Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) # Depth in feet above ground. Modified	Communities affected
	At Irving Avenue	+280	

Depth in feet above ground.
*National Geodetic Vertical Datum.
+North American Vertical Datum.

ADDRESSES

Township of Cedar Grove

Maps are available for inspection at the following locations: Municipal Building, 525 Pompton Avenue, Cedar Grove, NJ 07009.

Township of Livingston

Maps are available for inspection at the following locations: Town Hall, 357 South Livingston Avenue, Livingston, NJ 07039.

Township of Maplewood

Maps are available for inspection at the following locations: Town Hall, 570 Valley Street, Maplewood, NJ 07040.

Township of Millburn

Maps are available for inspection at the following locations: Town Hall, 375 Millburn Avenue, Millburn, NJ 07041.

City of Orange

Maps are available for inspection at the following locations: City Hall, 29 North Day Street, Orange, NJ 07050.

South Orange Village

Maps are available for inspection at the following locations: South Orange Village Hall, 101 South Orange Avenue, South Orange, NJ 07079.

Township of Verona

Maps are available for inspection at the following locations: Town Hall, 600 Bloomfield Avenue, Verona, NJ 07044.

Township of West Orange

Maps are available for inspection at the following locations: Town Hall, 66 Main Street, West Orange, NJ 07052.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: December 13, 2006.

David I. Maurstad,

Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–21680 Filed 12–19–06; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 73

[MB Docket No. 05–210; FCC 06–163]

Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services

AGENCY: Federal Communications Commission (FCC).

ACTION: Final rule.

SUMMARY: In this document, the Commission adopted a number of procedures and procedural changes designed to streamline the process of allocating new FM channels and modifying the communities of license of existing radio stations, and to reduce current backlogs in proceedings to amend the FM Table of Allotments. In the R&O, the Commission also announced that it would lift a freeze on all new petitions to amend the FM Table

of Allotments, as of the effective date of the R&O.

DATES: Effective January 19, 2007.

FOR FURTHER INFORMATION CONTACT: Peter Doyle, Chief, Media Bureau, Audio Division, (202) 418–2700 or *Peter.Doyle@fcc.gov*; Thomas Nessinger, Attorney-Advisor, Media Bureau, Audio Division, (202) 418–2700 or *Thomas.Nessinger@fcc.gov*.

For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams at 202–418–2918, or via the Internet at *Cathy.Williams@fcc.gov*.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act of 1995 Analysis

The Report and Order (''R&O'') contains new and modified information collection requirements, which were proposed in the NPRM and are subject to the Paperwork Reduction Act of 1995 (''PRA'').[1] These information collection requirements were submitted on July 19, 2005, to the Office of Management and Budget (''OMB'') for review under Section 3507(d) of the PRA. In addition, the general public and other Federal agencies were invited to comment on these information collection requirements in the NPRM. The Commission further notes that pursuant to the Small Business Paperwork Relief Act of 2002, it previously sought specific comment on how the Commission might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission received no comments concerning these information collection requirements. On September 15, 2005, the Commission obtained OMB approval for these information collection requirements, encompassed by OMB Control No. 3060–0027. This R&O adopts the information collection requirements, as proposed.

Because, as detailed in the R&O, the Commission extends its new community of license minor modification procedures to FM NCE licensees and permittees, FCC Form 340 must be modified to accommodate the new information collection requirements of those procedures. The procedural requirements for FM NCE applicants for change of community of license will become effective after approval by OMB. The Commission published a separate **Federal Register** Notice seeking public comment on this new information collection requirement on November 22, 2006 (*see* 71 FR 67581 (November 22, 2006)). Upon OMB approval, the Commission will issue a public notice announcing the effective date of this rule.

This is a synopsis of the Commission's Report and Order (R&O), FCC 06–163, adopted November 3, 2006, and released November 29, 2006. The full text of the R&O is available for inspection and copying during regular business hours in the FCC Reference Center, 445 Twelfth Street, SW., Room CY–A257, Portals II, Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc., Portals II, 445 Twelfth Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI, Inc. via their Web site, *http://www.bcpi.com*, or call 1–800–378–3160. This document is available in alternative formats (computer diskette, large print, audio record, and Braille). Persons with disabilities who need documents in these formats may contact Brian Millin at (202) 418–7426 (voice), (202) 418–7365 (TTY), or via e-mail at *Brian.Millin@fcc.gov*.

