

Dated: December 5, 2017.

E. Scott Pruitt,

Administrator.

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## CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

### 40 CFR Part 1601

[Agency Docket Number CSB 17-1]

#### Freedom of Information Act Program

**AGENCY:** Chemical Safety and Hazard Investigation Board.

**ACTION:** Final rule.

**SUMMARY:** The Chemical Safety and Hazard Investigation Board (CSB) published an interim final Freedom of Information Act (FOIA) rule in the **Federal Register** on September 29, 2017. This final rule confirms that the interim final rule is adopted as final without change.

**DATES:** This rule is effective December 8, 2017.

**FOR FURTHER INFORMATION CONTACT:** Kara Wenzel, Acting General Counsel, 202-261-7600, or [kara.wenzel@csb.gov](mailto:kara.wenzel@csb.gov).

#### SUPPLEMENTARY INFORMATION:

##### Executive Summary

The CSB published an interim final FOIA rule in the **Federal Register** on September 29, 2017, 82 FR 45502. As an interim final rule, the rule became effective immediately upon publication in the **Federal Register**. Nonetheless, the CSB welcomed public comments from interested persons regarding the interim final rule. The due date for comments ended on October 30, 2017. The CSB did not receive any comments on the interim final rule. The CSB has determined that no further revisions are required to the interim final rule. Therefore, the CSB now issues this final rule to confirm that the interim final rule published previously shall be the final CSB FOIA rule. The interim final rule published September 29, 2017, 82 FR 45502, will be codified at 40 CFR part 1601 at the next regular update to the Code of Federal Regulations.

##### Regulatory Procedures

*Administrative Procedure Act (5 U.S.C. Ch. 5)*

The CSB's previous implementation of this rule as an interim final rule, with provision for post-promulgation public comment, was based on section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b). Under section 553(b), an

agency may issue a rule without notice of proposed rulemaking and the pre-promulgation opportunity for public comment, with regard to "interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice." The CSB determined that many of the revisions were to interpretive rules issued by the CSB. Moreover, the CSB determined that the remaining revisions were rules of agency procedure or practice, as they did not change the substantive standards the agency applies in implementing the FOIA. The CSB also concluded that a pre-publication public comment period was unnecessary. The revisions in 40 CFR part 1601 merely implemented statutory changes, aligned the CSB's regulations with controlling judicial decisions, and clarified agency procedures.

*Unfunded Mandates Reform Act (2 U.S.C. Ch. 25)*

This rule is not subject to the Unfunded Mandates Reform Act because it does not contain a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000.00 or more in any one year. Nor will it have a significant or unique effect on small governments.

*Regulatory Flexibility Act (5 U.S.C. Ch. 6)*

This rule is not subject to the Regulatory Flexibility Act. The CSB has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The rule implements the procedures for processing FOIA requests within the CSB. Under the FOIA, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processed for the requesters. Thus, fees assessed by CSB will be nominal. Further, the "small entities" that make FOIA requests, as compared with individual and other requesters, are relatively few in number.

*Paperwork Reduction Act (44 U.S.C. Ch. 35)*

This rule does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. The Paperwork Reduction Act imposes certain requirements on Federal agencies in connection with the conducting or sponsoring of any collection of information. This rule does not contain any new collection of

information requirement within the meaning of the Act.

*Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. Ch. 6)*

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (as amended), 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100,000,000.00 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

*National Environmental Policy Act of 1969 (5 U.S.C. 804)*

This rule will not have a significant effect on the human environment. Accordingly, this rule is categorically excluded from environmental analysis under 43 CFR 46.210(i).

*E-Government Act of 2002 (44 U.S.C. 3504)*

Section 206 of the E-Government Act requires agencies, to the extent practicable, to ensure that all information about that agency required to be published in the **Federal Register** is also published on a publicly accessible Web site. All information about the CSB required to be published in the **Federal Register** may be accessed at <http://www.csb.gov/>. The E-Government Act also requires, to the extent practicable, that agencies ensure that a publicly accessible Federal Government Web site contains electronic dockets for rulemakings under the Administrative Procedure Act of 1946 (5 U.S.C. 551 *et seq.*). Under this Act, an electronic docket consists of all submissions under section 553(c) of title 5, United States Code; and all other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically. The Web site <http://www.csb.gov/> will contain an electronic dockets for this rulemaking.

*Plain Writing Act of 2010 (5 U.S.C. 301)*

Under this Act, the term "plain writing" means writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience. To ensure that this rulemaking was written in plain and clear language so that it can be used and understood by the public, the CSB modeled the

language of this rule on the Federal Plain Language Guidelines.

#### List of Subjects in 40 CFR Part 1601

Administrative practice and procedure, Archives and records, Confidential business information, Freedom of information, Privacy.

