

States Court of Appeals for the appropriate circuit by January 28, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: November 13, 2018.

**Peter D. Lopez,**

*Regional Administrator, Region 2.*

For the reasons set forth in the preamble, the Environmental Protection Agency amends part 52 of chapter I, title 40 of the Code of Federal Regulations as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart BBB—Puerto Rico

■ 2. Section 52.2730 is amended by revising paragraphs (a)(1), (b)(1), and (c)(1) to read as follows:

##### § 52.2730 Section 110(a)(2) infrastructure requirements.

(a) *1997 8-hour ozone and the 1997 PM<sub>2.5</sub> NAAQS—(1) Approval.* Submittal from Puerto Rico dated November 29, 2006 and supplemented February 1, 2016, to address the CAA infrastructure requirements for the 1997 ozone and the 1997 PM<sub>2.5</sub> NAAQS. This submittal satisfies the 1997 ozone and the 1997 PM<sub>2.5</sub> NAAQS requirements of the Clean Air Act (CAA) 110(a)(2)(A), (B), (C) (with the exception of program requirements for PSD), (D)(i)(I), (D)(i)(II) and (ii) (with the exception of program requirements related to PSD), (E), (F), (G), (H), (J) (with the exception of program requirements related to PSD), (K), (L), and (M).

\* \* \* \* \*

(b) *2008 ozone and the 2006 PM<sub>2.5</sub> NAAQS—(1) Approval.* Submittal from

Puerto Rico dated January 22, 2013, supplemented February 1, 2016 to address the CAA infrastructure requirements for the 2008 ozone NAAQS and supplemented April 16, 2015 and February 1, 2016 to address the CAA infrastructure requirements for the 2006 PM<sub>2.5</sub> NAAQS. This submittal satisfies the 2008 ozone and the 2006 PM<sub>2.5</sub> NAAQS requirements of the Clean Air Act (CAA) 110(a)(2)(A), (B), (C) (with the exception of program requirements for PSD), (D)(i)(I), (D)(i)(II) and (ii) (with the exception of program requirements related to PSD), (E), (F), (G), (H), (J) (with the exception of program requirements related to PSD), (K), (L), and (M).

\* \* \* \* \*

(c) *2008 lead NAAQS—(1) Approval.* Submittal from Puerto Rico dated January 31, 2013 and supplemented February 1, 2016, to address the CAA infrastructure requirements for the 2008 lead NAAQS. This submittal satisfies the 2008 lead NAAQS requirements of the Clean Air Act (CAA) 110(a)(2)(A), (B), (C) (with the exception of program requirements for PSD), (D)(i)(I), (D)(i)(II) and (ii) (with the exception of program requirements related to PSD), (E), (F), (G), (H), (J) (with the exception of program requirements related to PSD), (K), (L), and (M).

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[FR Doc. 2018–25888 Filed 11–28–18; 8:45 am]

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#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Parts 0, 1, and 76

[MB Docket No. 17–290, FCC 18–136]

#### Form 325 Data Collection; Modernization of Media Regulation Initiative

**AGENCY:** Federal Communications Commission

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission eliminates the annual FCC Form 325 filing requirement for cable television systems as part of its Modernization of Media Regulation Initiative. As set forth below, the Commission finds that marketplace, operational, and technological changes have overtaken the utility of FCC Form 325, rendering it increasingly obsolete, and that much of the information collected by the form can be obtained from alternative sources. Thus, the Commission concludes that eliminating Form 325

will advance the Commission's goal of reducing outdated regulations and unnecessary regulatory burdens that can impede competition and innovation in media markets.