Synopsis of Order

1. With this Report and Order (''R&O''), the Commission makes certain changes to its procedures for allotting and assigning channels, classes, and communities of license for AM and FM broadcast stations, as proposed in the original Notice of Proposed Rule Making (''NPRM'') in this proceeding. *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services, Notice of Proposed Rule Making*, 20 FCC Rcd 11169 (2005). Specifically, the Commission makes changes of community of license for commercial full-power AM standard band and commercial and noncommercial educational (''NCE'') full-power FM broadcast stations a minor modification, to be accomplished by first come-first served minor modification application, subject to certain procedural requirements described below. To accommodate this change, the FM Table of Allotments, 47 CFR 73.202, shall henceforth contain only vacant allotments, and authorized full-power non-reserved band FM facilities already occupying allotments shall be listed only in the Media Bureau's Consolidated Data Base System (''CDBS''). As it does now, CDBS shall reflect the authorizations granted to those broadcasters operating on the listed channels and communities, and which are entitled to protection under our current rules. The Commission further adopts the proposal that it require allocations proponents simultaneously to file Form 301 applications with their allocations proposals, to submit the designated Form 301 filing fee, and to certify on Form 301 that they intend to apply to participate in auction bidding for the allotment should their proposal be adopted. The Commission also adopts the proposal to modify its rules to allow electronic filing of allocations documents. The Commission also lifts the current freeze on the filing of new petitions to amend the FM Table of Allotments, as of the effective date of the R&O. At this time, however, the Commission does not adopt the proposal to limit the number of proposals to add additional allotments or modify vacant allotments within a single rule making proposal, although it delegates to staff the discretion to return unreasonably large proposals or counter-proposals, if warranted. The Commission also declines to change its policy disfavoring the removal of a community's sole local transmission service to become another community's first local service, instead reiterating the need for parties contemplating such moves to seek waiver of the policy using existing law, and to demonstrate clearly the public interest benefits of such moves that would outweigh application of the policy in particular cases.

2. The Commission adopts the proposal to allow AM and FM full-power stations to change community of license by first come-first served minor modification application. Most commenters favored this proposal, and some opponents would mute their objections if the Commission adopted certain procedural safeguards. As the Commission tentatively concluded in the NPRM, and upon examination of the record in this proceeding, the Commission finds that the public interest would be served by streamlining current city of license modification procedures and employing certain safeguards to ensure that Section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. 307(b)) (''Section 307(b)'') and other concerns are accommodated. The Commission also concludes that, given the maturity of the FM service, there is no need to continue utilizing rule making procedures to modify FM stations' communities of license merely because such procedures provide an opportunity to counter-propose allotments. The use of first come-first served procedures is consistent with the doctrine enunciated in *Ashbacker* v. *U.S.*, 326 U.S. 327 (1945), and the Commission believes

[1] The Paperwork Reduction Act of 1995 (''PRA''), Pub. L. 104–13, 109 Stat 163 (1995) (codified in Chapter 35 of title 44 U.S.C.).

that there have been ample opportunities for potential counter-proponents to propose new FM station allotments during the 43 years that the Commission has relied on the current Table of Allotments. Further, all parties will continue to have reasonable opportunities to make such proposals. Moreover, to the extent that commenters object to the lack of opportunity to file competing applications, because the Commission proposes to limit such applications to those mutually exclusive with the applicant's existing facilities, foreclosing competing applications does not, as a practical matter, deprive potential applicants of opportunities for comparative consideration. Finally, the Commission is convinced that adopting the proposed new procedure will preserve limited agency resources, reduce the time needed to process community of license changes and, accordingly, expedite the provision of enhanced broadcast service to the public.

