

Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, telephone number (617) 918-1045, fax number (617) 918-0045, e-mail [judge.robert@epa.gov](mailto:judge.robert@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: August 22, 2007.

**Ira Leighton,**

*Acting Regional Administrator, EPA New England.*

[FR Doc. E7-17635 Filed 9-7-07; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MB Docket No. 87-268; FCC 07-138]

### Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission adopts an *Eighth Further Notice of Proposed Rule Making* (Eighth Further NPRM), to announce tentative channel designations (TCDs) for three new permittees that have recently attained permittee status. The Eighth Further NPRM identifies these permittees

together with the channel we propose to assign the permittee and the specific technical facilities at which we propose to allow these stations to operate after the DTV transition. In addition, the *Eighth Further NPRM* identifies a number of proposals for revisions to the proposed DTV Table of Allotments and/or Appendix B reflected in the Seventh Report and Order that was adopted simultaneously with this *Eighth Further NPRM*. These proposed revisions were advanced by commenters in either reply comments or late-filed comments in response to the *Seventh Further NPRM*. As these comments propose changes to the DTV Table of Allotments and/or Appendix B as in the Seventh Report and Order that could affect other stations that may not have had adequate notice of these proposals, we identify these proposals to give affected stations an opportunity to comment.

**DATES:** Comments for this proceeding are due on or before October 10, 2007; reply comments are due on or before October 25, 2007.

**ADDRESSES:** You may submit comments, identified by MB Docket No. 87-268, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, contact Kim Matthews, of the Media Bureau, Policy Division, (202) 418-2120.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Federal Communications Commission's Eighth Further Notice of Purpose Rulemaking in MB Docket No. 87-268, FCC 07-138, adopted August 1, 2007, and released August 6, 2007. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. These documents will also be available via

ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

### Summary of the Eighth Further Notice of Proposed Rulemaking

1. The *Seventh Further Notice of Proposed Rulemaking* in this proceeding, 71 FR 66592, November 15, 2006 (Seventh Further NPRM) finalized the DTV channel election process and began the final stage of the transition of the nation's broadcast television system from analog to digital technology. Although virtually all potentially eligible stations were assigned TCDs at that time, the *Seventh Further NPRM* noted that some applications for station licenses remained pending, and might be granted before the adoption of the Order in this proceeding. Some of these new permittee TCDs were granted too late to allow sufficient opportunity for public comment in the *Seventh Further NPRM* rulemaking. In addition, several commenters submitted requests for substantive modifications to the DTV Table of Allotments or Appendix B as in the Seventh Report and Order after the close of the comment period. The Commission therefore issues this *Eighth Further Notice of Proposed Rulemaking*, and solicits comment on the TCDs and modification requests discussed below. We emphasize that in this Eighth Further NPRM deals exclusively with the stations described below. All comments and reply comments should relate solely to the specific situations and issues raised herein. No further proposals for modification of the DTV Table of Allotments or Appendix B as in the Seventh Report and Order will be entertained during this pleading cycle, and no such proposals should be raised during the comment or reply period.

### New Permittees

2. As described in the *Seventh Further NPRM*, we are establishing a separate pleading cycle to give interested parties an opportunity for comment on new permittees that have attained permittee status too late to be considered in the *Seventh Report and Order* (published elsewhere in this issue). Three new