**DATES:** Effective November 29, 2018.

**ADDRESSES:** Federal Communications Commission, 445 12th Street SW, Room TW–C305, Washington, DC 20554.

#### FOR FURTHER INFORMATION CONTACT:

Jamile Kadre, [Jamile.Kadre@fcc.gov](mailto:Jamile.Kadre@fcc.gov), or 202–418–2245.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order*, FCC 18–136, in MB Docket No. 17–290, adopted on September 26, 2018, and released on September 26, 2018. The complete text of this document is available electronically via the search function on the FCC's Electronic Document Management System (EDOCS) web page at [https://apps.fcc.gov/edocs\\_public/](https://apps.fcc.gov/edocs_public/) ([https://apps.fcc.gov/edocs\\_public/](https://apps.fcc.gov/edocs_public/)). The complete document is available for inspection and copying in the FCC Reference Information Center, 445 12th Street SW, Room CY–A257, Washington, DC 20554 (for hours of operation, see <https://www.fcc.gov/general/fcc-reference-information-center>). 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) (mail to: [fcc504@fcc.gov](mailto:fcc504@fcc.gov)) or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

#### Synopsis

##### I. Introduction

1. With this *Report and Order*, we take another important step in our efforts to modernize our media regulations by eliminating the annual FCC Form 325 filing requirement for cable television systems. In November, the Commission issued a Notice of Proposed Rulemaking (NPRM) proposing to streamline or eliminate Form 325, Annual Report of Cable Television Systems, which collects operational information from cable television systems nationwide. The majority of commenters support eliminating Form 325. We conclude that eliminating Form 325 will advance the Commission's goal of reducing outdated rules and unnecessary regulatory burdens that can impede competition and innovation in the media marketplace. On balance, we find that the utility of the form is limited and ultimately outweighed by the burden placed on cable operators to file, and on

the Commission to process, this outmoded form.

## II. Background

2. Form 325 collects operational information from various cable television systems nationwide, including data about subscriber numbers, equipment information, plant information, frequency and signal distribution information, and programming information. The form is required to be filed annually by: (1) All cable systems with 20,000 or more subscribers (which account for the vast majority of cable subscribers); and (2) a random sampling of smaller cable systems with fewer than 20,000 subscribers. Each December, the Commission sends a notification to each operator required to file Form 325 and instructs the operator to file the form electronically via the FCC's Cable Operations and Licensing System (COALS) within 60 days from the date of the letter.

3. In the *NPRM*, the Commission sought comment on whether to eliminate Form 325 or, in the alternative, improve and streamline the form. The Commission solicited input on "the continued utility of collecting Form 325 data" in light of the substantial changes in the multichannel video programming distributor (MVPD) marketplace and in the operations of cable television systems since the Commission last examined the Form 325 data collection in 1999, on the costs associated with completing Form 325, on alternative sources for the information collected by the form, and on whether the benefits of the information collected outweighed those costs. The Commission also sought comment on ways to improve the Form 325 data collection, if it were retained.

## III. Discussion

5. With this *Report and Order*, we eliminate the Form 325 filing requirement for cable television systems. As the Commission noted in the *NPRM*, Form 325 was first developed over 50 years ago and the last significant modification of the form was nearly 20 years ago. We find that marketplace, operational, and technological changes have overtaken Form 325 and rendered it increasingly obsolete, as reflected by the Commission's limited use of Form 325 data. Moreover, much of the information collected by the form can be obtained from alternative sources without the burden imposed on cable operators and the Commission by the Form 325 filing requirement. Therefore, we eliminate the requirement set forth in 47 CFR

76.403 of our rules that the operator of every cable television system serving 20,000 or more subscribers and a sampling of operators with systems serving fewer than 20,000 subscribers file Form 325 with the Commission.

