

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 74-1086
24399

In the Matter of)
)
Amendment of Part 73 of the Commission's)
rules to provide a one-hour advancement)
in the sign-on times of daytime AM broad-)
cast stations to recoup the morning hour)
lost by the enactment of year-round Day-)
light Saving Time.)

Docket No. 19902

ORDER

Adopted: October 8, 1974; Released: October 9, 1974

By the Commission: Commissioners Lee and Robinson absent.

1. By Public Law approved October 5, 1974, and effective October 27, 1974 (PL 93-434), PL 93-182, enacted December 15, 1973, was amended to return the nation to "standard" (non-advanced) time between October 27, 1974, and February 23, 1975. This legislation applies to all states and possessions with the exception of jurisdictions exempted from year-round daylight saving time (YRDST), either by virtue of local legislation or by order of the Secretary of Transportation; i.e., all or portions of Arizona, Hawaii, Idaho, Indiana, Kentucky, Michigan, Puerto Rico, the Virgin Islands, and American Samoa.

2. Absent further action by Congress, the nation will, effective the last Sunday of April 1975, revert to the traditional "6 and 6" formula provided by the Uniform Time Act of 1966; i.e., the observance of "standard" time during the six months between the last Sunday of October and the last Sunday of April, and the observance of advanced time between the last Sunday of April and the last Sunday of October.

3. By way of explanation, YRDST was legislated last year as an energy conservation measure. One result of this legislation was to delay daytimers' "clock-time" sign-on times during the winter and early spring portions of 1974, when "standard" time had heretofore prevailed. In enacting YRDST, it was recognized by Congress that many people accustomed to receiving the early morning programs of daytime broadcast stations would be arriving at work or school before the authorized sign-on times of many such stations. For this reason, section 6 of PL 93-182 directed the Commission to make emergency adjustments in the sign-on times and powers of daytime-only stations, with due regard to skywave interference caused to co-channel fulltimers and to the requirements of international agreements to which the United States is signatory.

4. In carrying out this mandate, we adopted a series of rule-making proposals and interim orders designed to maximize the pre-sunrise operations of daytime-only stations without, at the same time, destroying fulltime services being conducted on the same channels. In general terms, the measures thus far taken provided a minimum of one hour of pre-sunrise operation with a power of at least 50 watts, except where such operation is barred by international agreement. 1/

5. It is estimated that more than 1000 class III daytimers and approximately 165 class II daytimers have benefited from these actions. However, and as demonstrated by the comments received to date in this proceeding, the relief we were able to provide in this situation was severely limited by interference conflicts between daytimers and fulltimers sharing the same channels under nighttime skywave propagation conditions. In the majority of cases, daytime stations were simply "backed up" one hour with the powers specified in their pre-sunrise service authorizations (PSA's).

6. The legislative history of PL 93-182 (YRDST) makes clear that Congress intended our emergency authority to adjust the sign-on times and powers of daytime stations to be exercised only to compensate for the dislocations resulting from YRDST. It follows that if the two emergency pre-sunrise operating orders thus far adopted in this proceeding are allowed to remain in force beyond the return to "standard" time on October 27 of this year, we would be exceeding the authority granted by Congress under section 6 of PL 93-182 and, in addition, would deprive affected fulltime stations

1/ Pre-sunrise operation by approximately 200 U.S. class II daytimers assigned to the seven Canadian I-A clear channels --540 kHz, 690 kHz, 740 kHz, 860 kHz, 990 kHz, 1010 kHz, and 1580 kHz-- is now precluded by international agreement. The possible use of these channels by co-channel daytime stations in the United States is the subject of ongoing negotiations with Canada. In the case of the Bahamian I-A clear channel (1540 kHz), on which about 40 U.S. class II daytimers operate, a final agreement was recently concluded under which a substantial number of these stations can be authorized to engage in pre-sunrise operation in accordance with the protection standards contained in that agreement. Since the Bahamian agreement is not tied to the continuation of YRDST in the United States, we plan to proceed with its implementation in the near future by appropriate amendment of section 73.99 of our rules. The operation of U.S. class II daytimers assigned to frequencies on which Mexico has clear channel priorities is already provided for in section 73.99 as an outgrowth of the 1970 "pre-sunrise" agreement with that country (TIAS-7021).

of hearing rights to which they are entitled under section 316 of the Communications Act. It is therefore necessary that we rescind these emergency orders, effective with the return to "standard" time (2:00 a.m., October 27, 1974). The sign-on practices of all daytime stations will then be governed by their licensed sign-on times or by the terms of PSA's issued pursuant to section 73.99 of our rules. In taking this action, we recognize that between February 23 and April 27, 1975, when most of the country again returns to daylight saving time, daytime stations will suffer varying (but diminishing) degrees of hardship. For this reason, we wish to indicate our intention, barring unforeseen circumstances, to permit those classes of daytime stations now entitled to added hours of pre-sunrise operation under the emergency orders herein rescinded, to operate between February 23 and April 27, 1975, on generally the same footing as provided in those orders. It is contemplated that these benefits will be spelled out in an order to be released early in 1975 which will, among other things, incorporate whatever temporary operating benefits are arrived at as a result of the ongoing negotiations with Canada.

7. Authority for the adoption of this Order is contained in PL 93-434 , PL 93-182, and sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

8. Accordingly, IT IS ORDERED, That effective 2:00 a.m., October 27, 1974, the Orders adopted December 18, 1973, and February 6, 1974, in this proceeding (FCC 73-1324, and FCC 74-135, respectively) ARE RESCINDED, and all affected stations SHALL REVERT to their licensed and/or authorized PSA modes of operation as provided in sections 73.87 and 73.99 of the rules pending further order of the Commission.

FEDERAL COMMUNICATIONS COMMISSION

Vincent J. Mullins
Secretary