

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[DA 21–496; FR ID 25315]

Elimination of Termination Dates in the Commission's Retransmission Consent Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, Media Bureau updates the Commission's rules by eliminating termination dates related to retransmission consent to conform to the latest Congressional amendments.

DATES: Effective June 14, 2021.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Steven Broecker, Steven.Broeckaert@fcc.gov, of the Policy Division, Media Bureau, (202) 418–1075.

SUPPLEMENTARY INFORMATION: This is a summary of the Media Bureau's Order, DA 21–496, adopted and released on April 29, 2021. This document will be available via ECFS at <https://www.fcc.gov/ecfs/>. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to fcc504@fcc.gov or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

1. In this Order, we update our rules by eliminating the termination dates provided in sections 76.64(l) and 76.65(f) of the Commission's rules relating to retransmission consent to conform to the latest Congressional amendments to section 325(b)(3)(C) of the Communications Act of 1934, as amended (the Act).

2. In 1999, Congress enacted the Satellite Home Viewer Improvement Act (SHVIA), which adopted standards governing retransmission consent negotiations between broadcasters and multichannel video programming distributors (MVPDs). Specifically, Congress directed the Commission to require television stations to negotiate retransmission consent with MVPDs in good faith and to prohibit broadcasters from entering into exclusive retransmission consent agreements.¹

Originally, section 325(b)(3)(C) of the Act specified that the good faith negotiation and exclusivity provisions would terminate after January 1, 2006. Through successive reauthorizations of these provisions, the termination date in section 325(b)(3)(C) was extended to January 1, 2010, then subsequently to March 1, 2010, March 29, 2010, May 1, 2010, June 1, 2010, January 1, 2015, and finally, to January 1, 2020. The termination date is set forth in sections 76.64(l) and 76.65(f) of the Commission's rules, and was last updated in February 2015 to reflect the January 1, 2020 date.²

3. In 2019, section 1002 of the Television Viewer Protection Act of 2019 (TVPA) eliminated the “until January 1, 2020” language from each place that it previously appeared in section 325(b)(3)(C).³ As a result, the authority for sections 76.64(l) and 76.65(f) now continues indefinitely, yet the text of these specific rule provisions still contains the “until January 1, 2020” termination language. This discrepancy has led to confusion among interested parties as to whether these provisions are still in effect.

4. In this Order, we eliminate the termination dates set forth in sections 76.64(l) and 76.65(f) of the Commission's rules. This change simply conforms to the statutory amendments in the TVPA, which eliminated the termination dates in section 325(b)(3)(C) and thus made the provisions effective indefinitely. Eliminating the outdated termination dates from the Commission's rules conforms with the directive in the TVPA and therefore will alleviate any confusion as to whether the rules remain in effect.

5. We find that notice and comment procedures are unnecessary under the “good cause” exception of the Administrative Procedure Act (APA) because deleting the termination dates in sections 76.64(l) and 76.65(f) entails no exercise of our administrative discretion. The elimination of the termination dates is already effective as a matter of law under the TVPA. Moreover, the text of our rules already

Congress made the good faith negotiation obligation reciprocal between broadcasters and MVPDs.

² Section 76.64(l) states: “This paragraph shall terminate at midnight on January 1, 2020, provided that if Congress further extends this date, the rules remain in effect until the statutory authorization expires.” Section 76.65(f) states: “This section shall terminate at midnight on January 1, 2020, provided that if Congress further extends this date, the rules remain in effect until the statutory authorization expires.”

³ Section 1002 states: “Section 325(b) of the Communications Act of 1934 (47 U.S.C. 325(b)) is amended . . . in paragraph (3)(C), by striking ‘until January 1, 2020,’ each place it appears.”

states that if Congress extends the termination date, as it did in the TVPA, the rules remain in effect until the statutory authorization expires. Thus, this rule modification simply updates the Commission's implementing regulations to conform with the TVPA amendments recently enacted into law.⁴ The rule change does not establish additional regulatory obligations or burdens on regulated entities. Consequently, we find notice and comment procedures are unnecessary for this action.

6. Because these rule changes are being adopted without notice and comment, the Regulatory Flexibility Act does not apply.

7. This document does not contain any new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA). In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002.