### *Diminished Utility of Form 325*

6. In light of substantial changes that have taken place in the MVPD marketplace and in the way that cable systems operate, we find that the information collected by Form 325 is far less relevant today than it was when the Commission last considered, and elected to retain, the form in 1999. As NCTA states, Form 325, with its questions about analog operations and system-based organization, does not reflect the technical realities of present-day cable service where "individual systems are no longer representative of today's cable network structure due to the use of fiber interconnects and the elimination of numerous standalone headends." Importantly, the last time the Commission voted to retain Form 325 in 1999, the cable industry was less than a decade removed from the passage of the Telecommunications Act of 1996 (1996 Act) and the Cable Television Consumer Protection and Competition Act of 1992 (1992 Cable Act)—a time during which the Commission had recently implemented, or was still in the process of implementing, the regulatory mandates of those statutes. It was a time when the MVPD industry—and the prominence of cable operators as video providers—looked very different than it does today. Cable operators at the time accounted for approximately 82 percent of total MVPD subscribers (as compared to roughly 55 percent today) and today's online video streaming services did not yet exist. Accordingly, the Commission noted at the time that Form 325 could be useful for monitoring forthcoming changes in the cable industry, including the introduction of digital cable services. Similarly, the Commission believed that the form could prove useful in collecting information regarding the transition from analog to digital television broadcast signals. Now, the 1996 Act and the 1992 Cable Act are more than 20 years behind us. The digital television transition for full-power broadcast stations occurred over nine years ago and the transition from analog to digital cable service is now almost universal. According to one recent estimate, approximately 97 percent of cable subscribers currently have digital cable service. Therefore, it is clear that many of the expected changes to the cable industry that Form 325 was designed to monitor have already taken place.

7. While we acknowledge that Form 325 may have been useful at one time, and that the data collected by the form have been used by the Commission on various occasions through the years, we find that it has become progressively less useful to, and less used by, the Commission over time and has now reached a point where its limited usefulness can no longer justify its retention. When the Commission elected not to eliminate the form nearly 20 years ago, it envisioned various uses for which the data collected by Form 325 might be useful to the Commission in the future. Today, however, there is little evidence that the information collected by Form 325 continues to be essential for the purposes it once served or could have served. For instance, the Commission found in 1999 that cable modem and set-top box data collected by Form 325 could be useful for "assess[ing] technical capabilities of cable systems and the future of the industry" and that information on channel lineups could be used to "determine the impact of our must-carry and retransmission consent" rules. Similarly, Public Knowledge contends that Form 325 provides information useful to the Commission in fulfilling its obligations under Section 629 to promote the competitive availability of navigation devices. However, recent Commission rulemakings related to Section 629 and retransmission consent relied on third-party sources of data rather than Form 325 to inform their analysis.

8. Indeed, recent instances where the Commission has cited Form 325 data in rulemaking proceedings are extremely limited, and in those instances where it has been cited, it is not clear that the data cited was critical to any major decision or that it was available exclusively via Form 325. For instance, in the most recent example, the Commission cited Form 325 data in a single footnote of an order to estimate the number of low power television (LPTV) and Class A stations carried on cable systems pursuant to mandatory carriage—data which would continue to be available in public inspection files—and one party in that proceeding directly questioned the accuracy of the Commission's estimate. In another example, the Commission used information collected via Form 325 about the number of deployed set-top boxes to affirm a conclusion that applying IP closed captioning rules only to devices with built-in screens would exclude a common means by which consumers view programming. Beyond these examples, the Commission has

also, on occasion, used Form 325 data to determine how many subscribers could potentially be affected when providing regulatory relief to systems and operators or to craft exemptions on the basis of number of subscribers served. All of this, however, amounts to just a handful of fairly minor uses over the past six-plus years in instances where such data could otherwise have been obtained from information requests or other inquiries.

