this rulemaking may result in additional litigation from individuals or organizations challenging its legality, but the Department does not believe such speculative costs could be monetized with any level of accuracy. Every rulemaking, particularly rulemaking concerning politically sensitive subjects, has the potential to be challenged in court, and the Department declines to associate costs with defending such legal challenges here.

The Department considered a single alternative to this rulemaking—foregoing rulemaking and relying on the 2025 Notice [101] to communicate that the preamble language of the 2024 Final Rule does not have the force or effect of law and cannot be enforced. Under this alternative, no further rulemaking would have been needed; HHS would have amplified the April 2025 notice through its listservs and the media in lieu of staff time spent developing the proposed rule, examining public comments, and formulating this final rule. This alternative was not pursued because it likely would not have been as effective at eliminating confusion from the 2024 Final Rule preamble language. The 2025 Notice, while public, is not linked to the Code of Federal Regulations web page for 45 CFR pt. 84 that implements section 504 to HHS recipients and contains the terms ''disability,'' ''individual with a disability,'' and their exclusions, among other provisions. The 2025 Notice is also not linked to the 2024 Final Rule on the **Federal Register** website. Without a clear regulatory change from the Department, confusion would persist, generating possible downstream impacts from the lack of clarity.

Regulatory Flexibility Act—Small Entity Analysis

The Regulatory Flexibility Act (RFA), Public Law 96–354, applies to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b).

Because this rule clarifies limited aspects of the definitions of ''disability'' and ''individual with a disability'' under section 504, any associated costs to recipients, including small entities, is negligible. Recipients will not have to purchase new equipment, alter benefits, or change their practices in any way based on this clarification. The Department certifies that this rule will not have a significant effect on small entities.

[101] 90 FR 15412 (Apr. 11, 2025).

Executive Order 13132: Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirement costs on state and local governments or has federalism implications. The Department has determined that this rule does not impose such costs or have any federalism implications. The Department has addressed public comments asserting otherwise in part III of this final rule, Response to Public Comments on the Proposed Rule, under the subheading ''*Comments on Potential Federalism Implications.*''

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. ch. 3506; 5 CFR part 1320 appendix A.1), the Department has reviewed this rule and has determined that there are no new or modified collections of information contained therein.

Unfunded Mandates Reform Act

Section 4(2) of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1503(2), excludes from coverage under that Act any proposed or final Federal regulation that ''establishes or enforces any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability.'' Accordingly, this rulemaking is not subject to the provisions of the UMRA.

Executive Order 14192: Deregulation

Under Executive Order 14192, Unleashing Prosperity Through Deregulation, executive agencies are required to limit the costs of planned regulations, including by repealing existing regulations for each newly promulgated regulation and/or prioritizing regulations with minimal costs or burdens. This rule will not impose new costs or burdens on recipients because it clarifies an ambiguity created by specific preamble language of the 2024 Final Rule that called into question whether gender dysphoria could be considered a disability.

List of Subjects in 45 CFR Part 84

Adoption and foster care, Civil rights, Childcare, Child welfare, Colleges and universities, Disabled, Discrimination, Equal access to justice, Federal financial assistance, Grant programs, Grant programs—health, Grant programs—social programs, Health, Health care, Health care access, Health facilities, Health programs and activities, Individuals with disabilities, Medical care, Nondiscrimination, Public health.

For the reasons stated in the preamble, the Department of Health and Human Services amends 45 CFR subtitle A, subchapter A, part 84 as set forth below:

PART 84—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

■ 1. The authority citation for part 84 continues to read as follows:

Authority: 29 U.S.C. 794.

Subpart G is also issued under 21 U.S.C. 1174; 42 U.S.C. 4581.

■ 2. Amend § 84.4 by revising paragraph (g) to read as follows:

§ 84.4 Disability.

* * * * *

(g) *Exclusions.* The term ''disability'' does not include the conditions set forth at 29 U.S.C. 705(20)(F), including ''transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders'' under section 705(20)(F)(i). For the purpose of this part, the term ''gender identity disorders not resulting from physical impairments'' includes gender dysphoria not resulting from physical impairments.

Dated: October 29, 2026.

Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

[FR Doc. 2026–22380 Filed 10–30–26; 11:15 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[MB Docket No. 98–204; GN Docket No. 25–133; DA 26–1058; FR ID 374758]

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

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Media Bureau of the Federal Communications Commission (Commission) adopts an Order that removes a section of the Commission's Rules and references to that section to conform the

Commission's Rules to the decision of the Fifth Circuit Court of Appeals in *National Religious Broadcasters* v. *FCC.*

DATES: Effective November 3, 2026.