permittees have attained this status since we issued the New Permittees PN: Entravision Holdings, LLC, in Pueblo, Colorado (Analog channel 48), Richland Reserve, LLC in Greeley, Colorado (Digital channel 45), and Northwest Television, Inc. (Northwest Television) in Galesburg, Illinois (Digital channel 53). Post-transition, channel 48 in Pueblo would create no additional interference, and we therefore propose channel 48 as this station's TCD. Interference analysis indicates, however, that post-transition, channel 45 in Greeley would cause 0.3 percent new interference. Therefore, we propose channel 49 as the TCD Richland Reserve, LLC. With respect to the new permittee in Galesburg, IL, because channel 53 is an out-of-core channel, an engineering analysis was conducted and it was determined that channel 8 is the best available post-transition channel in Galesburg. Channel 8 creates no new interference to the TCD of another full-power station but would interfere with licensed Class A Station WQFL-CA, Rockford, IL. However, WQFL has an application for a minor modification of license pending, which would require a waiver of the filing freeze but which, if granted, would eliminate the interference from channel 8. In order to locate an interference-free post-transition channel for Galesburg, we propose to grant WQFL-CA a waiver of the filing freeze and grant the WQFL-CA modification application, thereby resolving any potential interference, and propose channel 8 as the TCD for Northwest Television. These proposals will further amend the new DTV Table of Allotments. In addition, we propose the specific technical facilities—effective radiated power (ERP), antenna height above average terrain (HAAT), antenna radiation pattern, and geographic coordinates—at which these stations would operate after the DTV transition. The attachment also includes information on predicted service area and population coverage. Consistent with the *Seventh Further NPRM*, the Commission hereby invites public comment on these proposed changes to the new DTV Table of Allotments.

#### **Late-Filed Requests for Changes to the Table of Allotments and Appendix B**

3. As noted above, several stations filed requests for revisions to the proposed DTV Table of Allotments and/or Appendix B as in the Seventh Report and Order either during the reply comment period or after the close of the filing period. In order to facilitate a rapid transition, late-filed requests for minor adjustments or changes necessary for the station to replicate have been

granted where they were unopposed and cause no impermissible interference to any other station. In some cases, although the Commission would have looked favorably on the proposal had it been timely filed, we find it necessary to provide a full opportunity to comment. This is particularly the case where the proposed changes to the DTV Table of Allotments and/or Appendix B as in the Seventh Report and Order could affect other stations. This *Eighth Further NPRM* identifies these late-filed requested changes, and seeks comment.

#### **1. Request To Make Changes That Meet the Interference Criteria**

4. *WTXF, Philadelphia, PA.* Fox Television Stations of Philadelphia, Inc. (Fox Philadelphia), licensee of station WTXF-TV, channel 29, and WTXF-DT, channel 42, Philadelphia, PA, received channel 42 for its TCD in the proposed DTV Table of Allotments. In late-filed comments, Fox Philadelphia asserts that the parameters described in Appendix B as in the Seventh Report and Order reflect out-of-date information, and requests that they be revised to match its CP for its authorized facility, which will replicate its analog facilities. Fox Philadelphia states that it is completing construction and expects to apply for the license to cover later this summer. We find analyzed the requested facilities for post-transition operation, and we find that WTXF would cause 1.31 percent interference to WMPT, Annapolis, MD (analog channel 22, post-transition digital channel 42), 0.58 percent interference to WSAH, Bridgeport, CT (analog channel 43, post-transition digital channel 42), and 0.86 percent interference to WNJT, Trenton, NJ (analog channel 52, post-transition digital channel 43). Because this request was filed too late to ensure a full opportunity for comment, and particularly in light of the predicted interference, we invite comment on this request in this *Eighth Further NPRM*.

5. *WDCA, Washington, DC.* Fox Television Stations, Inc., (Fox), licensee of station WDCA-TV, channel 20, and WDCA-DT, channel 35, Washington DC, received channel 35 for its TCD in the proposed DTV Table of Allotments. Fox filed late comments requesting that the Commission modify Appendix B as in the Seventh Report and Order to reflect WDCA's actual, authorized facilities. WDCA-DT has a construction permit, FCC File No. BMPCDT-20060519ACK, that specifies facilities at its main studio where WDCA-DT is currently "located, authorized and operating," and WDCA-DT has applied for a license to cover that Construction Permit, FCC File No. BLCDT-

20070411AAH. As noted by Fox, previous engineering analysis had indicated that this location and these parameters cause no impermissible interference. The Commission proposes to grant this request and adjust the DTV Table of Allotments and Appendix B as in the Seventh Report and Order accordingly. Therefore, we solicit comments on this proposal.