9. In addition, although the Commission has been statutorily required to produce an annual report to Congress on “the status of competition in the market for the delivery of video programming,” rather than use the data from Form 325, the Commission has routinely opened a dedicated proceeding and issued a Public Notice to solicit information to compile the report. As Verizon notes, the two most recent annual video competition reports did not cite to Form 325 at all, relying instead on third-party sources for such statistics as subscribers to cable services and the number of homes passed. Indeed, when the Commission sought to rely on the Form 325 data for more substantial use in its *13th Video Competition Report*, it concluded that the data were inadequate for assessing whether the homes passed and subscriber thresholds had been met under the section 612(g) “70/70 test”—pursuant to which the Commission has authority to promulgate any additional rules necessary to provide diversity of information sources “at such time as cable systems with 36 or more activated channels are available to 70 percent of households within the United States and are subscribed to by 70 percent of the households to which such systems are available.” Instead, the Commission concluded that an industrywide information collection would be necessary to compile the requisite data. Even for the more discrete use of Form 325 data in the *14th Video Competition Report*—to show the percentage of households passed by incumbent cable systems that subscribe to these systems as well as the number of very small cable systems surveyed that offer neither internet access nor telephone services—the report itself noted that data from SNL Kagan could provide similar information. Additionally, although the Media Bureau’s annual report on cable prices references Form 325 in a note to a table in the appendix, Bureau staff today relies primarily on other sources to compile the data presented in the table. Moreover, there is minimal public demand for the data presently available; only a single party

annually files a Freedom of Information Act request for Form 325 data and no commenters claim to currently use or recently have used Form 325 data.

10. In addition to being little used today, we note that the Form 325 data are subject to certain inherent constraints that render them less than ideal and limit the purposes for which they can be used, such as the fact that Form 325 data do not correspond to common geographic units such as census blocks, counties, or DMAs and the Commission “has no reliable method for converting the geographic area of a cable system to such units. As noted above, Form 325 data have not been collected universally across the entire cable industry since the 1990s, and Form 325 is not filed by many of the smallest cable systems, a fact that may render it somewhat less useful for purposes of assessing the latter segment of the cable industry in particular. For example, in determining the carriage of in-state broadcast stations on cable systems for congressionally mandated reports pursuant to the Satellite Television Extension and Localism Act of 2010 (STELA) and the STELA Reauthorization Act of 2014 (STELAR), the Commission noted that many rural counties of interest for purposes of the required reports may be served by cable systems not subject to the Form 325 filing requirement. Given the diminishing relevance of, and alternative sources for, the Form 325 data, any attempt to expand the data collection among the smallest cable systems in order to make the collection more comprehensive would likely entail significant burdens for those systems least able to bear them in exchange for little, if any, offsetting benefit. Moreover, in addition to not being filed by many of the smallest cable systems, Form 325 is not filed by non-cable video providers either (e.g., DBS operators), further limiting its ability to shed light on the overall video marketplace.

#### *Alternative Sources for Information Currently Collected by Form 325*

11. As mentioned above, the Commission has increasingly been turning to public and third-party sources of data to help guide its policymaking. In this regard, we note that information on subscribers, equipment, physical plant, frequency and signal distribution, or programming, such as that currently collected via Form 325, is available through alternative sources. For instance, although Public Knowledge asserts that the data collected via Form 325 provide valuable information on the broadband industry, the Commission noted in the

*NPRM* that the cable modem and telephony subscriber data collected by Form 325 are similar, and likely inferior, to data collected via Form 477—the Commission’s primary vehicle for collecting information about the broadband industry. In addition to Form 477, other sources of cable industry data include: Information collected via FCC Forms 320, 322, 324, 327, and 333; information provided pursuant to section 76.1205 and section 76.1709; other governmental filings, such as Securities and Exchange Commission (SEC) filings and Copyright Office Statements of Account; information released by industry groups such as ACA and NCTA; and information available through commercial sources such as SNL Kagan and S&P Global Market Intelligence (S&P Global), BIA/Kelsey (BIA Advisory Services), The Nielsen Company, and Television and Cable Factbook (Warren Communications). In particular, as noted in the *NPRM*, channel lineup information, such as that collected by Form 325, is widely available from public sources that include cable operator websites and third-party guide services. Additionally, information related to the carriage of leased access programming, the availability of which was once a concern underpinning the collection of channel lineup information, is now available through at least one commercial source, and the Commission also provides information on the average number of leased access channels in its *Cable Price Survey Report*. We believe that these other sources available to the Commission generally offer the accuracy, timeliness, and ongoing availability that the Commission once looked to Form 325 to provide, as evidenced by the fact that both the Commission and industry stakeholders regularly rely upon such sources, not Form 325, for various purposes. Specifically, we find that other sources besides Form 325 also provide voluminous, standardized information that can be used to conduct year-over-year comparisons, as the Commission routinely does.

