

programmatic responsibility for the medical examination and surveillance program.

■ 3. Revise § 37.202 to read as follows:

**§ 37.202 Payment for autopsy.**

(a) NIOSH may, at its discretion, pay any pathologist who has received prior authorization for payment from NIOSH pursuant to § 37.204(a). Payment will only be provided with proof that legal consent for an autopsy as required by applicable law from the next of kin or other authorized person has been obtained, or that consent is not required, such as for a forensic autopsy. Payment may be provided to a pathologist who:

(1) Performs an autopsy on a miner in accordance with this subpart; and  
(2) Submits the findings and other materials to NIOSH in accordance with this subpart within 180 calendar days after having performed the autopsy.

(i) Types of chest radiographic images accepted for submission include a digital chest image (posteroanterior view) provided in an electronic format consistent with the DICOM standards described in § 37.42(c)(5), a chest computed tomography provided in an electronic format consistent with DICOM standards, or a good-quality copy or original of a film chest radiograph (posteroanterior view).

(ii) More than one type of chest radiographic image may be submitted.

(b) If payments are available, pathologists will be compensated in accordance with their ordinary, usual, or customary fees or at amounts determined through negotiation with NIOSH. To inform payment amounts, NIOSH may collect information about the fees charged by other pathologists with the same board certifications for the same services, in the same geographic area. NIOSH will additionally compensate a pathologist for the submission of chest radiographic images made of the subject of the autopsy within 5 years prior to their death together with copies of any interpretations made.

(c) A pathologist (or the pathologist's employer, the organization in which the pathologist practices, or another entity receiving payment on behalf of or for services provided by the pathologist) who receives any other specific payment, fee, or reimbursement in connection with the autopsy from the miner's surviving spouse, family, estate, or any other Federal agency will not receive payment from NIOSH.

■ 4. Revise § 37.203 to read as follows:

**§ 37.203 Autopsy specifications.**

(a) Each autopsy for which a claim for payment is submitted pursuant to this

subpart must be performed in a manner consistent with standard autopsy procedures such as those, for example, set forth in *Autopsy Performance & Reporting, third edition* (Kim A. Collins, ed., College of American Pathologists, 2017). Copies of this document may be borrowed from NIOSH.

(b) Each autopsy must include:

(1) Gross and microscopic examination of the lungs, pulmonary pleura, and tracheobronchial lymph nodes;

(2) Weights of the heart and each lung (these and all other measurements required under this subparagraph must be in the metric system);

(3) Circumference of each cardiac valve when opened;

(4) Thickness of right and left ventricles; these measurements must be made perpendicular to the ventricular surface and must not include trabeculations or pericardial fat. The right ventricle must be measured at a point midway between the tricuspid valve and the apex, and the left ventricle must be measured directly above the insertion of the anterior papillary muscle;

(5) Size, number, consistency, location, description and other relevant details of all lesions of the lungs;

(6) Level of the diaphragm;

(7) From each type of suspected pneumoconiotic lesion, representative microscopic slides stained with hematoxylin eosin or other appropriate stain, and one formalin fixed, paraffin-impregnated block of tissue; a minimum of three stained slides and three blocks of tissue corresponding to the three stained slides must be submitted. When no such lesion is recognized, similar material must be submitted from three separate areas of the lungs selected at random; a minimum of three stained slides and three formalin fixed, paraffin-impregnated blocks of tissue corresponding to the three stained slides must be submitted.

(c) Needle biopsy techniques will not be accepted.

■ 5. Revise § 37.204 to read as follows:

**§ 37.204 Procedure for obtaining payment.**

(a) Prior to performing an autopsy, the pathologist must obtain written authorization from NIOSH and agreement regarding payment amount for services specified in § 37.202(a) by submitting an Authorization for Payment of Autopsy (form CDC 2.19).

(1) NIOSH will maintain up-to-date information about the availability of payments on its website.

(2) After receiving a completed authorization request form, NIOSH will

reply in writing with an authorization determination within 3 working days.

(b) After performance of an autopsy, each claim for payment under this subpart must be submitted to NIOSH and must include:

(1) An invoice (in duplicate) on the pathologist's letterhead or billhead indicating the date of autopsy, the amount of the claim, and a signed statement that the pathologist (or the pathologist's employer, the organization in which the pathologist practices, or another entity receiving compensation on behalf of or for services provided by the pathologist) is not receiving any other specific compensation for the autopsy from the miner's surviving spouse or next-of-kin, the estate of the miner, or any other source.