Accordingly, the interim rule amending 40 CFR part 1601, which was published at 82 FR 45502 on September 29, 2017, is adopted as final without change.

**Ray Porfiri,**

*Deputy General Counsel, Chemical Safety and Hazard Investigation Board.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1 and 73

[MB Docket No. 17-106; FCC 17-137]

#### Elimination of Main Studio Rule

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (FCC or Commission) eliminates the rule that requires each AM, FM, and television broadcast station to maintain a main studio located in or near its community of license. The FCC also eliminates existing requirements associated with the rule, including the requirement that the main studio have full-time management and staff present during normal business hours, and that it have program origination capability.

**DATES:** Effective January 8, 2018, except for §§ 73.3526(c)(1) and 73.3527(c)(1), which contain new or modified information collection requirements, and which shall become effective after the Commission publishes a document in the **Federal Register** announcing OMB approval and the relevant effective date.

**FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, contact Diana Sokolow, *Diana.Sokolow@fcc.gov*, of the Policy Division, Media Bureau, (202) 418-2120.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order (R&O), FCC 17-137, adopted and released on October 24, 2017. 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., Room CY-A257, Washington, DC 20554. This document will also be available via ECFS at <http://fjallfoss.fcc.gov/ecfs/>. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Copies of the materials can be obtained from the FCC's Reference Information Center at (202) 418-0270. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

#### Synopsis

1. The Commission in this R&O adopts the proposal in the Notice of Proposed Rulemaking (NPRM), 82 FR 25590 (June 2, 2017), to eliminate the Commission rule requiring AM, FM, and television broadcast stations to maintain a local main studio.<sup>1</sup> We also adopt the proposal to eliminate the associated staffing and program origination capability requirements that apply to main studios. To ensure that community members retain the ability to communicate with and obtain information regarding their local stations, we retain the existing requirement that broadcasters maintain a local or toll-free telephone number. We also require stations to maintain any portion of their public file that is not part of the online public file at a publicly accessible location within the station's community of license. Finally, we make conforming edits to other Commission rules that are necessitated by the elimination of the main studio rule.

2. We agree with the vast majority of commenters<sup>2</sup> in this proceeding that the main studio rule should be eliminated. We are persuaded that eliminating the rule will result in significant cost savings for broadcasters and other public interest benefits. For example, the record shows that in some small towns and rural areas the cost of complying with the current main studio

<sup>1</sup> Because we are eliminating the main studio rule, we need not address one commenter's argument that the current main studio rule is unenforceable under the Administrative Procedure Act. We also decline to address herein arguments that are outside the scope of this proceeding, which is limited to elimination of the main studio rule and the associated staffing and program origination capability requirements.

<sup>2</sup> Contrary to the suggestion of Common Frequency, the ample record in this proceeding provides the Commission with sufficient information to proceed to this R&O.

rule dissuades broadcasters from launching a station, even if the broadcaster has already obtained a construction permit for the station. Eliminating the rule thus may lead to increased broadcast service in those areas. In addition, as commenters suggest, eliminating the main studio rule will provide broadcasters with the same flexibility as Internet radio stations and cable and satellite providers, none of which are subject to a main studio requirement. While we recognize the importance of local broadcast television and radio stations as a source of news and information, we agree with NAB that the record does not provide any "evidence that the physical location of a station's main studio is the reason local broadcasters are able to deliver content that meets the needs and interest[s] of their communities, or that the location and staffing of the studio has any relationship to the ability of a station to serve its local audience."

3. We affirm the tentative conclusion in the NPRM that technological innovations have rendered local studios unnecessary as a means for viewers and listeners to communicate with or access their local stations and to carry out the other traditional functions that they have served. The record shows that it is exceedingly rare for a member of the public to visit a station's main studio, with community members overwhelmingly choosing instead to communicate with stations through more efficient means such as email, station Web sites, social media, mail, or telephone.<sup>3</sup> This has been the case even more so since the Commission created the online public inspection file. Once broadcasters fully transition to the online public file in early 2018, requiring stations to maintain a fully staffed main studio for purposes of providing access to the file will no longer be practical or justifiable. It is also relevant that community members already participate in station shows from outside the main studio, for example by appearing via telephone or Skype. As some commenters state, in-person visits from community members are now "unnecessary, if not obsolete," as a result of the "near ubiquity of remote communication."<sup>4</sup>

<sup>3</sup> Although broadcast licensees are obligated to serve "the public interest, convenience, and necessity," we find that "convenience" need not include reasonable physical access to the station's facilities in the community of license, contrary to the suggestion of one commenter, given how rarely community members today opt to access such facilities.

<sup>4</sup> In addition, some commenters point to the legitimate public safety concerns that are associated with allowing uninvited members of the public to visit a station's main studio.