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[FR Doc. 04-14221 Filed 6-22-04; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[MM Docket No. 93-25; FCC 04-44]

RIN 3060-AF39

Implementation of the Cable Television Consumer Protection and Competition Act of 1992; Direct Broadcast Satellite Public Interest Obligations

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: The Commission is correcting a final rule that appeared in the **Federal Register** of April 28, 2004 (69 FR 23155). This document corrects typographical errors in the effective date and in the preamble. The corrected effective date appears below.

DATES: The rule published at 69 FR 23155 is effective May 28, 2004, except for §§ 25.701(d)(1)(i), 25.701(d)(1)(ii), 25.701(d)(2), 25.701(d)(3), 25.701(e)(3), 25.701(f)(6)(i), and 25.701(f)(6)(ii) which contain information collection requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Rosalee Chiara, Federal Communications Commission, Policy Division, Media Bureau, 445 12th St., Washington, DC 20554, (202) 418-0754.

SUPPLEMENTARY INFORMATION: In FR Doc. 04-9170 appearing on page 23155 in the issue of April 28, 2004, the effective date is corrected as set forth above, and in paragraph 18 of the preamble, the references to §§ 75.701(d)(2) and 75.701(d)(3) are corrected to read "25.701(d)(2)" and "25.701(d)(3)".

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. 04-14263 Filed 6-22-04; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

Miscellaneous Rules Relating to Common Carriers

CFR Correction

In Title 47 of the Code of Federal Regulations, parts 40 to 69, revised as of October 1, 2003, on page 329, § 64.2400 paragraph (b) is corrected by removing "64.2001(a)(2), 64.2001(b), and 64.2001(c)", and adding in its place "64.2401(a)(2), 64.2401(b), and 64.2401(c)".

[FR Doc. 04-55512 Filed 6-22-04; 8:45 am]

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[MM Docket No. 98-204; FCC 04-103]

RIN 3060-AH95

Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts new broadcast and multichannel video programming distributor ("MVPD") equal employment opportunity ("EEO") rules. The Commission revised Forms 395-A and 395-B but issued a notice of proposed rulemaking on issues regarding whether to keep annual employment reports confidential or partially confidential.

DATES: Sections 73.3612 and 76.1802 contain information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of these rules. Written comments by the public on the modified information collection requirements are due August 23, 2004.

FOR FURTHER INFORMATION CONTACT: Lewis Pulley, Policy Division, Media Bureau, (202) 418-1450 or lewis.pulley@fcc.gov. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Leslie F. Smith at

202-418-0217, or via the Internet at Leslie.Smith@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Media Bureau's *Third Report and Order* ("3R&O") in MM Docket No. 98-204; FCC 04-103, adopted April 19, 2004, and released on June 4, 2004. The full text of this 3R&O is available for inspection and copying during regular business hours in the FCC Reference Center, 445 Twelfth Street, SW., Room CY-A257, Portals II, Washington, DC, 20554, and may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Room CY-B402, telephone (800) 378-3160, e-mail <http://www.BCPIWEB.com>. This document is available in alternative formats (computer diskette, large print, audio cassette and Braille). Persons who need documents in such formats may send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0531 (voice), 418-7365 (tty).

Synopsis of Third Report and Order

I. Background

1. The *Second Notice of Proposed Rulemaking* ("2NPRM"), 67 FR 1704, January 14, 2002, in this proceeding proposed and requested comment on new broadcast station and multichannel video programming distributor ("MVPD") Equal Employment Opportunity ("EEO") rules and new annual employment report forms to collect data on the race, ethnicity, and gender of the workforce of broadcast and MVPD employment units. In the *Second Report and Order* ("2R&O"), 68 FR 670, January 7, 2003, and *Third Notice of Proposed Rulemaking* ("3NPRM"), 67 FR 77374, December 17, 2002, in this proceeding, we adopted new broadcast and MVPD EEO rules, but deferred action on the issues relating to the Annual Employment Report forms. We now address those issues and adopt revised FCC Form 395-B, the broadcast station Annual Employment Report, and FCC Form 395-A, the multichannel video programming distributor Annual Employment Report. We also seek comment in the *Fourth Notice of Proposed Rulemaking* ("4NPRM") on the Commission's policies regarding public access to data contained in FCC Forms 395-A and 395-B.

