

Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 180

Environmental protection,  
Administrative practice and procedure,  
Agricultural commodities, Pesticides

and pests, Reporting and recordkeeping requirements.

Dated: March 21, 2007.

**Donald R. Stubbs,**  
*Acting Director, Registration Division, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

#### PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.190 is amended by alphabetically adding the following commodity to the table in paragraph (a) to read as follows:

#### § 180.190 Diphenylamine; tolerances for residues.

(a) \* \* \*

Commodity	Parts per million
Pear (post harvest)	5.0

\* \* \* \* \*

[FR Doc. E7-5804 Filed 4-3-07; 8:45 am]

**BILLING CODE 6560-50-S**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 07-1349; MB Docket No. 02-177; RM-10489]

### Radio Broadcasting Services; Milano, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; dismissal of petition for reconsideration.

**SUMMARY:** The staff approves the withdrawal of a petition for reconsideration in this FM allotment rulemaking proceeding and finds no reason for further consideration of the matters raised therein. *See*

#### SUPPLEMENTARY INFORMATION.

#### FOR FURTHER INFORMATION CONTACT:

Andrew J. Rhodes, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Memorandum Opinion and Order*, MB Docket No. 02-177, adopted March 16, 2007, and released March 20, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>.

The *Report and Order* in this proceeding dismissed a counterproposal in this rulemaking proceeding filed by Roy. E. Henderson, requesting the upgrade and reallocation of his Station KLTR(FM) from Channel 297A, Caldwell, Texas, to Channel 297C3 at Bedias, Texas. The counterproposal was dismissed because it was technically defective. The withdrawal of the petition for reconsideration complies with Section 1.420(j) of the Commission's rules because Henderson has documented that he has not and will not receive any consideration in exchange for the withdrawal of his petition. *See* 69 FR 34114 (June 18, 2004).

This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Memorandum Opinion and Order to GAO, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) because the petition for reconsideration was dismissed).

Federal Communications Commission.

**John A. Karousos,**  
*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. E7-6225 Filed 4-3-07; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[FCC 06-117]

### National Broadcast Television Ownership Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission conforms its rules to comply with the Consolidated Appropriations Act, 2004 (Appropriations Act). The Appropriations Act, among other things, directs the Commission to modify the national television ownership limit to specify 39 percent as the maximum aggregate national audience reach of any single television station owner. The Appropriations Act also adds a new section to the Telecommunications Act of 1996, which the Commission now implements.

**DATES:** Effective May 4, 2007.

#### FOR FURTHER INFORMATION CONTACT:

Mania Baghdadi, Industry Analysis Division, Media Bureau, Federal Communications Commission, (202) 418-2330. Press inquiries should be directed to Clyde Ensslin, (202) 418-0506.

#### SUPPLEMENTARY INFORMATION:

#### Initial Paperwork Reduction Act of 1995 Analysis

This document does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, it does not contain any information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

#### Synopsis of Order

1. On January 22, 2004, President Bush signed into law the Consolidated Appropriations Act, 2004, H.R. 2673 ("the Appropriations Act").<sup>1</sup> Section

<sup>1</sup> Consolidated Appropriations Act, 2004, Public Law 108-199, § 629, 118 Stat. 3 (2004).

629(1) of the Appropriations Act amends section 202(c) of the Telecommunications Act of 1996 ("Telecommunications Act") to direct the Commission to modify the national television ownership limit, contained in section 73.3555 of the Commission's rules,<sup>2</sup> to specify 39 percent as the maximum aggregate national audience reach of any single television station owner.<sup>3</sup> The Appropriations Act also adds to the Telecommunications Act a new section 202(c)(3), which states:

(3) **DIVESTITURE**—A person or entity that exceeds the 39 percent national audience reach limitation for television stations in paragraph (1)(B) through grant, transfer, or assignment of an additional license for a commercial television broadcast station shall have not more than 2 years after exceeding such limitation to come into compliance with such limitation. This divestiture requirement shall not apply to persons or entities that exceed the 39 percent national audience reach limitation through population growth.<sup>4</sup> With this Order, the Commission conforms its rules to these provisions. Section 73.3555(d) will be redesignated as section 73.3555(e), section 73.3555(e)(1) is revised to reflect the changes directed by section 202(c)(1) of the Telecommunications Act, as amended by the Appropriations Act, and a new section 73.3555(e)(3) is added to reflect section 202(c)(3).<sup>5</sup> These changes are set forth in the rule changes section of this summary.<sup>6</sup>

<sup>2</sup> 47 CFR 73.3555.