#### **2. Request for Modified Coverage Area**

6. *KOAM, Pittsburg, KS.* Saga Quad States Communications (Saga), licensee of station KOAM-TV, channel 7, and KOAM-DT, channel 13, Pittsburg, KS, received channel 7 for its TCD in the proposed DTV Table of Allotments. Saga states that its current Appendix B as in the Seventh Report and Order parameters would allow it to reach only 83 percent of the audience it currently serves with its analog signal. Saga requests a revision to specify directional facilities for KOAM at an ERP of 15.33 kW, in order to more closely replicate its analog Grade B contour. Saga's internal engineering study indicates that use of a directional antenna would prevent any station from receiving impermissible interference, while still allowing KOAM to reach 94.4 percent of people reached by its analog transmitter, an outcome it argues is in the public interest. We have analyzed KOAM's request and recalculated their Appendix B as in the Seventh Report and Order facilities based on replicating the analog coverage that was used to determine their initial DTV Table of Allotments. We propose to adjust the DTV Table of Allotments and Appendix B as in the Seventh Report and Order accordingly and solicit comments on this proposal.

#### **3. Requests for Alternative Channel Assignments**

7. *KOLO, Reno, NV.* Gray Television Licensee, Inc. (Gray), licensee of station KOLO-TV, channel 8, and KOLO-DT, channel 9, Reno, NV, received channel 9 for its TCD in the proposed DTV Table of Allotments. Gray currently broadcasts from the same antenna on its NTSC channel 8 and DTV channel 9. Gray states that its antenna has been optimized for channel 8 for over 45 years, and Gray expresses concern that attempting to retune the antenna for use on its TCD channel 9 could lead to serious engineering difficulties. Gray therefore requests that KOLO's TCD be changed to permit it to return to its NTSC channel 8 post-transition. Engineering analysis indicates that this proposal by Gray would cause no additional interference. The Commission proposes to grant this

request and adjust the DTV Table of Allotments and Appendix B as in the Seventh Report and Order accordingly. Therefore, we solicit comments on this proposal.

8. *WEHT, Evansville, IN.* Gilmore Broadcasting Corporation (Gilmore), licensee of station WEHT, channel 25, and WEHT-DT, channel 59, Evansville, IN, received channel 25 for its TCD in the proposed DTV Table of Allotments. Gilmore filed reply comments stating that WEHT could not serve its entire analog area using the TCD and parameters in the DTV Table of Allotments and Appendix B as in the Seventh Report and Order. It proposes to change its TCD to channel 7 and adjust its parameters. Gilmore states that these proposed changes will increase its service area and eliminate the interference with WRTV-DT Indianapolis, IN (analog channel 6, post-transition digital channel 25) that would be caused by operating on channel 25. Engineering analysis shows that Gilmore's proposed alternative channel would cause no additional interference. The Commission proposes to grant this request and adjust the DTV Table of Allotments and Appendix B as in the Seventh Report and Order accordingly. Therefore, we solicit comments on this proposal.

9. *KTRV, Nampa, ID.* Idaho Independent Television, Inc. (IIT), licensee of KTRV, channel 12, and KTRV-DT, Nampa, Idaho, received channel 12 for its TCD in the proposed DTV Table of Allotments. IIT filed late comments stating that it wishes to retain its existing DTV facilities for post-transition operation, and requests that Appendix B as in the Seventh Report and Order be revised to reflect those facilities. IIT requests its TCD be changed to channel 13 and its antenna ID to 28309. IIT states "[t]hese licensed facilities already have passed Canadian review once before, so further international coordination should be minimal." IIT makes no representation, however, about post-transition interference. In response to IIT's request, we studied KTRV's post-transition operation on channel 13 and propose to grant their requested channel change. We seek comment on this proposal.

