

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Needs and Uses:* The Commission is obligated by statute to promote “safety of life and property” and to “encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure” for public safety. Congress has established 911 as the national emergency number to enable all citizens to reach emergency services directly and efficiently, irrespective of whether a citizen uses wireline or wireless technology when calling for help by dialing 911. Efforts by federal, state and local government, along with the significant efforts of wireline and wireless service providers, have resulted in the nearly ubiquitous deployment of this life-saving service.

Section 506 of RAY BAUM’S Act requires the Commission to “consider adopting rules to ensure that the dispatchable location is conveyed with a 9–1–1 call, regardless of the technological platform used and including with calls from multi-line telephone system.” RAY BAUM’S Act also states that, “[i]n conducting the proceeding . . . the Commission may consider information and conclusions from other Commission proceedings regarding the accuracy of the dispatchable location for a 9–1–1 call . . . .” RAY BAUM’S Act defines a “9–1–1 call” as a voice call that is placed, or a message that is sent by other means of communication, to a Public Safety Answering Point (PSAP) for the purpose of requesting emergency services.

As part of implementing Section 506 of RAY BAUM’S Act, on August 1, 2019, the Commission adopted a *Report and Order (2019 Order)*, set forth rules requiring Fixed Telephony providers and MLTS providers to ensure that dispatchable location is conveyed with 911 calls.

The Commission’s *2019 Order* adopted 9.8(a) and 9.16(b)(3)(i), (ii), and (iii) to facilitate the provision of automated dispatchable location. For Fixed Telephony and in fixed Multi-line Telephone Systems (MLTS) environments, providers must provide automated dispatchable location with 911 calls. For on-premises, non-fixed devices associated with an MLTS, the MLTS operator or manager must provide automated dispatchable location to the appropriate PSAP when technically feasible; otherwise they must provide either dispatchable location based on end-user manual update, or alternative location information. For off-premises MLTS calls to 911, the MLTS operator or

manager must provide dispatchable location, if technically feasible. Otherwise it must provide either (1) manually-updated dispatchable location, or (2) enhanced location information, which may be coordinate-based, consisting of the best available location that can be obtained from any available technology or combination of technologies at reasonable cost. The requirements adopted in the *2019 Order* account for variance in the feasibility of providing dispatchable location for non-fixed MLTS 911 calls, and the means available to provide it. The information collection requirements associated with these rules will ensure that Fixed Telephony and MLTS providers have the means to provide 911 callers’ locations to PSAPs, thus reducing response times for emergency services.

#### List of Subjects in 47 CFR Part 9

Communications common carriers, Communications equipment, Radio.

Federal Communications Commission.

**Marlene Dortch,**  
*Secretary.*

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 9 as follows:

#### PART 9—911 REQUIREMENTS

- 1. The authority citation for part 9 continues to read as follows:

**Authority:** 47 U.S.C. 151–154, 152(a), 155(c), 157, 160, 201, 202, 208, 210, 214, 218, 219, 222, 225, 251(e), 255, 301, 302, 303, 307, 308, 309, 310, 316, 319, 332, 403, 405, 605, 610, 615, 615 note, 615a, 615b, 615c, 615a–1, 616, 620, 621, 623, 623 note, 721, and 1471, unless otherwise noted.

#### § 9.8 [Amended]

- 2. Amend § 9.8 by removing and reserving paragraph (b).
- 3. Amend § 9.10 by revising paragraph (s) to read as follows:

#### § 9.10 911 Service.

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(s) *Compliance date(s).* Paragraphs (i)(2)(ii)(C) and (D), (i)(2)(ii)(j)(4), (i)(4)(iv) and (v), (j)(4), and (k) of this section contain information-collection and recordkeeping requirements. Compliance with paragraphs (i)(2)(ii)(C) and (D), (i)(2)(ii)(j)(4), (i)(4)(iv) and (v), (j)(4), and (k) will not be required until after approval by the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing compliance dates with those paragraphs and revising this paragraph (s) accordingly.

#### § 9.11 [Amended]

- 4. Amend § 9.11 by removing paragraph (c).

#### § 9.16 [Amended]

- 5. Amend § 9.16 by removing paragraph (c).

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MB Docket Nos. 19–311, 13–249; FCC 20–154, FR ID 17233]

### All-Digital AM Broadcasting, Revitalization of the AM Radio Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Communications Commission provides an option for AM stations to broadcast using an all-digital signal.