12. Of course, even after eliminating the Form 325 filing requirement, the Commission retains the ability to obtain data on an as-needed basis. For example, the Commission regularly seeks detailed market-by-market information from applicants in transactions involving MVPDs or internet service providers regarding homes passed, numbers of subscribers, services provided, and competitors faced, among other things. The Commission often seeks similar

information from third-party competitors as well. This is ultimately a more cost-effective and targeted approach than trying to collect data through an industrywide mechanism such as Form 325. In addition, the Commission also retains the ability to collect information and data through rulemakings, inquiries, and other collections, which may yield more current data than Form 325.

13. In short, we believe the information available through all of these alternative sources is sufficiently reliable that we can confidently eliminate Form 325. We therefore disagree with Public Knowledge's assertions that information collected in rulemakings and other proceedings cannot be considered a sufficiently reliable alternative to Form 325 data because firms are not compelled to disclose the information and are not subject to a certification of accuracy. First, we note that there is an expectation that parties submitting comments or data in Commission proceedings will not provide false or misleading information to the Commission, and even if a party provides information that arguably could be seen as biased or one-sided in some way, respondents in Commission proceedings have an opportunity to set the record straight by highlighting such bias for the Commission or submitting their own contrary analyses. Moreover, we note that making false statements to the United States government is punishable by law; therefore, many of the other federal filings mentioned above likely would be at least as reliable and accurate as Form 325 filings, and thus could serve a cross-check function similar to that which Public Knowledge asserts Form 325 data fulfill.

14. In addition, we find that other publicly available sources, including those mentioned above, are likely to be more useful than the information collected by Form 325 in keeping the public informed about the cable industry. Such sources generally present a more up-to-date picture of the industry than Form 325 data, which are currently withheld from the public for three years due to competitive concerns. Furthermore, we note that no commenters in this proceeding state that they are currently using, or have recently used, the Form 325 data for any purpose, which is not surprising given the datedness of the information and the abundance of other sources available. Lastly, although Public Knowledge correctly notes that proprietary information from commercial sources can be expensive and subject to restrictive licensing terms, the

Commission analyzes such sources in producing video competition reports and other documents available to the public, and many alternatives to Form 325 data are available to and have been used by commenters in Commission proceedings.

15. While we agree with Public Knowledge that the Commission has a responsibility—and Congress and the public have an interest—in remaining informed about the nature and evolution of the cable industry, we find today that Form 325 does not remain necessary to fulfilling that responsibility.

#### *Burdens Imposed by Form 325 Data Collection*

16. According to commenters, Form 325 is a significant burden to cable operators. ACA, NCTA, and Verizon report substantial time spent on these forms, in excess of Commission estimates. According to NCTA, even if the Commission's two-hour estimate for completion of a Form 325 reflected operators' experience, larger operators "would still need to devote 10 weeks' worth of employee time" to complete the required forms. ACA points to "several reasons for this lengthy timeframe," including that the form requires gathering of information that is not used in the typical course of business and collaboration among employees who do not typically interface. According to ACA, such a burden is particularly challenging for smaller operators with fewer resources at their disposal. NCTA also asserts that, "[d]epending on internal workload and resources, some operators must hire contract workers to input data." In addition, both NCTA and ACA point to the need for operators to retain outside counsel "to ensure that sensitive Form 325 data is provided confidential treatment." While commenters did not provide estimates of the monetary costs associated with completing and filing Form 325, the limited utility of the data collected therein cannot justify the number of hours expended by operators with limited resources in completing Form 325. Further, even the Commission's lower estimate of two hours to complete a Form 325 for each PSID represents a burden that likely outweighs the limited usefulness of Form 325 data today. Finally, we note that the Form 325 data collection also places significant burdens on Commission staff to collect, compile, and maintain the data.