3. Community of license changes for commercial and NCE full-power AM standard band and FM broadcast licensees may be filed as minor modification applications. These minor modification applications processed on a first come-first served basis will be limited to those applications where the proposed daytime facilities are mutually exclusive with the applicant's existing daytime facilities. Related minor change applications must be submitted concurrently, and will be subject to the requirements and restrictions that apply to contingent minor modification application filings. *See* 47 CFR 73.3517(e). Required reference coordinate changes (which are not set out in the Table of Allotments) will not count against the current limit of four contingent minor modification applications that may be filed simultaneously. Parties seeking to employ this procedure must file, with their applications, a detailed exhibit demonstrating that the proposed change constitutes a preferential arrangement of allotments under Section 307(b) of the Act as compared to the existing allotment(s). The Commission will require a narrative showing that the proposed community of license change represents a net service benefit, under the Section 307(b) priorities and policies used since 1982. *See Revision of FM Assignment Polices and Procedures*, 90 FCC 2d 88 (1982). Applicants also will be required to confirm the community status of the proposed new community of license, demonstrating that it constitutes a community suitable for allotment purposes. Between our body of Section 307(b) precedent and the procedural safeguards discussed herein, these procedures will ensure that grant of such applications comports with the Commission's statutory mission under Section 307(b) to distribute radio service fairly, efficiently, and equitably. Additionally, as noted in the NPRM, our minimum distance separation standards and spectrum congestion will limit substantial urban migration. The new procedure will also address the concerns that led the Commission in 1999 to decline to treat such applications as minor changes as well as most commenters' Section 307(b) concerns. *See 1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules*, First Report and Order, 14 FCC Rcd 5272, 5278 (1999).

4. The Commission adopts certain additional safeguards to ensure that the public interest is served by the new procedures introduced herein. In performing Section 307(b) analyses under the new procedures adopted herein, the Commission will carefully consider whether an application would promote the fair, efficient, and equitable distribution of radio service. Under this analysis, a new permittee that obtained its permit after being awarded a dispositive Section 307(b) preference in an AM auction filing window should not be allowed to change communities prior to the commencement of broadcast operations in the originally authorized community unless the new community would compare equally or more favorably to the communities specified by the other mutually exclusive applicants in the auction Section 307(b) analysis. For example, an AM auction applicant that received a Priority (3) preference by proposing first local service to a larger community than that specified in a competing applicant's first local service proposal could not seek to modify the initial construction permit by later specifying a community with a smaller population than the competitor's proposed community. Otherwise, AM auction applicants could initially select their communities solely on the basis of providing the greatest Section 307(b) advantage and avoiding an auction, without actually serving those communities. Likewise, the Commission will not award rapid, successive community changes that sidestep the mutual exclusivity requirement of the new procedure. Accordingly, any application proposing a community of license change filed by a permittee that has not built its current permitted facilities and that is not mutually exclusive with either the applicant's built and operating facilities or its original allotment shall be returned as unacceptable for filing. The analysis set forth in *Faye and Richard Tuck, Inc.*, Memorandum Opinion and Order, 3 FCC Rcd 5374 (1988), will be carefully applied in considering Section 307(b) showings submitted in support of first come-first served applications to change communities of license, and that a first local service preference will not be awarded to a community that is largely interdependent with the Urbanized Area or surrounding communities. The Commission declines to adopt a service floor requirement such as that suggested in the NPRM, believing that existing Section 307(b) priorities and policies are sufficient to safeguard existing service. The Commission finds that existing procedural requirements, along with local public notice requirements (*see* 47 CFR 73.3580(c)(3), (d)(3), and (f)), will provide reasonable notice and opportunity for interested parties to comment under the new procedures introduced in the R&O. Broadcasters and members of the public may participate in the process of evaluating the grantability of a minor modification application to change community of license by filing informal objections. Arguments, evidence, and precedent may be presented in an informal objection as readily as in a more formal petition to deny, and are subject to the same evidentiary and legal standards. Moreover, the statutory right to file a petition for reconsideration, enumerated in Section 405 of the Communications Act of 1934, as amended (47 U.S.C. 405), provides a safety net for both relevant public interest considerations and participation by interested parties. Further, with regard to notice of applications, such minor modification applications will be listed in the Media Bureau's CDBS-generated ''Broadcast Applications'' public notices, much as AM major change applications are listed now. Due to the importance of local broadcast service to communities, however, the Commission believes it is vital that residents are provided adequate notice to enable them to file informal objections to, or comments in support of, a particular move. Thus, the Commission adopts its proposal to require the proponent to give local public notice in connection with such applications, notwithstanding that minor modification applicants generally need not provide local public notice. *See* 47 CFR 73.3580(a). Specifically, applicants under this new procedure