**DATES:** Effective January 4, 2021, except for new rule § 73.406. The Commission will publish a document in the **Federal Register** announcing the effective date of the rule.

**FOR FURTHER INFORMATION CONTACT:** James Bradshaw, Deputy Division Chief, Media Bureau, Audio Division (202) 418–2739; Christine Goepf, Attorney Advisor, Media Bureau, Audio Division, (202) 418–7834. For additional information concerning the Paperwork Reduction Act (PRA) information collection requirements contained in this document, contact Cathy Williams at 202–418–2918, or via the internet at [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s Report and Order (R&O), MB Docket Nos. 19–311, 13–249; FCC 20–154, adopted on October 27, 2020, and released on October 28, 2020. The full text of the R&O will be available electronically via the FCC’s Electronic Document Management System (EDOCS) website at [http://fjallfoss.fcc.gov/edocs\\_public/](http://fjallfoss.fcc.gov/edocs_public/) or via the FCC’s Electronic Comment Filing System (ECFS) website at <http://www.fcc.gov/ecfs>. 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).

### Paperwork Reduction Act

The R&O contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, *see* 44 U.S.C. 3507. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document in a separate **Federal Register** Notice, as required by the PRA. These new or modified information collections will become effective after the Commission publishes a document in the **Federal Register** announcing such approval and the relevant effective date.

In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

### Congressional Review Act

The Commission will send a copy of the R&O to Congress and the Government Accountability Office (GAO) pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

### Synopsis

1. *Introduction.* In this R&O, the Commission adopts rules regarding all-digital AM broadcasting that it proposed in a notice of proposed rulemaking, FCC 19–123, 34 FCC Rcd 11560 (2019), 85 FR 649 (Jan. 7, 2020) (NPRM). These rules allow AM stations, on a voluntary basis, to cease broadcasting an analog signal and broadcast using only an all-digital signal in the HD Radio MA3 mode. This measure will benefit AM stations and their listeners by improving reception quality and listenable coverage in stations' service areas and will advance the Commission's goal of improving and modernizing the AM radio service. Currently, the AM broadcasting service suffers from interference and reception issues caused in part by increased emissions from various consumer electronic devices as well as broadcast sources. As a result, many AM stations are constrained to low-fidelity voice formats such as talk radio. Under the current rules, AM and FM stations are permitted to broadcast using either an analog signal or the hybrid analog and digital system licensed by Xperi Corporation under the brand name HD Radio. In the United States, the only technology for digital

broadcasting in the AM and FM bands approved by the Commission is the HD Radio IBOC system. Although many FM stations have converted to hybrid broadcasting, various technical and other issues have prevented the widespread adoption of hybrid broadcasting by AM stations.

2. Testing and experimental broadcasting indicate that all-digital AM transmission has the potential to improve signal “robustness”—or resistance to interference and other impairments—as well as the ability to transmit auxiliary information to accompany the main audio programming. This robustness will result in a clearer signal for listeners and a greater area of listenable coverage compared to an analog signal. All-digital broadcasting will increase the format choices that AM broadcasters can offer to their audiences, including the option of music programming. Digital operation also eliminates the tradeoff between receiver audio bandwidth and noise performance. In addition, digital broadcasting allows visual and other metadata, such as song and artist identification, station identification, and emergency information, to be transmitted along with the audio content. Such auxiliary information is increasingly expected by consumers and considered to be a vital component of modern broadcasting. Finally, all-digital broadcasting will result in energy and spectrum efficiencies, because it provides additional and/or improved services over the same allocated frequencies.

3. The Commission anticipates that potential loss of service to analog-only listeners will be mitigated by the gradual, voluntary nature of the transition, the financial interest of radio stations in reaching a wide audience, duplicate programming provided by co-owned AM stations, and analog broadcasts on FM translators affiliated with all-digital AM stations.

4. The Commission finds that a sufficient number of digital receivers are currently in use to support a voluntary option to convert to all-digital. Moreover, as the number of digital receivers increases, more markets will be able to support all-digital broadcasting. Similarly, the cost of conversion is not an impediment to providing a voluntary option to convert, because stations can make their own decisions whether to pursue all-digital operations based on their own financial and technical situation as well as the needs and interests of their audience and the number of digital receivers in their market. The Commission notes that at the time of adoption, Xperi has

stated that it will waive licensing fees for AM stations that choose to go all-digital.