2. In previously deferring action with respect to FCC Forms 395-A and 395-B, we stated that a deferral would permit us to coordinate these forms with new standards for classifying data on race, ethnicity, and job categories adopted by the Office of Management

and Budget (OMB). OMB has responsibilities under the *Paperwork Reduction Act of 1995* for coordinating data collection forms adopted by the Federal government. This deferral was also intended to provide additional time to address issues concerning the collection and processing of the forms. The Commission indicated that the data collected in the employment reports would be used to compile industry employment trend reports and reports to Congress and would not be used to determine compliance with the substantive EEO rules adopted.

II. Discussion

3. The information provided by the annual employment reports is important in order to ascertain industry trends, report to Congress, and respond to inquiries from Congress. We note that Congress relied in part on media industry employment data in the 1992 Cable Act. The Commission has broad authority under the Communications Act to collect information and prepare reports. Collection of television broadcast and MVPD industry employment data is required by the Communications Act. Section 634(d)(3)(A) of the Communications Act requires the Commission to adopt rules requiring MVPDs with more than 5 full-time employees to "file with the Commission an annual statistical report identifying by race, sex, and job title the number of employees' in each of specifically identified full-time and part-time job categories. Section 334(a) of the Communications Act requires the Commission to maintain EEO rules for television broadcast station licensees and provides that "except as specifically provided in this section, the Commission shall not revise—* * * (2) the forms used by such licensees and permittees to report pertinent employment data to the Commission." Section 334(b) authorizes the Commission to make non-substantive technical or clerical changes. We are directed by statute to require the submission of such reports by broadcast television stations and MVPDs. We have authority to require employment reports for all broadcasters and MVPDs and would exercise that authority even if not required by statute to do so.

4. We will adopt the requirement that broadcast and MVPD employment units file Forms 395-B and 395-A, respectively. As explained, the forms are being readopted and will be submitted to OMB for clearance for use in the year 2004 filing substantially in the same form as those previously used and will be revised in the future, as necessary, in coordination with OMB.

The data collected in the employment reports will be used to compile industry employment trend reports and reports to Congress and will not be used to determine compliance with our EEO rules.

5. Several commenters urge the Commission to collect ethnicity and gender information in order to analyze industry employment trends.

6. Other commenters assert that collection of Form 395-B is prohibited by the decisions of the U.S. Court of Appeals for the District of Columbia Circuit in *Lutheran Church—Missouri Synod v. FCC* ("Lutheran Church") and *MD/DC/DE Broadcasters Association v. FCC* ("Association").

7. We do not agree that the decision of the U.S. Court of Appeals for the DC Circuit in *Lutheran Church* invalidated the data collection process. The court focused in that decision on the Commission's previous "processing guidelines disclosing the criteria it used to select stations for in-depth EEO review when their licenses came up for renewal." It then made clear that "[i]f the regulations merely required stations to implement racially neutral recruiting and hiring programs, the equal protection guarantee would not be implicated." And it reiterated in response to the government's rehearing petition that it had not held that a regulation "encouraging broad outreach to, as opposed to the actual hiring of, a particular race would necessarily trigger strict scrutiny." The court did not conclude that the Commission lacks authority to collect statistical employment data for the purpose of analyzing industry employment trends or preparing annual employment trend reports, or that collecting employment data for those purposes would unconstitutionally pressure broadcasters to adopt race or gender-based hiring policies.

6. In *Association*, the court upheld the requirement for filing the Form 395-B and rejected the argument that this requirement was an arbitrary and capricious regulatory burden. Nothing in the court's decision suggested that the collection of Form 395-B data on the employees of stations for the purpose of compiling trend reports and reports to Congress was by itself subject to strict scrutiny or unconstitutional.

7. We stated in the *2R&O* and *3NPRM* that we would need to revise our Forms 395-A and 395-B to comply with new OMB racial classification standards. We have attempted to parallel our classification reporting with those adopted by the Equal Employment Opportunity Commission, which is in turn addressing the OMB classification

issues. Our forms and reports conform to the existing EEO-1 racial and employment categories. Although the EEOC has proposed an updated EEO-1 to conform to the new OMB standards, the form has yet to be finalized. Therefore, to avoid any unnecessary confusion that might result from the use of different classification standards, we will continue to use the racial and employment categories in the Forms 395-A and 395-B adopted in 2000, which conform to the current EEO-1, until the new EEO-1 is released. At that time, we will review the annual employment reports to see what changes are needed to comply with the new OMB standards, and whether we can conform our forms to those standards consistent with sections 334 and 634 of the Act. Other than deleting EEO program information, now requested in the FCC Form 396-C, the only change we have made at this time is to delete the request for system community information in section II of the previous 395-A and replace it with a request for the employment unit's physical system identification number(s). This modification will reduce the paperwork burden for MVPD units.