shall provide local public notice as set forth in Sections 73.3580(c)(3), (d)(3), and (f) of the Commission's rules (47 CFR 73.3580(c)(3), (d)(3), and (f)), and shall certify such compliance in Form 301. The Media Bureau shall also provide notice in the **Federal Register** that an application to modify an AM or FM station's community of license has been filed. Moreover, the Bureau will not act upon such an application until at least 60 days after publication in the **Federal Register**. The combination of local public notice under 47 CFR 73.3580, publication in the **Federal Register**, and the 60-day prohibition on Commission action will provide interested parties with ample notice and opportunity to comment on proposed community of license changes under our new procedures. Applicants themselves need only comply with the local public notice procedures, which are well known to licensees and permittees. The newspaper publication requirements of 47 CFR 73.3580(c)(3) will require the applicant to publish both in the current community of license and the proposed community, so as to give maximum notice to all residents potentially affected by grant of the application.

5. This new procedure will apply both to commercial full-service broadcast stations and also to full-power NCE stations. NCE FM allotments in the reserved band are not included in the Table of Allotments (see 47 CFR 73.201, 73.202(a), and 73.501(a)), and as non-tabled facilities such licensees must undergo a process similar to that undergone by AM licensees if they wish to change their communities of license, in that they must wait for an NCE filing window before applying to change communities. However, while reserved band NCE FM stations are non-tabled, the reserved band resembles the non-reserved FM band in most other respects, including maturity of the service, application of spacing rules, and spectrum congestion near larger cities. Because of these similarities, the Commission finds that the rationales for adopting the new procedure, such as streamlining of the current two-step process and maturity of the FM service, apply equally to NCE stations, and thus the new procedure will apply to NCE stations. However, the new procedures will not apply to expanded band AM stations, as allowing community of license changes by minor modification application for such stations could jeopardize the Commission's ability to develop a comprehensive plan for additional expanded band AM licensing.

6. There are currently fewer than 25 pending community change rule making proceedings for which a *Report and Order* has not been released. These parties will not be required to dismiss their rule making petitions and refile their proposals in the form of an application. However, a rule making petitioner that has submitted a community of license change proposal that could, under the new procedures, be filed as a minor modification application will be permitted to withdraw its rule making petition and to resubmit its proposal as an application on the effective date of the new procedure. A party choosing to dismiss a rule making petition and refile as an application may adversely affect its position with respect to earlier filed petitions for rule making or earlier or simultaneously filed applications. Parties opting to dismiss and refile should carefully consider whether doing so would be advantageous to their cut-off rights.