5. *Operating and technical rules.* In the R&O, the Commission establishes that the power limits for all-digital stations must be calculated using the average power of the all-digital signal, including the unmodulated analog carrier and all of the digital sidebands, to determine whether the station complies with the nominal power limits set out in § 73.21 of the Commission's rules. Using the average power to calculate compliance with the nominal power limit will enable more stations to use existing transmitters for all-digital operations, thus reducing the cost of upgrading to all-digital and allowing more stations to convert. In addition, this method of calculating nominal power will result in a lower operating power for all-digital stations, which will be less likely to cause interference with analog signals while still maintaining improved listenable coverage areas.

6. The Commission applies the emissions mask set out in § 73.44 of the Commission's rules to all-digital operations. This emissions mask attenuates—or limits—spectral emissions outside a bandwidth of 20 kHz to the point where they do not cause significant adjacent channel interference. The Commission concludes that these emissions limits will adequately protect stations on adjacent channels from all-digital interference. It declines to impose the stricter emissions limits set out in the HD Radio specifications, which may not be set at technically feasible levels and may need to be revisited in light of field data from all-digital experimental operation. Although testing indicates that the digital signals may cause some increased degradation to analog signals, in most cases this will be masked by the noise floor, and in any case there is no evidence that interference will occur within service areas that are currently protected under our rules.

7. Recognizing that digital power measurement is an evolving and highly technical area, the Commission provides all-digital licensees the flexibility to choose any reliable and reasonably accurate method to measure their compliance with the Commission's operating power and power spectral density rules, including measurement tools integrated into digital transmitters, thermocouple RF ammeters, or averaging the power spectral density in a 300-Hz bandwidth over a minimum time span of 30 seconds and a minimum of 100 sweeps.

8. Each all-digital station is obligated to provide at least one free over-the-air

digital programming stream that is comparable to or better in audio quality than a standard analog broadcast. Beyond this requirement, an all-digital licensee can use its additional digital bitrate capacity for either broadcast or non-broadcast services consistent with the Commission's technical rules. The Commission permits each AM broadcaster to select either core-only or enhanced mode transmission as their situation dictates.

9. The Commission imposes the same carrier frequency tolerance applicable to analog and hybrid stations ( $\pm 20$  Hz) on all-digital AM stations. It declines to impose a  $\pm 1$  Hz AM carrier frequency tolerance standard on all AM stations as proposed in the NPRM, on the basis that the benefit to audio reception of doing so would not outweigh the burden on already struggling AM stations. The Commission also declines to incorporate by reference the National Radio Systems Committee's NRSC-5-D standard governing all-digital transmission into the Commission's rules, as proposed in the NPRM, finding that there is no need to do so and that—as a voluntary industry standard—the standard can be more readily updated in response to technological developments or operational feedback from all-digital stations.

10. The Commission prohibits all-digital stations from causing interference as currently defined in the rules. Although testing indicates that the potential for co-channel interference is higher for all-digital than for analog, the Commission concludes that neither adjacent- or co-channel interference as defined in the rules is likely to occur. The potential for additional co-channel interference is mitigated in the presence of a high level of environmental noise, in which case the all-digital interference is likely to be subsumed by the overall noise floor, masking the interfering effect of the all-digital signal. However, if prohibited interference occurs, the Commission establishes a remediation procedure based on the procedures currently applicable to hybrid stations. Specifically, the Commission expects AM all-digital operators and complaining stations to work together to identify whether interference exists and to resolve it in a mutually acceptable fashion, including voluntary power reduction.

11. The new rules permit up to 6 dB power reduction, without prior approval, in the all-digital secondary or tertiary sidebands (but not the primary digital sidebands) to avoid or resolve prohibited interference. The Commission expects that the gradual nature of the transition will enable it to

resolve any immediate issues using existing rules and the remediation procedure. Both daytime and nighttime all-digital AM operation are permitted, and any prohibited interference resulting from nighttime skywave transmissions must be promptly resolved. Finding that the record demonstrates the technical feasibility of all-digital broadcasting, the Commission concludes that it is not in the public interest to delay implementation by requiring additional tests or require that stations undertake potentially expensive digital conversions under experimental licenses.