10. *WUOA, Tuscaloosa, AL.* The University of Alabama, singleton licensee of analog station WUOA, channel 23, Tuscaloosa, AL, received channel 23 for its TCD in the proposed DTV Table of Allotments. The University of Alabama filed an *ex parte* in June 2007 seeking a channel change to a low VHF channel. The comment explained that the limited resources of

the public university would be most efficiently used by broadcasting on a VHF channel, because of the lower cost of construction and operation of a VHF station as compared to a UHF station. We have considered and studied the University of Alabama's request, and propose replication facilities for WUOA on channel 6. Engineering analysis shows that this alternative channel will cause no additional interference. The Commission seeks comment on this proposal.

#### 4. Other Requests

11. *WPCW, Jeannette, PA.* CBS Corporation (CBS), parent company of the licensee of Station WPCW, channel 19, and applicant for construction permit for a DTV station on channel 49, Jeannette, PA, received channel 49 for its TCD in the proposed DTV Table of Allotments. CBS requests a change in the parameters in the proposed Appendix B as in the Seventh Report and Order for WPCW to reflect those approved by the Commission in its 2006 decision amending the pre-transition DTV Table of Allotments to substitute channel 49 for channel 30 as the digital frequency for WPCW and reallooting DTV channel 49 from Johnstown, Pennsylvania to Jeannette. Larry L. Schrecongost (Schrecongost), licensee of Class A television Station WLLS, channel 49, Indiana, Pennsylvania, opposes the CBS request and argues that the proposed DTV Table of Allotments should specify channel 30 rather than channel 49 for WPCW. Schrecongost has also filed a petition for reconsideration of the *2006 Report and Order*, 71 FR 8986, February 22, 2006, which is currently pending.

12. In 1999, the former licensee of WPCW filed a petition for rule making seeking to modify the station's DTV allotment from channel 30 to channel 49 and to change the station's digital community of license from Johnstown to Jeannette. That petition was subsequently amended to specify a new reference site. The petition for rule making was pending at the time the former licensee of WPCW certified to replication on FCC Form 381. Based on the pending rule making, WPCW elected channel 49 in the first round of the channel election process. The *Seventh Further NPRM* specifies channel 49 for WPCW but lists technical parameters consistent with replication on channel 49 of the WPCW initial DTV allotment which was based on its analog facility. In the *2006 Report and Order*, the Commission granted the WPCW rule making petition and, in addition to the channel change from 30 to 49, the Commission approved the requested site

change for WPCW as well as an increase in ERP and other technical changes.

13. CBS argues in its comments that the DTV Table of Allotments should reflect the revised parameters approved for WPCW in the *2006 Report and Order*. Schrecongost argues that the Commission erred in granting the channel change and site change for WPCW as operation of that station on channel 49 in Jeannette would cause interference to WLLS in violation of the Community Broadcasters Protection Act of 1999 (CBPA). The CBPA gave certain low power television (LPTV) stations, known as Class A stations, some limited protection from interference by full-service stations.

14. We have determined that operation of WPCW on channel 49 at the site and parameters approved in the *2006 Report and Order* would cause interference to the TCDs of two full-power stations in excess of the 0.1 percent standard for new interference that applies during the channel election process. Specifically, operation of WPCW on channel 49 would cause 1.61 percent new interference to WTAP, Parkersburg, WV (analog channel 15, post-transition digital channel 49), and 0.7 percent new interference to WPXI, Pittsburgh, PA (analog channel 11, post-transition digital channel 48).

15. In light of the interference caused by WPCW on channel 49, we propose to provide WPCW with an alternative channel that would resolve this interference. Specifically, we propose to allot channel 11 to WPCW with the site location specified in the *2006 Report and Order*. The specific technical facilities we propose for WPCW on channel 11 at this location are reflected in Appendix G, *infra*. Our analysis shows that operation of WPCW on channel 11 will not cause interference to the post-transition facilities of full power stations, nor to WLLS, the Class A station.