(2) Completed Consent, Release and History Form for Autopsy (CDC/NIOSH (M)2.6). This form may be completed with the assistance of the pathologist, attending physician, family physician, or any other responsible person who can provide reliable information.

(3) Report of autopsy:

(i) The information, slides, and blocks of tissue required by this subpart.

(ii) Clinical abstract of terminal illness and other data that the pathologist determines is relevant.

(iii) Final summary, including final anatomical diagnoses, indicating presence or absence of simple and complicated pneumoconiosis, and correlation with clinical history if indicated.

**Xavier Becerra,**

*Secretary, Department of Health and Human Services.*

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[MB Docket No. 21-61; RM-11885; DA 21-477; FR ID 24752]

**Television Broadcasting Services  
Lubbock, Texas**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** On February 22, 2021, the Media Bureau, Video Division (Bureau) issued a *Notice of Proposed Rulemaking* in response to a petition for rulemaking filed by Gray Television Licensee, LLC (Gray), the licensee of KCBD, channel 11 (NBC), Lubbock, Texas, requesting the substitution of channel 36 for channel

11 at Lubbock in the DTV Table of Allotments. For the reasons set forth in the Report and Order referenced below, the Bureau amends FCC regulations to substitute channel 36 for channel 11 at Lubbock.

**DATES:** Effective May 6, 2021.

**FOR FURTHER INFORMATION CONTACT:** Joyce Bernstein, Media Bureau, at (202) 418-1647 or [Joyce.Bernstein@fcc.gov](mailto:Joyce.Bernstein@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 21-61; RM-11885; DA 21-477, adopted April 26, 2021, and released April 26, 2021. The full text of this document is available for download at <https://www.fcc.gov/edocs>. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

The proposed rule was published at 86 FR 12163 on March 2, 2021. Gray filed comments in support of the petition reaffirming its commitment to applying for channel 36. No other comments were received. In support, Gray states that the Commission has recognized that VHF channels have certain propagation characteristics which may cause reception issues for some viewers, and that many of its viewers experience significant difficulty receiving KCBT's signal. Gray also demonstrated that while there is a small terrain limited predicted loss area when comparing the licensed channel 11 and the proposed channel 36 facilities, all but 350 of the persons currently served by KCBT will continue to be well served by at least five other stations, a number which the Commission has recognized as *de minimis*. The Bureau believes the public interest would be served by the channel substitution because it will result in improved service.

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, do not apply to this proceeding.

The Commission will send a copy of this Report and 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 73**

Television.

Federal Communications Commission.

**Thomas Horan,**

Chief of Staff, Media Bureau.

**Final Rule**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

**PART 73—RADIO BROADCAST SERVICE**

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.622(i), amend the Post-Transition Table of DTV Allotments, under Texas, by revising the entry for Lubbock to read as follows:

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

	Community	Channel No.
	* * * *	*
(i)	* * *	
<b>TEXAS</b>		
Lubbock .....		16, 27, 35, 36, * 39, 40
	* * * *	*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 218**

[Docket No. 210421-0084]

**RIN 0648-BJ90**

**Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Navy Construction at Naval Station Norfolk in Norfolk, Virginia**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS, upon request of the U.S. Navy (Navy), hereby issues

regulations to govern the unintentional taking of marine mammals incidental to construction activities including marine structure maintenance, pile replacement, and select waterfront improvements at Naval Station Norfolk (NAVSTA Norfolk) over the course of five years (2021–2026). These regulations, which allow for the issuance of a Letter of Authorization (LOA) for the incidental take of marine mammals during the described activities and specified timeframes, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, as well as requirements pertaining to the monitoring and reporting of such taking.

**DATES:** Effective from June 7, 2021 to June 7, 2026.

**ADDRESSES:** A copy of the Navy's application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-us-navy-construction-naval-station-norfolk-norfolk-virginia>. In case of problems accessing these documents, please call the contact listed below.

**FOR FURTHER INFORMATION CONTACT:** Leah Davis, Office of Protected Resources, NMFS, (301) 427-8401.

**SUPPLEMENTARY INFORMATION:**

**Purpose and Need for Regulatory Action**

We received an application from the Navy requesting five-year regulations and authorization to take multiple species of marine mammals. This rule establishes a framework under the authority of the MMPA (16 U.S.C. 1361 *et seq.*) to allow for the authorization of take by Level B harassment of marine mammals incidental to the Navy's construction activities, including impact and vibratory pile driving. Please see Background below for definitions of harassment.

**Legal Authority for the Action**

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1371(a)(5)(A)) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region for up to five years if, after notice and public comment, the agency makes certain findings and issues regulations that set forth permissible methods of taking pursuant to that activity and other means of