8. Under the annual employment report filing requirements that we adopt, broadcasters with five or more full-time employees will be required to file Form 395-B by September 30 of each year. MVPD units with six or more full-time employees will be required to file Form 395-A by September 30 of each year. We will allow, this year only, a one-time filing grace period until a date to be determined in the Commission's Order addressing the issues raised in the *4NPRM*. This grace period will give entities adequate time to collect the data needed to fulfill their filing requirements and will allow us to accommodate changes, if any, to the Forms 395-A and 395-B made necessary by the comments received in response to the *4NPRM*. Regardless of what grace period deadline we ultimately set for filing the forms, they will be required to reflect any pay period from July, August, or September 2004, as provided for in the instructions to Form 395-B and § 76.77(a) of the Commission's rules, 47 CFR 76.77(a), for Form 395-A.

III. Procedural Matters

9. *Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act (RFA), see 5 U.S.C. 603, an Initial Regulatory Flexibility Analysis ("IRFA") was incorporated in the *2NPRM*. The Commission sought written public comments on the possible significant economic impact of

the proposed policies and rules on small entities in the 2NPRM, including comments on the IRFA. Pursuant to the RFA, *see* 5 U.S.C. 604, a Final Regulatory Flexibility Analysis ("FRFA") is contained.

10. *Paperwork Reduction Act of 1995 Analysis.* This document contains modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection requirements contained in this Report and Order as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13. Public and agency comments are due August 23, 2004.

11. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this 3R&O including the Final Regulatory Flexibility Analysis and the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

IV. Final Regulatory Flexibility Analysis

12. As required by the RFA, an IRFA was incorporated into the 2NPRM in this proceeding. The Commission sought written public comments on the possible significant economic impact of the proposed policies and rules on small entities in the 2NPRM, including comments on the IRFA. This FRFA conforms to the RFA.

A. Need for, and Objectives of, the Proposed Rule Changes

13. This 3R&O adopts new rules and forms for broadcasters and MVPDs that enable the Commission to collect data on the race, ethnicity and gender of the workforce of broadcast and MVPD employment units.

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

14. One comment on annual employment reports was filed specifically in response to the IRFA. The American Cable Association ("ACA") proposes that the Commission generally "streamline" FCC Form 395-A. The ACA also filed these same comments in response to the 2NPRM. The 3R&O considers ACA's comments, and determines that the Commission's annual employment reports must follow the standards issued by the Office of Management and Budget for classifying data on race and ethnicity.

C. Recording, Recordkeeping, and Other Compliance Requirements

15. This rulemaking adopts FCC Form 395-B, the broadcast Annual Employment Report, and FCC Form 395-A, the MVPD annual employment report. Forms 395-B and 395-A collect data on the ethnicity and gender of a reporting entity's workforce. Broadcasters with five or more full-time employees will be required to file Form 395-B by September 30 of each year. MVPD units with six or more full-time employees must file Form 395-A by September 30 of each year. Broadcast entities are not required to place copies of their annual employment reports in their public file. Generally, no special skills will be necessary to comply with the requirements.

D. Description and Estimate of the Number of Small Entities to Which the Rules Would Apply

16. The new rules would apply to broadcast stations and MVPDs. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. The RFA, 5 U.S.C. 601(3), generally defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. 632. 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.

17. A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, there are approximately 1.6 million small organizations. Finally, "small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The United States Bureau of the Census (Census Bureau) estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities.

18. In this context, the application of the statutory definition to television stations is of concern. An element of the definition of "small business" is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimates that follow of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. An additional element of the definition of "small business" is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

19. The Small Business Administration defines a television broadcasting station that has no more than \$12 million in annual receipts as a small business. Business concerns included in this industry are those "primarily engaged in broadcasting images together with sound." According to Commission staff review of the BIA Publications, Inc. Master Access Television Analyzer Database as of May 16, 2003, about 814 of the 1,220 commercial television stations in the United States have revenues of \$12 million or less. We note, that, in assessing whether a business concern qualifies as small, business (control) affiliations must be included. Our estimates, therefore, likely overstates the number of small entities that might be affected by any changes to the ownership rules, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

20. The SBA defines a radio broadcast entity that has \$6 million or less in annual receipts as a small business. Business concerns included in this industry are those "primarily engaged in broadcasting aural programs by radio to the public. According to Commission staff review of the BIA Publications, Inc., Master Access Radio Analyzer Database, as of May 16, 2003, about 10,427 of the 10,945 commercial radio stations in the United States have revenue of \$6 million or less. We note, that many radio stations are affiliated with much larger corporations with much higher revenue, and that in assessing whether a business concern qualifies as small, such business (control) affiliations are included. Our estimate therefore likely overstates the

number of small businesses that might be affected by any changes to the ownership rules.