12. All all-digital AM stations, like other broadcast stations, must participate in the nationwide Emergency Alert System (EAS). This obligation extends to ensuring that any “downstream” EAS participant stations are capable of receiving and decoding EAS alerts from the all-digital station or can adjust their monitoring assignments to receive EAS alerts from another nearby station. The Commission concludes that listeners will have sufficient access to EAS alerts without mandating that EAS alerts be transmitted using analog signals. In addition, all-digital stations can transmit useful emergency information to listeners other than on the main audio stream, including, for example, text in multiple languages or images such as missing persons or evacuation routes.

13. The Commission adopts a modified version of the current digital notification procedure for all-digital stations by adding a 30-day waiting period for certain operational changes. Specifically, it requires licensees to electronically file a digital notification, using the existing FCC Form 335-AM Digital Notification (or any successor notification), to notify the Commission of the following changes: (1) The commencement of new all-digital operation; (2) an increase in nominal power of an all-digital AM station; or (3) a transition from core-only to enhanced operating mode. All-digital AM notifications will be placed on a Commission public notice, and new operation may begin no sooner than 30 calendar days from the date of this public notice. This will minimize the paperwork required for all-digital AM conversions while giving local co-channel and adjacent channel stations time to gather baseline data on their existing coverage before the new all-digital operation begins. Digital notification must be submitted within ten days of implementing all other changes, namely: (1) Any reduction in nominal power of an all-digital AM

station; (2) a transition from enhanced to core-only operating mode; or (3) a reversion from all-digital to hybrid or analog operation.

14. Although the Commission directs broadcasters to use the current Form 335-AM for all-digital notifications, additional information is required for notification of all-digital operations specifically. Therefore, until the Form 335-AM is updated to display all-digital operation requirements, the Commission directs filers to select “N/A” as appropriate within the form and submit an attachment with the Form 335-AM containing the following information: (1) The type of notification (all-digital notification, increase in nominal power, reduction in nominal power, transition from core-only to enhanced, transition from enhanced to core-only, reversion from all-digital to hybrid or analog operation); (2) the date that new or modified all-digital operation will commence or has ceased; (3) a certification that the all-digital operations will conform to the relevant nominal power and spectral emissions limits; (4) the nominal power of the all-digital station; (5) a certification that the all-digital station complies with all EAS requirements; and (6) if a notification of commencement of new all-digital service or a nominal power change, whether the station is operating in core-only or enhanced mode.

15. During the 30-day period established above, the Commission requires that an AM broadcaster commencing new all-digital operation must provide reasonable notice to its listeners that the station will be converting to all-digital operation and will no longer be available on analog receivers. Because broadcasters have a strong incentive to promote such a change to their listeners, the Commission gives them flexibility to use reasonable methods intended to reach their audience, including on-air and website announcements. However, in the event that the reasonableness of notice of conversion to all-digital operation is challenged, the Commission would consider it presumptively sufficient if the broadcaster provided at least the same amount of notice as that set out in § 73.3580, the local public notice rule, with which broadcasters are already familiar.

16. The Commission declined to consider alternative technologies to HD Radio, such as Digital Radio Mondiale, finding that in the absence of any data regarding DRM performance in the U.S. AM band, it cannot evaluate its merits. Because it is in the public interest to provide an immediate path forward for

AM stations to broadcast in all-digital as their circumstances allow, the Commission approves the HD Radio MA3 mode as the only currently feasible technology option before it, but does not foreclose the future consideration of alternative transmission technologies.

#### Procedural Matters

17. *Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the NPRM in this proceeding. The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. Because the Commission amended the rules in this Report and Order (R&O), it included this Final Regulatory Flexibility Analysis (FRFA), which conforms to the RFA.

18. *Need for, and Objectives of, the R&O.* The R&O adopts several rule changes to allow AM stations to voluntarily broadcast an all-digital signal using the digital broadcasting technology known as HD Radio MA3. This action will improve the AM radio service by providing enhanced audio quality, increasing listenable reception areas, and allowing additional metadata textual information, such as song and artist identification, traffic services, and digital emergency alerts, to be transmitted along with the main audio programming. All-digital operation will increase the format choices that AM broadcasters can offer to their audiences, including the option of music programming. These greater capabilities will level the playing field between AM and FM signals from the listener's perspective, and help AM stations recapture audiences lost to FM radio, satellite radio, or online streaming services because of their higher sound fidelity and broader programming array. All-digital AM operation will also provide the full technological benefits of digital broadcasting while avoiding the shortcomings of the current analog or hybrid modes of transmission, which are more susceptible to noise and interference, more likely to cause interference to other stations, and place more demands on an AM station's transmission and antenna system.