16. We believe that this proposal is consistent with our objectives in this proceeding. Operation of WPCW on channel 11 instead of channel 49 would reduce the interference caused to other facilities, consistent with our goal of efficient spectrum use. In addition, changing the WPCW allotment from channel 49 to channel 11 would resolve the challenge by Class A station WLLS to the decision reached in the *2006 Report and Order*. Resolving this challenge avoids a potentially protracted appeal of the *2006 Report and Order* and furthers our goal of finalizing DTV channels and facilities to permit stations to construct their post-transition facilities by the rapidly approaching transition deadline.

17. *WGNO and WNOL, New Orleans, LA.* Tribune (licensee of station WGNO, channel 26, permittee of WGNO-DT, channel 15, with TCD on channel 26, New Orleans, LA, and station WNOL, channel 38, and permittee of WNOL-DT, channel 40, New Orleans, LA, with TCD on channel 15) filed late comments requesting a change in technical parameters for both stations. Tribune proposes to operate both WGNO and WNOL from the WDSU transmitter site and tower, 3.7 km from the WGNO/WNOL transmission site destroyed by Hurricane Katrina. Tribune proposes that WGNO and WNOL will share the antenna with WDSU (analog channel 6, pre- and post-transition digital channel 43). Tribune contends that operating their stations from this site will streamline their application process and allow Tribune to restore digital service to the New Orleans market more quickly.

18. We have considered and studied Tribune's request, and we find that the proposed parameters do not cause impermissible interference to any station. However, we find that the proposed parameters for both stations would exceed their authorized contours, in violation of the freeze. In light of the unusual circumstances that affect these stations due to the destruction of both stations' analog and digital facilities, and the licensee's desire to relocate the transmitter to reduce the risk of damage from future hurricanes, we propose to waive the freeze and substitute the technical parameters requested in the late-filed comments. We seek comment on this proposal.

### **Eighth Further Notice of Proposed Rulemaking**

#### *Initial Regulatory Flexibility Analysis*

19. As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) relating to this *Eighth Further Notice of Proposed Rulemaking*.

#### *Initial Paperwork Reduction Act Analysis*

20. This *Eighth Further Notice of Proposed Rulemaking* has been analyzed with respect to the PRA and does not contain proposed information collection requirements. 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.

### *Ex Parte Rules*

21. *Permit-But-Disclose.* This proceeding will be treated as a "permit-but-disclose" proceeding subject to the "permit-but-disclose" requirements under § 1.1206(b) of the Commission's rules. *Ex parte* presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one-or two-sentence description of the views and arguments presented is generally required. Additional rules pertaining to oral and written presentations are set forth in § 1.1206(b).

### *Filing Requirements*

22. *Comments and Replies.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before October 10, 2007; reply comments are due on or before October 25, 2007 using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments.

- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two

additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

23. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.

24. *Accessibility Information.* To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document can also be downloaded in Word and Portable Document Format (PDF) at: <http://www.fcc.gov>.

### *Additional Information*

25. For more information on this *Seventh Report and Order and Eighth Further Notice of Proposed Rulemaking*, please contact Kim Matthews, Policy Division, Media Bureau at (202) 418-2154, Gordon Godfrey, Engineering Division, Media Bureau at (202) 418-2193, or Nazifa Sawez, Engineering Division, Media Bureau at (202) 418-7059.

## Initial Regulatory Flexibility Act Analysis

26. As required by the Regulatory Flexibility Act of 1980, as amended (RFA) the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *Eighth Further Notice of Proposed Rulemaking*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Eighth Further NPRM* provided in paragraph 163 of the item. The Commission will send a copy of the *Eighth Further NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *Eighth Further NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

### A. Need for and Objectives of the Proposed Rules

27. The *Eighth Further NPRM* proposes modifications to the new Post-Transition Table of DTV Allotments and Appendix B as in the Seventh Report and Order (DTV Table of Allotments). Three new full power permittees and six existing full power licensees and permittees are provided with channels and parameters for digital broadcast operations after the DTV transition. Changes to the new post-transition DTV Table of Allotments affects full power commercial and noncommercial broadcast television stations as the new DTV Table of Allotments provides post-transition channels for all eligible full power stations and changes to the DTV Table of Allotments may have interference or other implications for other broadcasters in the DTV Table of Allotments.

