

outstanding for three months. For purposes of section 7872, under paragraph (d) of this section, T uses the 91-day rate, which is 4 percent, compounded semi-annually. T uses the approximate method for purposes of section 7872.

(ii) Under paragraphs (b) and (c) of this section, the loan from T to QI is a compensation-related demand loan. Because there is no interest payable on the loan from T to QI, the loan is a below-market loan under section 7872. The loan is not exempt under § 1.7872-5(b)(16) because the amount treated as loaned exceeds \$2,000,000. Under section 7872(e)(2), the amount of forgone interest on the loan for 2008 is \$7000 (\$2,100,000\*.04/2\*1/6). Under section 7872(e)(2), the amount of forgone interest for 2009 is \$14,000 (\$2,100,000\*.04/2\*2/6). The \$7000 for 2008 is deemed transferred as compensation by T to QI and retransferred as interest by QI to T on December 31, 2008. The \$14,000 for 2009 is deemed transferred as compensation by T to QI and retransferred as interest by QI to T on March 1, 2009.

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

Approved: July 2, 2008.

**Eric Solomon,**

*Assistant Secretary of the Treasury (Tax Policy).*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MB Docket No. 07-91; FCC 08-141]

#### Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission provides clarification in connection with two issues addressed in the Report and Order. The Commission will address other issues raised in Petitions for Reconsideration in a future order. The Commission adopted a Report and Order in the Third DTV Periodic Review of the progress of the DTV transition. MSTV and NAB filed a joint petition for reconsideration requesting clarification of two issues in connection with the Order.

**DATES:** Effective July 10, 2008.

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

**FOR FURTHER INFORMATION CONTACT:** For additional information, please contact

Kim Matthews, *Kim.Matthews@fcc.gov*, 202-418-2120.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order in MB Docket No. 07-91, FCC 08-141, adopted May 29, 2008 and released May 29, 2008. 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 Order

1. In this Order, the Commission provides clarification in connection with two issues addressed in the Report and Order in the Third DTV Periodic Review proceeding. The Commission will address other issues raised in Petitions for Reconsideration in a future order. On December 22, 2007, the Commission adopted a Report and Order in the Third DTV Periodic Review, 73 FR 5634, January 30, 2008, of the progress of the DTV transition. MSTV and NAB filed a joint petition for reconsideration requesting clarification of two issues in connection with the Order. See Petition for Reconsideration and Clarification of the Association for Maximum Service Television, Inc. and the National Association of Broadcasters, filed February 29, 2008 (MSTV/NAB Petition).

2. First, MSTV/NAB sought clarification that where more than one of the Commission's viewer notification obligations adopted in the Order is triggered, a station may comply with the Commission's requirements through use of a consolidated notification that includes all of the elements required in each of the viewer notification obligations. There was nothing in the Third DTV Periodic to indicate that separate notifications are required by a station that is obligated to inform its viewers of changes in its analog or digital service during the same time frame. Stations must notify viewers in

the following circumstances: (1) When the station is seeking an extension of time to construct post-transition facilities and will not be serving on February 18, 2009 at least the same population that receives the station's current analog TV and DTV service (see *Third DTV Periodic Report and Order*, 23 FCC Rcd at 3033, ¶ 80); (2) when the station will not be serving on February 18, 2009 at least the same population that receives its current analog TV and DTV service and is seeking STA approval to use one of the provisions for a phased transition (see *id.* at 3037-38, ¶ 91); (3) when the station will permanently reduce or terminate analog service thirty days or less prior to the transition deadline (see *id.* at 3044, ¶ 106); (4) when the station is seeking approval for longer term (significantly more than 30 days) reduction or termination of analog service before the transition date (see *id.* at 3050, ¶ 117); and (5) where a station on channels 52-58 seeks to flash cut and to terminate analog or digital service on its out-of-core channel (see *id.* at 3057-58, ¶ 132). In addition, stations seeking to permanently reduce or terminate analog service within 90 days of the transition date have a more streamlined viewer notification procedure (see *id.* at 3058, ¶ 134). No one filed an opposition to this MSTV/NAB request for clarification. We hereby clarify that we will permit use of such a consolidated notification in circumstances in which the Commission approves service adjustments that overlap in time. Indeed, we believe it could be confusing for viewers to hear multiple notifications that seem to conflict. Stations that prefer to have separate notifications for separate service adjustments may take that approach, as well, provided they offer clear information to viewers. We remind stations that Viewer Notification requirements are in addition to and not instead of the consumer education requirements that apply to all full power broadcasters. See *In the Matter of DTV Consumer Education Initiative*, Report and Order, 23 FCC Rcd 4134 (2008) ("*DTV Consumer Education Order*"), recon. order adopted April 23, 2008 (FCC 08-119). See also *Third DTV Periodic Report and Order*, 23 FCC Rcd at 3033, ¶ 80, 3037-38, ¶ 91, 3044, ¶ 106, 3057-58, ¶ 132, and 3058, ¶ 134.