19. All-digital operation provides greater usable signal coverage, is energy- and spectrum-efficient, and will be supported by an ever-increasing number of digital receivers. Since all-digital operation is completely voluntary, and the cost of conversion will vary from station to station, AM broadcasters will be able to decide whether conversion to

all-digital meets their own needs and market demand. In the R&O, the Commission concludes that the public interest in the long-term viability of AM stations and the valuable services they provide, outweighs a possible loss of service to some current analog listeners as broadcasters and the listening public transition to an all-digital environment. All-digital service represents a significant and singular opportunity to preserve the AM service for future listeners. Any disruption to analog listeners will take place gradually, as AM stations individually decide their audience is ready to convert to all-digital, with full notice to consumers and ample opportunity to adjust to the new technology.

20. In the R&O, the Commission authorizes all-digital operations subject to the requirement that all-digital operations not cause prohibited interference to existing broadcast stations. In the unlikely event that such interference would occur, the Commission will apply current remediation procedures that encourage cooperation between the parties to resolve complaints and include an option to voluntarily reduce power. The Commission adopts the proposal in the NPRM that each all-digital station is obligated to provide at least one free over-the-air digital programming stream that is comparable to or better in audio quality than a standard analog broadcast. It also mandates that all-digital AM stations participate in the national Emergency Alert System (EAS).

21. Although all-digital conversion is a purely voluntary process for individual AM stations, the Commission strongly supports an all-digital future and affirms that the objective of the proceeding is a viable all-digital AM service. Supporting all-digital removes any regulatory uncertainty about the future of the AM HD Radio system and should give car companies and receiver manufacturers reassurance to invest in AM digital receivers. Thus, an all-digital environment will reduce the likelihood of interference while maximizing digital benefits such as an improved high-quality listener experience, signal robustness, reliable and listenable coverage, and superior audio quality.

22. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA.* There were no comments to the IRFA filed.

23. *Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration.* Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief

Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. 5 U.S.C. 604(a)(3). The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

24. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted herein. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small government jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

25. *Radio Stations.* Radio stations are an Economic Census category that "comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources." The SBA has established a small business size standard for this category as firms having \$41.5 million or less in annual receipts. Economic Census data for 2012 shows that 2,849 radio station firms operated during that year. Of that number, 2,806 operated with annual receipts of less than \$25 million per year, and 43 firms had annual receipts of \$25 million or more. Because the Census has no additional classifications that could serve as a basis for determining the number of stations whose receipts exceeded \$41.5 million in that year, the Commission concludes that the majority of radio broadcast stations were small entities under the applicable SBA size standard.

26. Apart from the U.S. Census, the Commission has estimated the number of licensed commercial AM stations to be 4,570 and the number of commercial FM stations to be 6,706 for a total of 11,276, along with 8,303 FM translator and booster stations. According to BIA/Kelsey Publications, Inc.'s Media Access Pro Database, as of March 2020, 4,389 AM stations and 6,767 FM stations had revenues of \$41.5 million or less. In addition, the Commission has estimated the number of noncommercial educational FM radio stations to be

4,197. NCE stations are non-profit, and therefore considered to be small entities. Accordingly, the Commission estimates that the majority of radio broadcast stations are small entities. The Commission notes, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

27. Moreover, as noted above, an element of the definition of “small business” is that the entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific radio station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any radio station from the definition of a small business on this basis and therefore may be over-inclusive to that extent. Also, as noted, an additional element of the definition of “small business” is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

28. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* The rules changes adopted in the R&O establish a straightforward procedure for stations to notify the Commission of a change to all-digital operations. The notification requirement for all-digital operations, is as follows: AM licensees must electronically file a digital notification, using the existing FCC Form 335—AM Digital Notification (or any successor notification form), to notify the Commission of the following proposed changes: (1) The commencement of new all-digital operation; (2) an increase in nominal power of an all-digital AM station; or (3) a transition from core-only to enhanced operating mode. All-digital AM notifications will be placed on an FCC public notice, and new operation may begin no sooner than 30 calendar days from the date of this public notice. This notification process will minimize the paperwork required for all-digital AM conversions, while giving local co-channel and adjacent channel stations time to gather baseline data on their existing coverage before the new all-digital operation begins. Digital

notification must be submitted within ten days of implementing all other changes, namely: (1) Any reduction in nominal power of an all-digital AM station; (2) a transition from enhanced to core-only operating mode; or (3) a reversion from all-digital to hybrid or analog operation. There is no fee for filing a digital notification.

