

or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

*Provided, however,* That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following

actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(2) [Reserved]

(c) *Subcontracts.* Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

(d) *Inclusion of the equal opportunity clause by reference.* The equal opportunity clause may be included by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Director of OFCCP may designate.

(e) *Incorporation by operation of the order.* By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

(f) *Adaptation of language.* Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.

■ 4. Section 60-1.35 is added to subpart B to read as follows:

**§ 60-1.35 Contractor Obligations and Defenses to Violation of the Nondiscrimination Requirement for Compensation Disclosures.**

(a) *General defenses.* A contractor may pursue a defense to an alleged violation of paragraph (3) of the equal opportunity clauses listed in § 60-1.4(a) and (b) as long as the defense is not based on a rule, policy, practice, agreement, or other instrument that prohibits employees or applicants from discussing or disclosing their compensation or the compensation of other employees or applicants, subject to paragraph (3) of the equal opportunity clause. Actions taken by a contractor which adversely affect an employee or applicant will not be deemed to be discrimination if the contractor would have taken the same adverse action in the absence of the

employee's or applicant's protected activity, for example, by proving that the contractor disciplined the employee for violation of a consistently and uniformly applied rule, policy, practice, agreement, or other instrument that does not prohibit, or tend to prohibit, employees or applicants from discussing or disclosing their compensation or the compensation of other employees or applicants.

(b) *Essential job functions defense.*

Actions taken by a contractor which adversely affect an employee will not be deemed to be discrimination if the employee has access to the compensation information of other employees or applicants as part of such employee's essential job functions and disclosed the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, and the disclosure was not in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the contractor, or is consistent with the contractor's legal duty to furnish information.

(c) *Dissemination of nondiscrimination provision.* The contractor or subcontractor shall disseminate the nondiscrimination provision, using the language as prescribed by the Director of OFCCP, to employees and applicants:

(1) The nondiscrimination provision shall be incorporated into existing employee manuals or handbooks; and

(2) The nondiscrimination provision shall be disseminated to employees and to job applicants. Dissemination of the provision can be executed by electronic posting or by posting a copy of the provision in conspicuous places available to employees and applicants for employment.

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[MB Docket No. 05-162; Report No. 2954]

**Petition for Reconsideration of Action in Rulemaking Proceeding**

**AGENCY:** Federal Communications Commission.

**ACTION:** Petition for reconsideration.

**SUMMARY:** In this document, a Petition for Reconsideration (Petition) has been

filed in the Commission's Rulemaking proceeding by Robert J. Buenzle, on behalf of Roy E. Henderson.

**DATES:** Oppositions to the Petition must be filed on or before October 2, 2014. Replies to an opposition must be filed on or before October 14, 2014.

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

**FOR FURTHER INFORMATION CONTACT:** Andrew J. Rhodes, Media Bureau, (202) 418-2700, email: *Andrew.Rhodes@fcc.gov*.

**SUPPLEMENTARY INFORMATION:** This is a summary of Commission's document,

Report No. 2954, released June 12, 2012. The full text of Report No. 2954 is available for viewing and copying in Room CY-B402, 445 12th Street SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1-800-378-3160). The Commission will not send a copy of this *document* pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), because this *document* does not have an impact on any rules of particular applicability.

*Subjects:* In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations,

(Enfield, New Hampshire; Hartford and White River Junction, Vermont; and Keeseville and Morrisonville, New York), published at 76 FR 9249, February 17, 2011, in MB Docket No. 05-162, and published pursuant to 47 CFR 1.429(e). *See also* § 1.4(b)(1) of the Commission's rules.

*Number of Petitions Filed:* 1.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of the Secretary, Office of Managing Director.*

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