8. Accordingly, *it is ordered* that, pursuant to the authority found in sections 4(i), 4(j), 303(r), 325 and 614 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), 325, and 534, and in section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), this Order *is adopted*.

9. *It is further ordered* that, pursuant to the authority found in sections 4(i), 4(j), 303(r), 325 and 614 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), 325, and 534, and in section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), the Commission's rules *are hereby amended* as set forth in the final rules below, effective as of thirty (30) days after the date of publication in the **Federal Register**.

10. *It is further ordered* that the Commission shall send a copy of this 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 76

Cable television; Communications. Federal Communications Commission.

Thomas Horan,
Chief of Staff, Media Bureau.

Final Rules

For the reasons discussed in the preamble, the Federal Communications

¹ Although SHVIA imposed the good faith negotiation obligation only on broadcasters, in 2004

⁴ The Commission has found the “good cause” exception to apply in similar circumstances.

Commission amends 47 CFR part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 1. 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.

■ 2. Section 76.64 is amended by revising paragraph (l) to read as follows:

§ 76.64 Retransmission consent.

* * * * *

(l) Exclusive retransmission consent agreements are prohibited. No television broadcast station shall make or negotiate any agreement with one multichannel video programming distributor for carriage to the exclusion of other multichannel video programming distributors.

* * * * *

§ 76.65 [Amended]

■ 3. Amend § 76.65 by removing paragraph (f).

[FR Doc. 2021–10019 Filed 5–12–21; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 210505–0100; RTID 0648–XX065]

Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fisheries; Final 2021 and Projected 2022–2026 Fishing Quotas

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule implements status quo commercial quotas for the Atlantic surfclam and ocean quahog fisheries for 2021 and projected status quo quotas for 2022–2026. This action is necessary to establish allowable harvest levels of Atlantic surfclams and ocean quahogs that will prevent overfishing and allow harvesting of optimum yield. This action also continues to suspend the minimum shell size for Atlantic surfclams for the 2021 fishing year. The intended effect of this action is to provide benefit to the industry from stable quotas to maintain a consistent market.

DATES: This rule is effective June 14, 2021, through December 31, 2021.

ADDRESSES: Copies of the environmental assessment (EA) are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic

Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the internet at <http://www.mafmc.org>.

FOR FURTHER INFORMATION CONTACT: Laura Hansen, Fishery Management Specialist, 978–281–9225.

SUPPLEMENTARY INFORMATION: In August 2020, the Mid-Atlantic Fishery Management Council voted to maintain status quo quota levels of 5.36 million bushels (bu) (285 million liters (L)) for the ocean quahog fishery, 3.40 million bu (181 million L) for the Atlantic surfclam fishery, and 100,000 Maine bu (3.52 million L) for the Maine ocean quahog fishery for 2021–2026. The Council recommended that specifications be set for 2021 and proposed for years 2022–2026 to create administrative efficiencies as a result of the new stock assessment process, which is expected to assess surfclam and ocean quahog on a 4- and 6-year cycle, respectively. On February 17, 2021, NMFS published a proposed rule (86 FR 9901) soliciting public comment on the proposed specifications with a comment period through March 4, 2021. Four comments were received and are discussed below. Additional detail on the Council’s recommendations and background on the surfclam and ocean quahog specifications are provided in the proposed rule and not repeated here.

2021 and Projected 2022–2026 Specifications

Final 2021 and projected quotas for the 2022–2026 Atlantic surfclam and ocean quahog fishery are shown in Tables 1 and 2.

TABLE 1—ATLANTIC SURFLAM MEASURES 2021–2026
[2022–2026 Projected]

Atlantic Surfclam				
Year	Allowable biological catch (mt)	Annual catch limit (mt)	Annual catch target (mt)	Commercial quota
2021	47,919	47,919	29,363	3.4 million bushels (181 million L).
2022	44,522	44,522	29,363	3.4 million bushels (181 million L).
2023	42,237	42,237	29,363	3.4 million bushels (181 million L).
2024	40,946	40,946	29,363	3.4 million bushels (181 million L).
2025	40,345	40,345	29,363	3.4 million bushels (181 million L).
2026	40,264	40,264	29,363	3.4 million bushels (181 million L).