17. In the *NPRM*, the Commission sought comment on ways to improve Form 325, if it were retained. In response, Public Knowledge suggests that rather than eliminate Form 325, the

Commission should improve it and make better use of the data collected. However, we find that any attempt to overhaul Form 325 to make it more up-to-date and useful would be substantial and would likely result in creating a form that would duplicate other similarly up-to-date and useful sources that already exist. At the same time, we note that our action today does not obviate the need or legal obligation to file other data with the Commission, nor does it preclude future collection of relevant cable system information by the Office of Economics and Analytics once it is up and running.

18. In sum, we find that the Form 325 is outdated and imposes significant burdens on both cable operators and Commission staff. Because this filing requirement no longer provides sufficient offsetting benefits to justify its retention, we find that its elimination is in the public interest.

#### **IV. Procedural Matters**

19. *Paperwork Reduction Analysis.* This document eliminates, and thus does not contain new or revised, information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, 44 U.S.C. 3501–3520. In addition, therefore, it does not contain any new or modified "information burden for small business concerns with fewer than 25 employees" pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, 44 U.S.C. 3506(c)(4).

#### *Final Regulatory Flexibility Analysis*

20. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *NPRM* in MB Docket 17–290. The Commission sought written public comments on proposals in the *NPRM*, including comment on the IRFA. The Commission received no direct comments on the IRFA, although some commenters discussed the effect of the proposals on smaller entities, as discussed below. The present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

#### *Need for, and Objectives of, the Report and Order*

21. The *Report and Order* arises from a Public Notice issued by the Commission in May 2017, launching an initiative to modernize the Commission's media regulations. The *Report and Order* finds that marketplace, operational, and technological changes have overtaken Form 325 and rendered it increasingly

obsolete, as reflected by the Commission's limited use of Form 325 data and reliance on alternative sources of data that offer the accuracy, timeliness, and ongoing availability that the Commission once looked to Form 325 to provide. In addition, the *Report and Order* finds that efforts to make Form 325 more up-to-date and useful would be substantial and would likely result in creating a form that would duplicate other similarly up-to-date and useful sources that already exist. The *Report and Order* concludes that the Form 325 data collection represents a significant burden on cable operators, as well as on Commission staff, and that this burden outweighs the limited usefulness of Form 325 data. Accordingly, the *Report and Order* adopts the NPRM's proposal to eliminate Form 325. Specifically, the *Report and Order* eliminates: (i) The requirement that the operator of every operational cable television system that serves 20,000 or more file with the Commission a Form 325 soliciting general information and frequency and signal distribution information on a Physical System Identification Number ("PSID") basis; and (ii) the requirement that Form 325 be filed by any cable operator with less than 20,000 subscribers selected by random sampling.

*Summary of Significant Issues Raised by Public Comments in Response to the IRFA*

22. No comments were filed in direct response to the IRFA.

*Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration*

23. 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 SBA and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to this proceeding.

*Description and Estimate of the Number of Small Entities to Which Rules Will Apply*

24. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental 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 SBA. The final rules adopted herein affect small television and radio broadcast stations and small entities that operate daily newspapers. A description of these small entities, as well as an estimate of the number of such small entities, is provided below.

25. *Cable Companies and Systems (Rate Regulation)*. The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers nationwide. In addition, under the Commission's rate regulation rules, a "small system" is a cable system serving 15,000 or fewer subscribers. Industry data indicate that there are currently 4,300 active cable systems in the United States. Of this total, 3,550 cable systems have fewer than 15,000 subscribers, and 750 systems have 15,000 or more subscribers. Thus, we estimate that most cable systems are small entities.

26. *Cable System Operators (Telecom Act Standard)*. The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250 million." There are approximately 51,859,070 cable video subscribers in the United States today. Accordingly, an operator serving fewer than 518,590 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate. Based on available data, we find that all but six incumbent cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under

the definition in the Communications Act.