28. The Commission announced in the *Seventh Further NPRM* that, to the extent possible, it would accommodate future new permittees in the new Post-Transition Table of DTV Allotments, but that it would provide an opportunity for public comment before doing so. Three new construction permits were issued to permittees too late to be offered for comment in an earlier Public Notice, but can be accommodated in the new DTV Table of Allotments without causing impermissible interference. Six existing licensees and permittees made late-filed requests for modifications to the new DTV Table of Allotments. Although these requested changes are unopposed, appear non-controversial, and would have been looked upon favorably had

they been timely-filed, we find it appropriate to provide a full opportunity for comment.

29. We believe these proposed modifications to the new Post-Transition Table of DTV Allotments support the goals set forth for the channel election process. By these proposed modifications, the new permittees are provided with channels for DTV operations after the transition. Where adjustments bring the DTV Table of Allotments into line with the facilities or service areas of existing licensees or permittees, they recognize industry expectations and respect investments already made. These proposals also move the overall Post-Transition Table of DTV Allotments more quickly towards finality without sacrificing clarity or transparency. Finally, we believe the proposed changes reflects our efforts to promote overall spectrum efficiency and, in particular, to ensure the best possible DTV service to the public.

### B. Legal Basis

30. The authority for the action proposed in this rulemaking is contained in sections 1, 4(i) and (j), 5(c)(1), 7, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337 of the Communications Act of 1934, 47 U.S.C. 151, 154(i) and (j), 155(c)(1), 157, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337.

### C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

31. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small government jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. 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. The proposed rules in this *Eighth Further NPRM*, if adopted, will primarily affect television stations. A description of such small entities, as well as an estimate of the number of such small entities, is provided below.

32. *Television Broadcasting*. The proposed rules and policies in this *Eighth Further NPRM* apply to television broadcast licensees and

potential licensees of television service. The SBA defines a television broadcast station as a small business if such station has no more than \$13.5 million in annual receipts. Business concerns included in this industry are those "primarily engaged in broadcasting images together with sound." The Commission has estimated the number of licensed commercial television stations to be 1,376. According to Commission staff review of the BIA Financial Network, MAPro Television Database (BIA) on March 30, 2007, about 986 of an estimated 1,374 commercial television stations (or about 72 percent) have revenues of \$13.5 million or less and thus qualify as small entities under the SBA definition. The Commission has estimated the number of licensed NCE television stations to be 380. We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

33. In addition, 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 estimate 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. Also as noted, 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.

34. *Class A TV, LPTV, and TV translator stations*. The rules and policies proposed in this *Eighth Further NPRM* do not directly affect low power television stations, as the DTV Table of Allotments to which changes are being proposed will finalize post-transition digital channels only for full power television stations. Nonetheless, as discussed in section E, *infra*, low power

television stations will also eventually transition from analog to digital technology and may be indirectly affected by the channel allotment decisions herein. The broadcast stations indirectly affected include licensees of Class A TV stations, low power television (LPTV) stations, and TV translator stations, as well as to potential licensees in these television services. The same SBA definition that applies to television broadcast licensees would apply to these stations. The SBA defines a television broadcast station as a small business if such station has no more than \$13.5 million in annual receipts. Currently, there are approximately 567 licensed Class A stations, 2,227 licensed LPTV stations, and 4,518 licensed TV translators. Given the nature of these services, we will presume that all of these licensees qualify as small entities under the SBA definition. We note, however, that under the SBA's definition, revenue of affiliates that are not LPTV stations should be aggregated with the LPTV station revenues in determining whether a concern is small. Our estimate may thus overstate the number of small entities since the revenue figure on which it is based does not include or aggregate revenues from non-LPTV affiliated companies. We do not have data on revenues of TV translator or TV booster stations, but virtually all of these entities are also likely to have revenues of less than \$13.5 million and thus may be categorized as small, except to the extent that revenues of affiliated non-translator or booster entities should be considered.