21. The *3R&O* also amends EEO rules applicable to MVPDs. SBA has developed a definition of a small entity for cable and other program distribution, which includes all such companies generating \$12.5 million or less in annual receipts. This definition includes direct broadcast satellite services (DBS), multipoint distribution systems (MDS), and local multipoint distribution service (LMDS). According to Census Bureau data for 1997, there were 1,311 firms within the industry category Cable and Other Program Distribution, total, that operated for the entire year. Of this total, 1,180 firms had annual receipts of \$9,999,999.00 or less, and an additional 52 firms had receipts of \$10 million to \$24,999,999.00.

22. *Cable Systems*: The Commission has developed, with SBA's approval, its own definition of small cable system operators. Under the Commission's rules, a "small cable company" is one serving fewer than 400,000 subscribers nationwide. Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable companies at the end of 1995. Since then, some of those companies may have grown to serve more than 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are 1,439 or fewer small entity cable system operators that may be affected by the rules proposed herein.

23. The Communications Act also contains a definition of a small cable system operator, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1% of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenue in the aggregate exceeds \$250,000,000." The Commission has determined that there are 67,700,000 subscribers in the United States. We found that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed \$250 million in the aggregate. Based on available data, we find that the number of cable operators serving 677,000 subscribers or less totals approximately 1,450. Since we do not request nor collect information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000, 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.

24. *MDS*: MDS involves a variety of transmitters, which are used to relay programming to the home or office. The Commission has defined "small entity" for purposes of the 1996 auction of MDS as an entity that, together with its affiliates, has average gross annual revenues that are not more than \$40 million for the preceding three calendar years. This definition of a small entity in the context of MDS auctions has been approved by the SBA. These stations were licensed prior to implementation of section 309(j) of the Communications Act of 1934, as amended. Licenses for new MDS facilities are now awarded to auction winners in Basic Trading Areas (BTAs) and BTA-like areas. The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 BTAs. Of the 67 auction winners, 61 met the definition of a small business.

25. *LMDS*: The auction of the 1,030 LMDS licenses began on February 18, 1998, and closed on March 25, 1998. The Commission defined "small entity" for LMDS licenses as an entity that has average gross revenues of less than \$40 million in the three previous calendar years. An additional classification for "very small business" was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years. These regulations defining "small entity" in the context of LMDS auctions have been approved by the SBA. There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission reaucted 161 licenses; there were 40 winning bidders. Based on this information, we conclude that the number of small LMDS licenses will include the 93 winning bidders in the first auction and the 40 winning bidders in the reauction, for a total of 133 small entity LMDS providers as defined by the SBA and the Commission's auction rules.

26. *DBS*: Because DBS provides subscription services, it falls within the SBA-recognized definition of "Cable and Other Program Distribution." This definition provides that a small entity is one with \$12.5 million or less in annual receipts. Currently, there are nine DBS authorizations, though there are only two DBS companies in operation at this

time. We neither request nor collect annual revenue information for DBS services, and are unable to determine the number of DBS operators that would be considered a small business under the SBA definition.

27. An alternative way to classify small entities is by the number of employees. Based on available data, we estimate that in 1997 the total number of full-service broadcast stations with four or fewer employees was 5186, of which 340 were television stations. Similarly, we estimate that in 1997, 1900 cable employment units employed fewer than six full-time employees. Also, in 1997, 296 "MVPD" employment units employed fewer than six full-time employees. We also estimate that in 1997, the total number of full-service broadcast stations with five to ten employees was 2145, of which 200 were television stations. Similarly, we estimate that in 1997, 322 cable employment units employed six to ten full-time employees. Also, in 1997, approximately 65 MVPD employment units employed six to ten full-time employees.

E. 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 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.

29. This *3R&O* sets forth the Commission's new annual employment reports, and considers the significant alternatives presented in the comments. We have determined that our finalized rules fulfill our public interest goals while maintaining minimal regulatory burdens and ease and clarity of administration.