29. The R&O does not adopt recordkeeping requirements. However, it does require licensees converting AM stations to all-digital operation to provide reasonable notice to its listeners that their station will be converting to all-digital operations and will no longer be available on analog receivers.

30. *Steps Taken to Minimize Significant Impact on Small Entities and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

31. Conversion to all-digital AM transmission (and then, consequent compliance with the rules governing all-digital operation) is completely voluntary and therefore flexible, based on an AM broadcaster’s assessment of its individual financial and technical circumstances, including size. AM broadcasters overwhelmingly support the proposal to allow all-digital AM broadcasting, as do broadcast engineers, technology companies, and individual listeners. Of the technical requirements contemplated in the NPRM, the Commission evaluated several alternative options. The Commission originally considered imposing a (non-voluntary) stricter frequency tolerance standard of 1 Hz on all AM broadcasters, but decided that the benefits of doing so would not outweigh the associated burden of upgrading transmission equipment, particularly for smaller AM broadcasters, and declined to adopt the requirement. In addition, the Commission considered incorporating the NRSC–5–D Standard governing the technical implementation of HD Radio all-digital radio into the rules, but upon careful consideration of the record, decided that doing so would be unnecessary and could stifle industry

innovation regarding the all-digital HD Radio technology. Therefore, in reaching the approach taken in the R&O, the Commission considered various alternatives and their effects on AM broadcasters, including small entities.

32. *Report to Congress.* The Commission will send a copy of the R&O to Congress and the Government Accountability Office pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the document, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the document and FRFA (or summaries thereof) will also be published in the **Federal Register**.

33. *Paperwork Reduction Act.* This R&O contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), it previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

34. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that these rules are “non-major” under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this R&O to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

#### Ordering Clauses

35. *It is ordered* that, pursuant to the authority contained in Sections 1, 4(i), 4(j), 301, 303, 307, 308, 309, 316, and 319 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 301, 303, 307, 308, 309, 316, and 319, this Report and Order *is adopted and will become effective* 30 days after publication in the **Federal Register**.

36. *It is further ordered* that part 73 of the Commission’s Rules *is amended* as set forth in the Final Rules and such rule amendments will become effective 30 days after publication in the **Federal Register**, except for new § 73.406, which contains new or modified information

collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act and *will become effective* after the Commission publishes a document in the **Federal Register** announcing such approval and the relevant effective date.

37. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

38. *It is further ordered* that the Commission *shall send* a copy of this Report and 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

Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

**Marlene Dortch,**  
*Secretary.*

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

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

**Authority:** 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.402, add paragraph (h) to read as follows:

##### § 73.402 Definitions.

\* \* \* \* \*

(h) *All-digital AM station.* An AM station broadcasting an IBOC waveform that consists solely of digitally modulated subcarriers and the unmodulated AM carrier.

■ 3. In § 73.403, revise paragraph (a) to read as follows:

##### § 73.403 Digital audio broadcasting service requirements.

(a) Broadcast radio stations using IBOC must transmit at least one over-the-air digital audio programming stream at no direct charge to listeners. In addition, a hybrid broadcast radio station must simulcast its analog audio programming on one of its digital audio programming streams. The DAB audio programming stream that is provided pursuant to this paragraph (a) must be

at least comparable in sound quality with a standard analog broadcast.