<sup>3</sup> 47 U.S.C. 202(c)(1). Prior to passage of the Appropriations Act, Section 202(c)(1) of the Telecommunications Act established a national television ownership reach limit of 35 percent, which was incorporated in Section 73.3555(e) of the Commission's rules. In the 2002 biennial ownership proceeding, the Commission raised the national television ownership limit from 35 percent to 45 percent. *2002 Biennial Regulatory Review*, 68 FR 46286, August 5, 2003 ("2002 Biennial Report and Order"), *aff'd in part, remanded in part, Prometheus Radio Project v. FCC*, 373 F.3d 372 (3rd Cir. 2004) ("Prometheus Order"), *cert. denied*, 13 U.S.L.W. 3466 (June 13, 2005). The rule changes adopted in the biennial ownership proceeding were stayed, however, by the U.S. Court of Appeals for the Third Circuit and, except for a partial lifting of the stay with respect to the local radio ownership rules, remain stayed pending further judicial action. *Prometheus Radio Project, et al. v. FCC*, No. 03–3388 (Sept. 3, 2003) (order granting stay); *Prometheus Radio Project v. FCC*, No. 03–3388 (3rd Cir. Sept. 3, 2004) (order partially lifting stay).

<sup>4</sup> 47 U.S.C. 202(c)(3).

<sup>5</sup> In 2003, the Commission's 2002 Biennial Report and Order eliminated the radio-television cross-ownership rule, formerly found at 47 CFR 73.3555(c). As a result, the national television ownership rule was renumbered from 47 CFR 73.3555(e)(1) to 47 CFR 73.3555(d)(1). However, the rules adopted in the 2002 Biennial Report and Order, and published in the CFR, were stayed by a court and did not go into effect. However, after the stay was applied, the new 39 percent cap was promulgated pursuant to the Appropriations Act.

<sup>6</sup> The current broadcast attribution rules set forth in the notes to Section 73.3555 would continue to apply to the national television ownership rule as

2. The Commission is revising its rules without providing prior public notice and an opportunity for comment because the rule modifications are mandated by the applicable provisions of the Appropriations Act and Telecommunications Act. The Commission finds that notice and comment procedures are unnecessary, and that this action therefore falls within the "good cause" exception of the Administrative Procedure Act.<sup>7</sup> The rule changes adopted in this Order do not involve discretionary action on the part of the Commission. Rather, they simply implement provisions of the Appropriations Act, as it amends the Telecommunications Act, which directs the Commission to revise its rules according to specific terms set forth in those laws.

#### Ordering Clauses

3. Accordingly, *it is ordered* that pursuant to section 629 of the Consolidated Appropriations Act, 2004, and section 202(c)(1) of the Telecommunications Act of 1996, as amended, and sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), Part 73 of the Commission's Rules, 47 CFR part 73, *is amended*. The rule change will become effective May 4, 2007.<sup>8</sup>

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

#### List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

#### Rule Changes

■ Part 73 of Title 47 of the Code of Federal Regulations is amended to read as follows:

Congress did not indicate any intent that the Commission alter them in this proceeding. The statute directs the Commission to change the audience reach limit to 39 percent and add the new divestiture provision. Neither the statute nor the legislative history indicate that Congress intended that we make any other changes to the national television ownership rule in this proceeding.

<sup>7</sup> *See* 5 U.S.C. 553(b)(B) (notice requirements inapplicable "when the agency for good cause finds \* \* \* that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest"); *Metzenbaum v. Federal Energy Regulatory Commission*, 675 F.2d 1282, 1291 (D.C. Cir. 1982) (agency orders that were nondiscretionary ministerial actions issued in conformity with statute were properly issued without notice and comment).

<sup>8</sup> *See* 5 U.S.C. 553(d).

#### PART 73—RADIO BROADCAST SERVICES

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

**Authority:** 47 U.S.C. 154, 303, 334, and 336.

■ 2. Section 73.3555 is amended by redesignating paragraphs (d) and (e) as paragraphs (e) and (f), add and reserve paragraph (d) and revise paragraph (e)(1) and add paragraph (e)(3) to read as follows:

\* \* \* \* \*

#### § 73.3555 Multiple ownership.

\* \* \* \* \*

(e) \* \* \*

*National television multiple*

*ownership rule.* (1) No license for a commercial television broadcast station shall be granted, transferred or assigned to any party (including all parties under common control) if the grant, transfer or assignment of such license would result in such party or any of its stockholders, partners, members, officers or directors having a cognizable interest in television stations which have an aggregate national audience reach exceeding thirty-nine (39) percent.

\* \* \* \* \*

(3) *Divestiture.* A person or entity that exceeds the thirty-nine (39) percent national audience reach limitation for television stations in paragraph (e)(1) of this section through grant, transfer, or assignment of an additional license for a commercial television broadcast station shall have not more than 2 years after exceeding such limitation to come into compliance with such limitation. This divestiture requirement shall not apply to persons or entities that exceed the 39 percent national audience reach limitation through population growth.

\* \* \* \* \*

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#### DEPARTMENT OF THE INTERIOR

##### Fish and Wildlife Service

##### 50 CFR Part 17

RIN 1018–AV16

#### Endangered and Threatened Wildlife and Plants; Adding Four Marine Taxa to the List of Endangered and Threatened Wildlife

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.