

involving persons who were not parties to the litigation, the Department must—

(1) Publish that document, either in full or by citation if publicly available, in the **Federal Register** or on the Department's guidance repository described in § 1.4, and

(2) Publish an explanation of the document's jurisdictional implications.

(c) Before seeking judicial deference to the Department's interpretation of a document arising out of litigation (other than a publicly published opinion of an adjudicator) in order to establish a new or expanded claim of jurisdiction in a different case, the Department must—

(1) Publish the document or a notice of availability in the **Federal Register** or on the Department's guidance repository described in § 1.4, and

(2) Publish an explanation of the document's jurisdictional implications.

■ 7. Section 1.9 is added to read as follows:

#### **§ 1.9 Opportunity to contest agency determination.**

(a) *Departmental overview.* Except as provided in paragraph (c) of this section, prior to the Department taking any civil enforcement action with respect to a particular entity that has legal consequence for that entity, including by issuing to such a person a notice of noncompliance, or other similar notice that has immediate regulatory consequence, but excluding communications that have no immediate regulatory implications for the entity, such as those that serve as an interim step in the agency's compliance communications with the entity or that are intended to encourage voluntary compliance, the Department shall provide—

(1) Written notice to the affected entity of the initial legal and factual determinations underpinning the initial adverse determination;

(2) An opportunity for the affected entity to respond in writing and, if determined appropriate by the Department, orally; and

(3) A written response from the Department to the affected entity after receiving a timely request from the affected entity under paragraph (a)(2) of this section.

(b) *Timing and content of written responses.* (1) The Department will select a meaningful amount of time in which the affected entity must submit a written response to the Department. This writing must be submitted within the time period specified by the Department, unless the Department concludes an extension is warranted, and state the reasons for the entity's disagreement with the Department's

proposed action for purposes of requiring a response in accordance with paragraph (a)(3) of this section.

(2) The Department's written response must respond to the affected entity and articulate the basis for its final decision. This written response may be issued contemporaneous to the Department taking the action with legal consequence.

(c) *Exceptions.* The procedures in paragraphs (a) and (b) of this section do not apply where the Department, in its discretion, determines there is a serious threat to health, safety, or similar emergency, or where a statute specifically authorizes proceeding without a prior opportunity to be heard. In such event, HHS would still provide an affected entity with an opportunity to be heard and a written response as soon as practicable. The procedures in paragraphs (a) and (b) do not apply to settlement negotiations between agencies and regulated parties, to notices of a prospective legal action, to litigation before courts, or any action related to a criminal investigation or prosecution, including undercover operations that may be used in a criminal investigation or prosecution, or any civil enforcement action either related to an investigation by the Department of Justice, or referred to the Department of Justice.

Dated: January 7, 2021.

**Alex M. Azar II,**

*Secretary, Department of Health and Human Services.*

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## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 73**

**[MB Docket No. 20-340; RM-11865; DA 20-1425; FRS 17287]**

#### **Television Broadcasting Services; Minneapolis, Minnesota.**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Media Bureau, Video Division (Bureau) has before it a Notice of Proposed Rulemaking issued in response to a petition for rulemaking filed by Multimedia Holdings Corporation (Multimedia), licensee of KARE, channel 11, Minneapolis, Minnesota, requesting the substitution of channel 31 for channel 11 at Minneapolis in the DTV Table of Allotments. The Bureau had instituted a

freeze on the acceptance of rulemaking petitions by full power television stations requesting channel substitutions in May 2011 and waived the freeze to consider Multimedia's proposal to substitute channel 31 at Minneapolis. TEGNA, Inc., filed comments in support of the petition reaffirming its commitment to applying for channel 31. The Bureau believes the public interest would be served by the substitution and will permit the station to better serve its viewers, who have experienced reception problems with VHF channel 11.