3. Second, MSTV/NAB ask that the Commission acknowledge that real-time updates to the Event Information Table (EIT) are permissive and not required under the new PSIP standard adopted in the Order. No party opposed this request for clarification. John Willkie,

doing business as EtherGuide Systems, filed a partial Opposition to the MSTV/NAB Petition. *See* Opposition to Petitions for Reconsideration filed by Harris Corporation (Harris), Association for Maximum Service Television (MSTV) and National Association of Broadcasters (NAB), and Cohen, Dippell and Everist, P.C. (CDE) and Clarification of the Association for Maximum Service Television, Inc. and the National Association of Broadcasters, filed March 10, 2008. Mr. Willkie disputed MSTV's and Harris Corporation's contention that PSIP automation equipment is not currently available and other issues raised in the Petitions for Reconsideration filed by MSTV/NAB, Harris and CDE. Willkie acknowledged that the Third DTV Periodic did not require automation systems to comply with the PSIP requirements but opined that use of automation systems would, as a practical matter, facilitate compliance. *Id.* at 1–3. He also advocated Commission waivers for stations that were unable to obtain automation equipment. *Id.* at 6. While we encourage stations to update the EIT as rapidly as possible when overages or other circumstances result in changes to scheduled programs, our rules and policies do not require that updates be accomplished in real-time. The rule adopted in the Third DTV Periodic incorporates by reference the ATSC PSIP Standard A/65C which does not require real-time updates. *See Third DTV Periodic Report and Order*, 23 FCC Rcd at 3079, ¶ 185; 47 CFR 73.682(d). Because real-time updates are not required, there is no need to address the alternative request in MSTV/NAB's petition for reconsideration for an extension of the effective date for compliance with the rule. *See* MSTV/NAB Petition at 2–3. *See also* Harris Corporation, Petition for Reconsideration, filed February 29, 2008 (requesting one year extension of time). The adoption of the revised PSIP standard will become effective 120 days following **Federal Register** publication of the *Third DTV Periodic Report and Order*, subject to OMB approval by that date. *See Third DTV Periodic Report and Order*, 23 FCC Rcd at 3088–3089, ¶ 210. The *Third DTV Periodic Report and Order* was published in the **Federal Register** on January 30, 2008. *See* 75 FR 5634, January 30, 2008. OMB approved the PSIP information collection on March 4, 2008 (OMB control number 3060–1104). Thus, the new PSIP rule will become effective May 29, 2008. If and when the ATSC PSIP Standard A/65C mandates real-time updates to the EIT, we may revisit this issue.

4. Accordingly, *It is ordered* that, pursuant to sections 1, 4(i), 4(j), 7, 301, 303 and 405 of the Communications Act, 47 U.S.C. 151, 154(i) and (j), 157, 301, 303, and 305, and §§ 1.2 and 1.106 of the Commission's rules, 47 CFR 1.2 and 1.106, this Order on Clarification is adopted.

5. The Commission will not send a copy of this Report & Order pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the Report and Order is simply clarifying rules that were previously adopted in the Third Periodic Review of the Commission's rules and Policies Affecting the Conversion to Digital Television, FCC 07–228.

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

Television.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. E8–15763 Filed 7–9–08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 071004577–8124–02]

RIN 0648–XI94

#### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Adjustment to the Total Allowable Catch of Georges Bank Yellowtail Flounder from the United States/Canada Management Area for Fishing Year 2008

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

**ACTION:** Inseason action; temporary rule adjusting specifications.

**SUMMARY:** NMFS announces that the Total Allowable Catch (TAC) in the U.S./Canada Management Area for Georges Bank (GB) yellowtail flounder was exceeded for fishing year (FY) 2007, requiring an adjustment of the GB yellowtail flounder TAC for FY 2008. This action complies with the Fishery Management Plan for the Northeast Multispecies Fishery (FMP) and is intended to continue the rebuilding program for yellowtail flounder in the FMP by taking into account previous overages of the yellowtail flounder quota.

**DATES:** Effective August 11, 2008, through April 30, 2009.

**FOR FURTHER INFORMATION CONTACT:** Douglas Potts, Fishery Policy Analyst, (978) 281–9341.

**SUPPLEMENTARY INFORMATION:** A temporary rule specifying the TACs for Eastern GB cod, Eastern GB haddock, and GB yellowtail flounder in the U.S./Canada Management Area was published in the **Federal Register** on March 28, 2008 (73 FR 16571). That action established the FY 2008 TACs of GB cod, haddock, and yellowtail flounder at 667 mt, 8,050 mt, and 1,950 mt, respectively, and specified that, should an analysis of the catch by U.S. vessels indicate that an overage occurred during FY 2007, the pertinent TAC would be adjusted downward in order to be consistent with the FMP and the U.S./Canada Management Understanding. The regulations state, at § 648.85(a)(2)(ii), that: “Any overages of the GB cod, haddock, or yellowtail flounder TACs that occur in a given fishing year will be subtracted from the respective TAC in the following fishing year.” The March 28, 2008, temporary rule also specified that the public would be notified of such an adjustment through publication in the **Federal Register** and through a letter to permit holders.

Based upon vessel reports, dealer reports, and other information available as of June 6, 2008, the total estimated catch of GB yellowtail flounder in the U.S./Canada Management Area during FY 2007 was 981.3 mt. This exceeds the FY 2007 GB yellowtail flounder TAC of 900 mt by 81.3 mt. Therefore, an overage of 81.3 mt of GB yellowtail flounder is being deducted from the FY 2008 U.S./Canada GB yellowtail flounder TAC through this action. This results in an adjusted TAC of 1,868.7 mt for FY 2008.

The Eastern GB cod and haddock TACs were not exceeded in FY 2007. Therefore, these TACs are not adjusted. The TACs for Eastern GB cod and Eastern GB haddock remain 667 mt and 8,050 mt, respectively.

#### Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator finds good cause to waive prior notice and opportunity for public comment, as notice and comment would be unnecessary. The regulations under § 648.85(a)(2)(ii), which were subject to prior public comment, require any overage of the TAC for GB yellowtail