FOR FURTHER INFORMATION CONTACT: For further information, contact Joseph Price, Federal Communications Commission, Media Bureau, Policy Division, *Joseph.Price@fcc.gov,* (202) 418–7454.

SUPPLEMENTARY INFORMATION: This is a summary of the document of the Media Bureau's Order, in MB Docket No. 98–204, GN Docket No. 25–133, DA 26–1058, adopted and released on October 1, 2026. The full text of this document is available for public inspection online at *https://docs.fcc.gov/public/attachments/DA-26-1058A1.pdf* and via the search function on the Commission's Electronic Document Management System (EDOCS) web page at *http://www.fcc.gov/ecfs.* Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format, etc.) and reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) may be requested by sending an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), (202) 418–0432.

Synopsis

The Order of the Media Bureau of the Federal Communications Commission (Commission) conforms parts 73 and 74 of the Commission's rules to the decision of the Fifth Circuit Court of Appeals (Fifth Circuit) in *National Religious Broadcasters* v. *FCC,* 138 F.4th 282 (5th Cir. 2025), nullifying § 73.3612. In the *Delete, Delete, Delete* proceeding, the Commission stated the goal of reviewing its rules ''to identify and eliminate those that are unnecessary in light of current circumstances.'' *Delete, Delete, Delete,* GN Docket No. 25–133, Public Notice, 40 FCC Rcd 1601, 1601 (OMR 2025). Consistent with that goal, the Media Bureau finds § 73.3612 of the Commission's rules ''no longer ha[s] any operative effect,'' and therefore should not remain in the Code of Federal Regulations (CFR).

Section 73.3612 of the Commission's rules, requiring broadcasters to annually submit information regarding their employees' race, ethnicity, and gender within specified job categories, was originally adopted in 1969 and has been suspended since 2001. In 2024, the Commission reinstated § 73.3612. *Review of the Commission's Broadcast & Cable Equal Employment Opportunity Rules & Policies,* MB Docket No. 98–204, Fourth Report and Order and Order on Reconsideration, 39 FCC Rcd 1791, 1798–00, paras. 14–16 (2024). Parties appealed to the Fifth Circuit, challenging the reporting obligation, while § 73.3612 remained deferred. The Fifth Circuit subsequently found the ''[t]he FCC lacks statutory authority to require broadcasters to submit employment data under Form 395–B,'' *National Religious Broadcasters,* 138 F.4th at 296, and, as a result of the court vacating the Commission's 2024 order, the text of § 73.3612 that currently appears in the CFR, and references to § 73.3612 in the CFR, have no legal effect and are obsolete. Accordingly, the Media Bureau of the Commission deletes § 73.3612 and references to § 73.3612 from parts 73 and 74 of the Commission's rules, finding that doing so has no effect on the scope and nature of the currently enforceable Commission requirements and effectuates the Fifth Circuit's holding in *National Religious Broadcasters.*

Pursuant to the good cause exception under 5 U.S.C. 553(b)(B), because we are simply conforming the text of the Commission's rules in the CFR to reflect the court's decision in *National Religious Broadcasters,* and we are not taking any independent action or exercising any discretion, we find that notice and the opportunity for public comment are unnecessary for this action. For the same reason, pursuant to 5 U.S.C. 553(d), this action will be effective immediately upon publication in the **Federal Register**.

The changes to parts 73 and 74 of the Commission's rules to conform to the Fifth Circuit decision in *National Religious Broadcasters* are reflected in Appendix A.

Accordingly, *it is ordered* that parts 73 and 74 of the Commission's rules, Title 47, are amended as set forth in Appendix A, effective upon publication in the **Federal Register**.

This action is taken pursuant to the authority contained in sections 4(i), 4(j), and 155(c) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 155(c), and sections 0.61 and 0.283(e) of the Commission's rules, 47 CFR 0.61, 0.283(e).

The Bureau has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Parts 73 and 74

Television.

Federal Communications Commission

Thomas Horan,

Chief of Staff, Media Bureau.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Parts 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. Amend § 73.3539 by revising paragraph (b) to read as follows:

§ 73.3539 Application for renewal of license.

* * * * *

(b) No application for renewal of license of any broadcast station will be considered unless there is on file with the FCC the information currently required by §§ 73.3613 through 73.3615, inclusive, for the particular class of station.

* * * * *

§ 73.3612 [Removed]

■ 3. Remove § 73.3612.

Alphabetical Index [Amended]

■ 4. Amend the alphabetical index to part 73 by removing the entry for ''Employment report''.

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 5. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 307, 309, 310, 325, 336 and 554.

§ 74.780 [Amended]

■ 6. Amend § 74.780 by removing paragraph (b)(3) and redesignating paragraph (b)(4) as paragraph (b)(3).

[FR Doc. 2026–22408 Filed 11–2–26; 8:45 am]

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