**DATES:** Effective January 14, 2021.

#### **FOR FURTHER INFORMATION CONTACT:**

Joyce Bernstein, Media Bureau, at [Joyce.Bernstein@fcc.gov](mailto:Joyce.Bernstein@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 20-340; RM-11865; DA 20-1425, adopted December 2, 2020, and released December 2, 2020. The full text of this document is available for download at <https://www.fcc.gov/edocs>. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed 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). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, do not apply to this proceeding.

The Commission will 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**

Television.

Federal Communications Commission.

**Thomas Horan,**

*Chief of Staff, Media Bureau.*

#### **Final Rule**

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

**PART 73—Radio Broadcast Service**

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

**Authority:** 47 U.S.C. 154, 303, 334, 336, and 339.

**§ 73.622 [Amended]**

■ 2. In § 73.622(i), amend the Post-Transition Table of DTV Allotments, under Minnesota, by removing channel 11 and adding channel 31 at Minneapolis.

[FR Doc. 2020-27277 Filed 1-13-21; 8:45 am]

**BILLING CODE 6712-01-P**

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****49 CFR Part 578**

[Docket No. NHTSA-2021-0001]

**RIN 2127-AM32**

**Civil Penalties**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Interim final rule; request for comments; response to petition for rulemaking.

**SUMMARY:** On October 2, 2020, NHTSA received a petition for rulemaking from the Alliance for Automotive Innovation regarding when to apply an increase to the civil penalty rate applicable to automobile manufacturers that fail to meet applicable corporate average fuel economy (CAFE) standards and are unable to offset such a deficit with compliance credits. After carefully considering the issues raised, NHTSA has granted the petition and promulgates an interim final rule providing that the increase will go into effect beginning in model year 2022 in accordance with NHTSA's December 2016 rule on the same issue, except if the August 31, 2020 decision of the United States Court of Appeals for the Second Circuit in Case No. 19-2395 is vacated. This interim final rule amends the relevant regulatory text accordingly and requests comment. This document also responds to a petition for reconsideration of NHTSA's July 2019 rule from the Institute for Policy Integrity at New York University School of Law.

**DATES:**

**Effective date:** This rule is effective January 14, 2021

**Comments:** Comments must be received by January 25, 2021.

**ADDRESSES:** You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Mail:** Docket Management Facility, M-30, U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- **Hand Delivery or Courier:** U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m. Eastern time, Monday through Friday, except Federal holidays.
- **Fax:** 202-493-2251
- **Instructions:** NHTSA has established a docket for this action. Direct your comments to Docket ID No. NHTSA-2021-0001. See the **SUPPLEMENTARY INFORMATION** section on "Public Participation" for more information about submitting written comments.

• **Docket:** All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the following location: Docket Management Facility, M-30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590. The telephone number for the docket management facility is (202) 366-9324. The docket management facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Michael Kuppersmith, Office of Chief Counsel, NHTSA, email [michael.kuppersmith@dot.gov](mailto:michael.kuppersmith@dot.gov), telephone (202) 366-2992, facsimile (202) 366-3820, 1200 New Jersey Ave. SE, Washington, DC 20590.

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**A. Public Participation**

NHTSA requests comment on this interim final rule. This section describes how you can participate in this process.

(1) How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the Docket number NHTSA-2021-0001 in your comments. Your comments must not be more than 15 pages long.<sup>1</sup> NHTSA established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments, and there is no limit on the length of the attachments. If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using the Optical Character Recognition (OCR) process, thus allowing the Agency to search and copy certain portions of your submissions.<sup>2</sup> Please note that pursuant to the Data Quality Act, in order for the substantive data to be relied upon and used by the Agency, it must meet the information quality standards set forth in the OMB and Department of Transportation (DOT) Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at <http://www.whitehouse.gov/omb/fedreg/reproducible.html>. DOT's guidelines may be accessed at <http://www.dot.gov/dataquality.htm>.

(2) Tips for Preparing Your Comments

<sup>1</sup> See 49 CFR 553.21

<sup>2</sup> Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.