7. In order to accommodate the new procedure, the Commission will remove the allotments of currently authorized and awarded FM facilities from the Table of Allotments (47 CFR 73.202). Currently, all vacant FM allotments as well as FM assignments (that is, channels and communities occupied by authorized facilities) are listed in the Table of Allotments. All of these represent allotments and assignments added to the Table of Allotments through notice-and-comment rule making procedures over more than 40 years of the Table of Allotments' existence. Vacant allotments, which must be protected by all subsequent filings, serve as placeholders for future facilities. The same cut-off principles will apply to implementing applications filed under our comparative commercial and NCE procedures. Once an assignment is made, i.e., upon ''reservation,'' this record supersedes the vacant allotment. Thus, it is unnecessary for ''occupied'' allotments (that is, those that are licensed, permitted, or reserved) to be listed in the Table of Allotments—the authorizations and reserved assignments, reflected in CDBS, protect those facilities and govern their technical facilities and communities of license. Once a station is authorized, application procedures provide reasonable opportunities to interested parties to comment on or object to further modifications of authorized facilities. For this reason, as well as the maturity of the FM service discussed above, it is no longer necessary to change authorized non-reserved band FM stations' attributes through notice-and-comment rule making. Thus, the Commission shall amend the Table of Allotments to reflect only vacant allotments that do not correspond to an authorized station or reserved assignment. Assignments for licensed, permitted, and reserved facilities (those for which applications are pending) will be reflected solely in CDBS. In CDBS, channel/frequency and community assignments for currently authorized stations are represented as ''FA USE.'' ''FA RSV'' is used to designate assignments for winning auction bidders, NCE tentative selectees, and proposed assignments for stations that have filed, or have been directed to file, modification applications for authorized stations. These designations will continue to be used in CDBS to indicate the status and cut-off rights of assignments. Changes to the channel, class, or community of existing facilities will constitute changes to the individual authorizations or applications, rather than to 47 CFR 73.202, and therefore may be made through minor modification application procedures (as adjacent channel and class modifications have been made under the Commission's ''one-step'' procedures). However, the Commission will permit an FM non-reserved band permittee or licensee to use notice and comment procedures to modify its current assignment to specify a non-adjacent class upgrade or downgrade in the same community of license. This action is taken to preserve the facility improvement options now set forth at Section 1.420(g)(1) and (2). The Commission will retain the Table for vacant allotments and will continue to use rule making procedures to establish new channel allotments, as the procedures for new allotments allow for efficient consideration of all proposals and counterproposals in keeping with the Commission's Section 307(b) obligations. While Section 307(b) considerations enter into community of license changes to authorized facilities as well, the same detailed rule making procedures are not as essential when dealing with changes to authorized stations not subject to competing applications. Thus, new allotments and changes to vacant allotments will continue to be made via notice-and-comment rule making procedures. To the extent that a proposal or counter-proposal is contingent upon one or more such changes to vacant allotments, such proposals will also continue to be made via rule making proceedings. However, as discussed below, the Media Bureau will return any rule making proposals or

counterproposals that do not propose changes to vacant allotments, except for notice and comment filings submitted pursuant to Section 1.420(g)(1) or (2).

8. A common aspect of FM allotment petitions and counterproposals, including city of license modifications, are proposed channel substitutions for both vacant allotments and authorized facilities. Rule making proponents are limited to two ''involuntary'' channel substitutions for authorized stations. *See Columbus, Central City, Crookston, Kearney, Lexington, McCook, and Valentine, Nebraska; and Hill City, Kansas*, Report and Order, FCC 86–59, 59 RR 2d 1184 (MMB 1984) (''*Columbus, Nebraska*''). Current procedures impose no limit on voluntary, i.e., consensual, channel substitutions. The bifurcated procedures adopted in the R&O for allotments and assignments require new procedures for these city of license application and rule making components. Channel substitutions for authorized facilities will be treated as ''minor'' changes. Voluntary channel changes must be proposed in the Form 301 applications as set forth below. Involuntary channel changes for authorized stations must be specified in the Form 301 application, but will continue to be limited to two under the *Columbus, Nebraska* policy. The staff will issue an order to show cause with regard to an involuntary channel change if it determines that the entire city of license modification proposal is acceptable for filing. These procedures accord with our current procedures, under which an order to show cause is issued when a rule making proponent seeks an involuntary change to another facility. Proposals to substitute channels for vacant allotments will be filed in accordance with established rule making procedures.

9. Under these revised procedures, certain FM city of license modification proposals may consist of several contingent applications. Some ''hybrid'' filings will consist of both applications and rule making filings. Both the ''pure'' and ''hybrid'' proposals will be subject to the requirements and restrictions that apply to contingent coordinated FM minor change filings. *See* 47 CFR 73.3517(c). It is not necessary to prohibit contingent city of license modification proposals. The staff currently and regularly handles rule making proposals involving several different allotments and communities. All contingent applications filed pursuant to the procedures adopted here will be subject to identical Section 307(b) analysis. The Commission is satisfied that this analysis will function effectively in the application context, just as it does in the rule making context, to safeguard the goals and principals of Section 307(b). All related proposals must be simultaneously filed and clearly cross-reference each of the other component filings. The dismissal, denial or return of any component filing will result in the dismissal or return of all the related filings. Both ''pure'' application and ''hybrid'' filings will be subject to the four-application limit. Both voluntary and involuntary channel changes for authorized stations will count toward the four-application limit. Those components filed pursuant to rule making procedures will not count toward the four-application limit.