*Description of Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities*

27. The *Report and Order* eliminates the rule requiring cable system operators to complete Form 325. Accordingly, the *Report and Order* does not impose any new reporting, recordkeeping, or compliance requirements for small entities. The *Report and Order* thus will not impose additional obligations or expenditure of resources on small businesses.

*Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

28. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its 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.

29. In this proceeding, the Commission has three chief alternatives available for Form 325—eliminate the form, modernize and streamline it, or retain it. The Commission finds that marketplace, operational, and technological changes have overtaken Form 325 and rendered it increasingly obsolete, as reflected by the Commission's limited use of Form 325 data and reliance on alternative sources of data that offer the accuracy, timeliness, and ongoing availability that the Commission once looked to Form 325 to provide. The Commission finds further that eliminating the form will benefit small entities by reducing the burden and costs of compliance. Thus, the *Report and Order* eliminates the obligation for cable systems to file Form 325. Eliminating this requirement is intended to modernize the Commission's regulations and reduce costs and recordkeeping burdens for affected entities, including small entities. According to commenters, small entities spend as many as ten hours completing Form 325. Under the revised rules, affected entities no longer will need to expend time and resources collecting, maintaining, and organizing the information requested in the form or

completing the form. Therefore, removing this information collection requirement will help small entities in particular to cut unnecessary costs related to gathering the information requested in Form 325 and completing the form. Thus, we anticipate that affected small entities will benefit from these revisions.

#### *Report to Congress*

30. The Commission will send a copy of the *Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Report and Order*, including this FRFA, to the Chief Counsel for Advocacy of the SBA.

#### *Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule*

31. None.

#### **V. Ordering Clauses**

32. Accordingly, *it is ordered* that, pursuant to the authority found in sections 1, 4(i), 4(j), and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and 303, this *Order is adopted*.

33. *It is further ordered* that, pursuant to the authority found in sections 1, 4(i), 4(j), and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and 303, the Commission's rules **ARE AMENDED** as set forth in Appendix A, effective as of the date of publication of a summary in the **Federal Register**.

34. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference

Information Center, *shall send* a copy of this *Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

35. *It is further ordered* that, pursuant to Section 801(a)(1)(A) of the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), the Commission *shall send* a copy of the *Order* to Congress and to the Government Accountability Office.

36. *It is further ordered* that, should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 17–290 *shall be terminated* and its docket closed.

Federal Communications Commission.

**Cecilia Sigmund,**

*Federal Register Liaison Officer, Office of the Secretary.*

#### **Final Rules**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 0, 1, and 76 of title 47 as follows:

#### **PART 0—COMMISSION OPERATIONS**

■ 1. The authority citation for part 0 continues to read as follows:

**Authority:** Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

##### **§ 0.408 [Amended]**

■ 2. Amend § 0.408 in the table in paragraph (b) by removing the entry for “3060–0061, FCC 325, 01/31/20”.

#### **PART 1—PRACTICE AND PROCEDURE**

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

**Authority:** 47 U.S.C. 151, 154(i), 155, 157, 160, 201, 225, 227, 303, 309, 332, 1403, 1404, 1451, 1452, and 1455, unless otherwise noted.

■ 4. Amend § 1.1703 by revising paragraph (e) to read as follows:

##### **§ 1.1703 Definitions.**

\* \* \* \* \*

(e) *Filings.* Any application, notification, registration statement, or report in plain text, or, when as prescribed, on FCC Forms, 320, 321, 322, 324, or 327, whether filed in paper form or electronically.

\* \* \* \* \*

##### **§ 1.1705 [Amended]**

■ 5. Amend § 1.1705 by removing and reserving paragraph (a)(5) and by removing “325,” from paragraph (b) introductory text and from paragraph (c)(1).

#### **PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE**

■ 6. 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.

##### **Subpart I—[Removed and Reserved]**

■ 7. Remove and reserve subpart I, consisting of § 76.403.

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