#### *D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements*

35. The proposals set forth in this *Eighth Further NPRM* would involve no changes to reporting, recordkeeping, or other compliance requirements beyond what is already required under the current regulations.

#### *E. Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered*

36. 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.

37. The proposed changes will allow the new Post-Transition Table of DTV Allotments to provide all eligible broadcast television stations—large and small alike—with channels for post-transition DTV operations. No distinction was made between large and small licensees and permittees when determining which proposals to include in the *Eighth Further NPRM*. Small broadcasters, just like large ones, benefited from participating in the channel election process, and had an equal opportunity to review the proposed DTV Table of Allotments and request modifications. The TCDs and parameters proposed are based almost entirely on elections by licensees. All stations affected by the proposals in the *Eighth Further NPRM* will have the opportunity to comment, and the Commission will consider all comments, including those proposing alternative allotments for specific stations. No alternative to existing proposals for specific modifications to the DTV Table of Allotments for purposes of DTV allotments are proposed herein. In general, the transition procedures utilized in selecting final DTV allotments have been sufficiently transparent and flexible and eligible applicants for post-transition DTV allotments have been provided with the opportunity to make elections and to suggest alternative allotments.

38. The *Eighth Further NPRM* invites comment from broadcasters, including small broadcasters, on the proposed modifications to the new Post-Transition Table of DTV Allotments. In addition, we invite comment on other ways in which we could consider the particular needs and interests of small businesses in finalizing the Post-Transition Table of DTV Allotments.

39. The new DTV Table of Allotments for which the *Eighth Further NPRM* proposes modifications does not provide for channels for low power television stations. The Commission will address the digital transition for low power television (LPTV) stations in a separate proceeding. The statutory transition deadline established by Congress in 2006—February 17, 2009—applies only to full-power stations. One of the Commission's goals in this proceeding is to permit full power stations to finalize their post-transition facilities by this rapidly approaching deadline. The Commission previously determined that it has discretion under 47 U.S.C. 336(f)(4) to set the date by

which analog operations of stations in the low power and translator service must cease. The Commission has stated that the intent is to ensure that low power and translator stations not be required to prematurely convert to digital operation in a manner that could disrupt their analog service or, more importantly, that might cause them to cease operation. The Commission decided not to establish a fixed termination date for the low power digital television transition until it resolved the issues concerning the transition of full-power television stations. The Commission has recognized that low power television stations are a valuable component of the nation's television system and has stated its intention to facilitate, wherever possible, the digital transition of these stations.

#### *F. Federal Rules Which Duplicate, Overlap, or Conflict With the Commission's Proposals*

None.

#### **Ordering Clauses**

40. *It is ordered* that, pursuant to the authority contained in sections 1, 4(i) and (j), 7, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337 of the Communications Act of 1934, 47 U.S.C. 151, 154(i) and (j), 157, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337, this *Seventh Report and Order and Eighth Further Notice of Proposed Rule Making* is adopted.

41. *It is further ordered* that pursuant to the authority contained in sections 1, 2, 4(i), 303, 303a, 303b, and 307 of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 303, 303a, 303b, and 307, the Commission's rules are hereby amended as set forth in Appendix A.

42. *It is further ordered* that the rules as revised in Appendix A of the *Seventh Report and Order and Eighth Further Notice of Proposed Rule Making* shall be effective October 10, 2007.

43. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Seventh Report and Order and Eighth Further Notice of Proposed Rule Making*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

*It is further ordered* that the Commission shall send a copy of this *Seventh Report and Order and Eighth Further Notice of Proposed Rule Making* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

**List of Subjects in 47 CFR Part 73**

Television.

Federal Communications Commission.

