure Act, 5 U.S.C §§ 553(b)(3)(B), 553(d)(3).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX**Final Rules**

The Federal Communications Commission amends 47 CFR Part 27 as set forth below:

PART 27 — MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

1. The authority citation for Part 27 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 301, 302a, 303, 307, 309, 332, 336, 337, 1403, 1404, 1451, and 1452, unless otherwise noted.

2. Remove § 27.20.

§ 27.20 **[Removed]**

The Federal Communications Commission amends 47 CFR Part 54 as set forth below:

PART 54 — UNIVERSAL SERVICE

1. The authority citation for Part 54 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302, unless otherwise noted.

2. Remove § 54.418.

§ 54.418 **[Removed]**

The Federal Communications Commission amends 47 CFR Part 73 as set forth below:

PART 73 — RADIO BROADCAST SERVICES

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

AUTHORITY: 47 U.S.C. 154, 303, 309, 310, 334, 336, and 339.

2. Amend § 73.606 to read as follows:

§ 73.606 The table of allotments set forth in Section 73.622(i) of this Part contains the channels designated for the listed communities in the United States, its Territories, and possessions. Channels designated with an asterisk are assigned for use by noncommercial educational broadcast stations only.

3. Remove § 73.607.

§ 73.607 **[Removed]**

4. Remove § 73.610.

§ 73.610 **[Removed]**

5. Remove § 73.611.

§ 73.611 **[Removed]**

6. Remove § 73.616(a) and Note to § 73.616(a).

§ 73.616(a) and Note to § 73.616(a) **[Removed]**

7. Remove Note to Paragraph (a)(1) of § 73.625(a)(1).

Note to paragraph (a)(1) **[Removed]**

8. Remove § 73.671(d).

§ 73.671(d) **[Removed]**

9. Remove § 73.674.

§ 73.674 **[Removed]**

10. Remove § 73.3526(e)(11)(iv).

§ 73.3526(e)(11)(iv) **[Removed]**

11. Remove § 73.3527(e)(13).

§ 73.3527(e)(13) **[Removed]**

12. Remove § 73.6011.

§ 73.6011 **[Removed]**

13. Remove § 73.6016.

§ 73.6016 **[Removed]**

The Federal Communications Commission amends 47 CFR Part 74 as set forth below:

Part 74 — EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

1. The authority citation for Part 74 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 302a, 303, 307, 309, 310, 336 and 554.

2. Remove § 74.705.

§ 74.705 **[Removed]**

The Federal Communications Commission amends 47 CFR Part 76 as set forth below:

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. Remove § 76.1630.

§ 76.1630 [Removed]