\* \* \* \* \*

■ 4. In § 73.404, revise the section heading and paragraphs (a) and (b) and remove paragraph (e) to read as follows:

##### § 73.404 IBOC DAB operation.

(a) The licensee of an AM or FM station, or the permittee of a new AM or FM station which has commenced program test operation pursuant to § 73.1620, may commence hybrid IBOC DAB operation with digital facilities which conform to the technical specifications specified for hybrid DAB operation in the (2002) *First Report and Order* in MM Docket No. 99–325, as revised in the Media Bureau's subsequent *Order* in MM Docket No. 99–325. In addition, the licensee of an AM station, or the permittee of a new AM station that has commenced program test authority pursuant to § 73.1620, may, with reasonable notice to listeners, commence all-digital IBOC operation with digital facilities that conform to the requirements set out in the (2020) *Report and Order* in MB Docket No. 19–311 and MB Docket No. 13–249. An AM or FM station may transmit IBOC signals during all hours for which the station is licensed to broadcast.

(b) In situations where interference to other stations is anticipated or actually occurs, hybrid AM licensees may, upon notification to the Commission, reduce the power of the primary DAB sidebands by up to 6 dB. All-digital AM licensees, may, upon notification to the Commission, reduce the power of the secondary and tertiary sidebands by up to 6 dB, even if doing so results in non-compliance with § 73.1560(a)(1). Any greater reduction of sideband power requires prior authority from the Commission via the filing of a request for special temporary authority or an informal letter request for modification of license.

\* \* \* \* \*

■ 5. Add § 73.406 to read as follows:

##### § 73.406 Notification.

(a) Hybrid AM and FM licensees must electronically file a digital notification to the Commission in Washington, DC, within 10 days of commencing IBOC digital operation.

(1) All-digital licensees must file a digital notification within 10 days of the following changes:

- (i) Any reduction in nominal power of an all-digital AM station;
- (ii) A transition from enhanced to core-only operating mode; or
- (iii) A reversion from all-digital to hybrid or analog operation.

(2) All-digital licensees will not be permitted to commence operation sooner than 30 calendar days from public notice of digital notification of the following changes:

- (i) The commencement of new all-digital operation;
  - (ii) An increase in nominal power of an all-digital AM station; or
  - (iii) A transition from core-only to enhanced operating mode.
- (b) Every digital notification must include the following information:
- (1) The call sign and facility identification number of the station;
  - (2) If applicable, the date on which the new or modified IBOC operation commenced or ceased;
  - (3) The name and telephone number of a technical representative the Commission can call in the event of interference;

(4) A certification that the operation will not cause human exposure to levels of radio frequency radiation in excess of the limits specified in § 1.1310 of this chapter and is therefore categorically excluded from environmental processing pursuant to § 1.1306(b) of this chapter. Any station that cannot certify compliance must submit an environmental assessment (“EA”) pursuant to § 1.1311 of this chapter and may not commence IBOC operation until such EA is ruled upon by the Commission.

(c) Each AM digital notification must also include the following information:

- (1) A certification that the IBOC DAB facilities conform to applicable nominal power limits and emissions mask limits;
- (2) The nominal power of the station; if separate analog and digital transmitters are used, the nominal power for each transmitter;
- (3) If applicable, the amount of any reduction in an AM station's digital carriers;

(4) For all-digital stations, the type of notification (all-digital notification, increase in nominal power, reduction in nominal power, transition from core-only to enhanced, transition from enhanced to core-only, reversion from all-digital to hybrid or analog operation);

(5) For all-digital stations, if a notification of commencement of new all-digital service or a nominal power change, whether the station is operating in core-only or enhanced mode; and

(6) For all-digital stations, a certification that the all-digital station complies with all Emergency Alert System (EAS) requirements in part 11 of this chapter.

(d) Each FM digital notification must also include the following information:

(1) A certification that the IBOC DAB facilities conform to the HD Radio emissions mask limits;

(2) FM digital effective radiated power used and certification that the FM analog effective radiated power remains as authorized;

(3) If applicable, the geographic coordinates, elevation data, and license file number of the auxiliary antenna employed by an FM station as a separate digital antenna; and

(4) If applicable, for FM systems employing interleaved antenna bays, a certification that adequate filtering and/or isolation equipment has been installed to prevent spurious emissions in excess of the limits specified in § 73.317.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MB Docket No. 19-3; FCC 20-121; FRS 17135]

#### Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations

**AGENCY:** Federal Communications Commission.

**ACTION:** Dismissal of petition for reconsideration.

**SUMMARY:** In this document the Federal Communications Commission (Commission) addresses the Petition for Reconsideration (Petition) filed by Discount Legal, regarding the Commission's Report and Order in the Noncommercial Educational (NCE) comparative standards proceeding (*2019 NCE R&O*). The Commission dismisses the Petition as procedurally defective, and alternatively and independently, denies the Petition.