**Marlene H. Dortch,***Secretary.***Proposed Rule Changes**

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 to read 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, 336.

2. Section 73.622 is amended by adding paragraph (i) to read as follows:

**§ 73.622 Digital television table of allotments.**

\* \* \* \* \*

(i) Post-Transition Table of DTV Allotments.

| Community        | Channel No. |
|------------------|-------------|
| ALABAMA          |             |
| Tuscaloosa ..... | 6           |
| COLORADO         |             |
| Greeley .....    | 49          |
| Pueblo .....     | 48          |
| IDAHO            |             |

| Community        | Channel No. |
|------------------|-------------|
| Nampa .....      | 13          |
| ILLINOIS         |             |
| Galesburg .....  | 8           |
| INDIANA          |             |
| Evansville ..... | 7           |
| NEVADA           |             |
| Reno .....       | 8           |
| PENNSYLVANIA     |             |
| Jeannette .....  | 11          |

**Note:** The following Appendix will not appear in the Code of Federal Regulations.

**Appendix G—Proposed DTV Table of Allotments Information**

| Facility ID  | State   | City              | NTSC  | DTV  |          |          |            |                   |                    |              |                       |                               |
|--------------|---------|-------------------|-------|------|----------|----------|------------|-------------------|--------------------|--------------|-----------------------|-------------------------------|
|              |         |                   | Chan  | Chan | ERP (kW) | HAAT (m) | Antenna ID | Latitude (DDMMSS) | Longitude (DDMMSS) | Area (sq km) | Population (thousand) | Percent interference received |
| 77496 .....  | AL .... | Tuscaloosa ....   | 23    | 6    | 1        | 266      | 80096      | 330315            | 873257             | 18093        | 595                   | 0                             |
| 166510 ..... | CO ...  | Greeley .....     | ..... | 49   | 1000     | 382      | .....      | 402448            | 1041940            | 32251        | 2400                  | 0                             |
| 166331 ..... | CO ...  | Pueblo .....      | 48    | 48   | 50       | 695      | 80244      | 384442            | 1045137            | 20898        | 906                   | 0.8                           |
| 51567 .....  | DC .... | Washington .....  | 20    | 35   | 500      | 227      | .....      | 385722            | 770459             | 20241        | 6949                  | 0.2                           |
| 28230 .....  | ID .... | Nampa .....       | 12    | 13   | 17       | 829      | .....      | 434518            | 1160552            | 41141        | 555                   | 0                             |
| 81946 .....  | IL .... | Galesburg .....   | ..... | 8    | 15       | 333      | 80193      | 411844            | 902245             | 24719        | 795                   | 0.7                           |
| 24215 .....  | IN .... | Evansville .....  | 25    | 7    | 3.2      | 301      | 80191      | 375157            | 873404             | 21506        | 699                   | 0.1                           |
| 58552 .....  | KS .... | Pittsburg .....   | 7     | 7    | 15.5     | 332      | 80204      | 371315            | 944225             | 29053        | 543                   | 0.7                           |
| 54280 .....  | LA .... | New Orleans ...   | 38    | 15   | 775      | 286      | 80216      | 295659            | 895728             | 24543        | 1724                  | 0                             |
| 72119 .....  | LA .... | New Orleans ...   | 26    | 26   | 1000     | 286      | 80217      | 295659            | 895728             | 24703        | 1734                  | 0                             |
| 63331 .....  | NV .... | Reno .....        | 8     | 8    | 15.6     | 893      | 80185      | 391849            | 1195300            | 39660        | 667                   | 2.6                           |
| 69880 .....  | PA .... | Jeannette .....   | 19    | 11   | 6.5      | 303      | 80099      | 402334            | 794654             | 21639        | 2960                  | 0.1                           |
| 51568 .....  | PA .... | Philadelphia .... | 29    | 42   | 1000     | 281      | 43286      | 400226            | 751419             | 20599        | 7425                  | 6.9                           |

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