30. The *3R&O* adopts relief for small entities. Broadcasters with fewer than five full-time employees will not be required to file Form 395-B. MVPD units with fewer than six full-time employees will not be required to file Form 395-A. The EEO Rule does not impose unreasonable burdens on small broadcasters or MVPDs. We provide this relief because entities with small staffs

have limited personnel and financial resources. The exceptions for small business provides them with some relief of any recordkeeping and reporting costs.

31. As noted, the ACA asks for a generally "streamlined" FCC Form 395-A. As explained in the *3R&O*, the Commission's annual employment reports must follow section 634 of the Act and the standards issued by the Office of Management and Budget for classifying data on race and ethnicity.

Report to Congress

32. The Commission will send a copy of the *3R&O*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A). In addition, the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *3R&O*, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *3R&O* and FRFA (or summaries thereof) will also be published in the **Federal Register**. See 5 U.S.C. 604(b).

Ordering Clauses

33. Pursuant to the authority contained in sections 1, 4(i), 4(k), 303(r), 334, 403, and 634 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(k), 303(r), 334, 403, and 554, this *3R&O* is adopted, and part 73 and 76 of the Commission's rules are amended.

34. The new rules and amendments set forth, and the information collection requirements contained in these rules, will be submitted to OMB for approval and are not effective until approved by OMB. The Commission will publish a notice in the **Federal Register** announcing the effective date following OMB approval.

List of Subjects in 47 CFR Parts 73 and 76

Cable television, Equal employment opportunity.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 73 and 76 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, 303, 334, and 336.

■ 2. Section 73.3612 is revised to read as follows:

§ 73.3612 Annual employment report.

Each licensee or permittee of a commercially or noncommercially operated AM, FM, TV, Class A TV or International Broadcast station with five or more full-time employees shall file an annual employment report with the FCC on or before September 30 of each year on FCC Form 395-B.

Note to § 73.3612: Data concerning the gender, race and ethnicity of a broadcast station's workforce collected in the annual employment report will be used only for purposes of analyzing industry trends and making reports to Congress. Such data will not be used for the purpose of assessing any aspect of an individual broadcast licensee's compliance with the equal employment opportunity requirements of § 73.2080.

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 3. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302a, 303, 303a, 307, 308, 309, 312, 317, 325, 338, 339, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, and 573.

■ 4. Section 76.1802 is revised to read as follows:

§ 76.1802 Annual employment report.

Each employment unit with six or more full-time employees shall file an annual employment report on FCC Form 395-A with the Commission on or before September 30 of each year.

Note to § 76.1802: Data concerning the gender, race and ethnicity of an employment unit's workforce collected in the annual employment report will be used only for purposes of analyzing industry trends and making reports to Congress. Such data will not be used for the purpose of assessing any aspect of an individual employment unit's compliance with our EEO rules for multi-channel video program distributors.

[FR Doc. 04-14120 Filed 6-22-04; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 573 and 577

[Docket No. NHTSA-2004-18341]

RIN 2127-AG27

Defect and Noncompliance Responsibility and Reports, Defect and Noncompliance Notification

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) is amending several provisions of its regulations pertaining to its enforcement of those sections of 49 U.S.C. chapter 301 that require manufacturers of motor vehicles and items of motor vehicle equipment to notify their dealers and distributors when they or NHTSA decide that vehicles or equipment items contain a defect related to motor vehicle safety or do not comply with a Federal motor vehicle safety standard. The amendment requires manufacturers to furnish dealers and distributors with notification of a safety-related defect or noncompliance in accordance with a schedule that is to be submitted to the agency with the manufacturer's defect or noncompliance information report required by 49 CFR 573.6. The notification to dealers must be provided within a reasonable time after the manufacturer decides that the defect or noncompliance exists. If the agency finds that the public interest requires dealers and distributors to be notified at an earlier date than that proposed by the manufacturer, the manufacturer must provide the required notification in accordance with the agency's directive. The amendment also sets forth the required content of the dealer notification and the manner in which such notification is to be accomplished.

DATES: *Effective date:* The amendments made by this final rule are effective on October 21, 2004.

Any petitions for reconsideration must be received by NHTSA no later than August 9, 2004.

ADDRESSES: "Petitions for Reconsideration." Any petitions for reconsideration must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Administrator, National Highway Traffic Safety Administration (NHTSA), 400 Seventh Street, SW., Washington, DC 20590. It is requested, but not