**DATES:** Request for Petition for Reconsideration of the final rule published at 85 FR 23941 (April 30, 2020). The Commission adopted the Order on Reconsideration dismissing and denying the Petition for Reconsideration on September 1, 2020.

**FOR FURTHER INFORMATION CONTACT:** Albert Shuldiner, Chief, Media Bureau, Audio Division, (202) 418-2721; Lisa Scanlan, Deputy Division Chief, Media Bureau, Audio Division, (202) 418-2704; Amy Van de Kerckhove, Attorney Advisor, Media Bureau, Audio Division, (202) 418-2726.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order on Reconsideration (Reconsideration Order) in the NCE comparative standards proceeding, MB Docket No. 19-3, FCC 19-127, released March 20, 2020, published at 85 FR 7880 on February 12, 2020. The full text of the Reconsideration Order is available electronically via the FCC's Electronic Document Management System (EDOCS) website at [http://fjallfoss.fcc.gov/edocs\\_public/](http://fjallfoss.fcc.gov/edocs_public/) or via the FCC's Electronic Comment Filing System (ECFS) website at <http://www.fcc.gov/ecfs>. (Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.) 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. *Introduction.* In this Reconsideration Order, the Commission addresses the Petition for Reconsideration filed by Discount Legal seeking reconsideration of the *2019 NCE Report and Order*. The Petition asks the Commission to authorize "secondary grants" in mutually exclusive (MX) FM radio noncommercial educational (NCE) groups, after the initial resolution of the MX applications. The Commission dismisses the Petition as procedurally defective, and alternatively and independently, denies the Petition.

2. *Background.* Conflicting NCE FM applications, which cannot all be granted consistent with the Commission's technical rules, are considered mutually exclusive. The Commission places conflicting applications into MX groups, resolves the MX groups by applying the NCE comparative procedures, and tentatively selects an application for grant from each separate MX group. Specifically, the Commission compares NCE MX groups under the point system and awards each application a maximum of seven merit points based on public-interest criteria. The application with the most points in an MX group is designated the tentative selectee. The Bureau staff then accepts the tentatively-selected applications for filing, which triggers a 30-day period for the filing of petitions to deny. Petitions based on claims that the exclusion, or inclusion, of challenged or claimed points could alter the outcome in the particular MX group are referred to the Commission for a new points analysis.

3. When the Commission adopted the point system, it considered and rejected proposals to engage in secondary application analyses, whereby it would reevaluate the unsuccessful applications in an MX group that did not directly conflict with the ultimate tentative selectee of the group. The Commission explained that its primary goal was to select the best qualified applicants in an administratively efficient way.

4. The Commission opened a filing window for new NCE stations in 2007, and in 2010, the Commission issued the first of its comparative points orders resolving MX groups from the 2007 window. In the order, the Commission reiterated its policy "that only one application should be granted out of each mutually exclusive group, while providing the competing applicants the opportunity to file again in the next filing window."

5. Several dismissed applicants subsequently challenged their dismissals and argued that their applications should also be granted because they were not mutually exclusive with the tentative selectees in their respective MX groups. The Commission again reaffirmed its one-grant policy in three 2015 Memorandum Opinions and Orders, rejecting petitioners' requests for secondary grants. The Commission explained that its policy basis not to engage in secondary grants was supported by the dual reasons of not granting inferior applications and promoting administrative efficiency.

6. Finally, in the *2019 NCE Report and Order*, the Commission considered and rejected Discount Legal's suggestion that it adopt a secondary grant practice. The Commission reaffirmed its longstanding one-grant policy. In the Petition, Discount Legal renews the arguments in favor of a secondary grant policy made in its comments.

7. *Discussion.* The Commission dismisses the Petition as repetitive and procedurally defective. On alternative and independent grounds, the Commission denies the Petition as meritless and affirms its longstanding one-grant policy, which is supported by the dual rationales of expeditiously granting high-quality applications and limiting administrative burdens.

8. *High Quality Applications.* The Commission rejects Discount Legal's assertion that the potential disparities between the quality of unsuccessful applicants in an MX group is "irrelevant." The Commission's one-grant policy is designed to encourage the best possible application submissions in every filing window. The current policy creates competitive