10. In the NPRM, the Commission showed that a small percentage of petitioners seeking new allotments in the FM Table of Allotments (also known as ''drop-in'' petitions) were responsible for an inordinate percentage of the drop-in petitions filed. To date, those drop-in proponents have not actively participated in the auctions process. Thus, there appears to be a fundamental disconnect between those adding new allotments and those seeking to obtain authorizations pursuant to the Commission's competitive bidding procedures. Accordingly, in the NPRM the Commission proposed a mechanism to encourage only *bona fide* proponents to seek to add channels to the Table. The mechanism proposed was to require an allocations proponent simultaneously to file a Form 301 application, and pay the appropriate fee, with its petition for rule making. The applicant would also certify in the application that, if its allotment was adopted, it intended to apply to participate in the auction for the new channel. That form would then become the proponent's application for construction permit, should the channel be allotted and the petitioner be the winning bidder. Previously, rule making proponents for new FM allotments needed only to state that they were interested in applying for the station if allotted, and paid no filing fee until and unless the allotment was made and an application filed. The Commission believes that requiring Form 301 and the concurrent filing fee with a petition for rule making, which is currently not required, would discourage insincere proponents, and further believes, as stated in the NPRM, that the public interest is best served by processing only those proposals for new allotments filed by *bona fide* potential applicants, rather than devoting scarce staff resources to processing allotment proposals that may represent less-than-optimal choices to actual auction participants. Accordingly, the Commission adopts this proposal. A party filing a petition for rule making to add a new allotment to the Table, whether as an original proposal or as a counterproposal, must simultaneously file a Form 301 application specifying the proposed facilities. A separate Form 301 and fee must be filed for each proposed new allotment. The application shall include a certification that, if the FM channel allotment requested is adopted, petitioner/counter-proponent intends to apply to participate in the auction of the channel allotment requested and specified in this application. In the event the petitioner or counter-proponent is the high bidder for the allotment, it need only file an amendment to its Form 301 application, if necessary, and will not pay a further filing fee. However, while the Commission need not refund application filing fees paid by applicants whose applications are not granted (*see Establishment of a Fee Collection Program to Implement the Provisions of the Omnibus Budget Reconciliation Act of 1989*, Memorandum Opinion and Order, 6 FCC Rcd 5919, 5925 n.40 (1991), citing Conference Report, 1989 U.S. Code Cong. & Ad. News at 3036), the Commission recognizes the inequity in retaining filing fees from parties whose rule making proposals are not granted, as the unfavorable disposition of their proposals would render their Form 301 applications a nullity. *See* 47 CFR 1.1113(a)(4). Refunding the filing fee of a successful rule making proponent that loses at auction places the proponent in the same position as competing bidders who were not required to file Form 301 pre-auction. Accordingly, the Commission will entertain waiver requests, pursuant to 47 CFR 1.1117, filed by a petitioner for a new allotment that files a Form 301 for the allotment, and that either has its allotment proposal denied in favor of another proposal or counterproposal, or that applies for the allotment and qualifies to bid for the allotment at auction, if the allotment is awarded to another higher-bidding applicant. A rule making proponent whose proposal is rejected may file its waiver request only after the proceeding is terminated and has become final. A successful rule making proponent who is not the winning bidder for the allotment may file its waiver request only after release of a public notice announcing the winning bidders in the auction. Provided that the waiver applicant has acted in good faith and in accordance with our Rules and

statutes, the Commission will normally grant such waiver requests and issue refunds under 47 CFR 1.1113(a)(4) or 1.1113(a)(5), as applicable. However, such a waiver request will not be viewed favorably if, for example, the rule making petition for a new allotment is returned due to patent legal or engineering defects. Similarly, a successful petitioner that fails to apply to participate in the auction or qualify to bid on the new allotment will not receive a waiver, nor will a petitioner that is the high bidder but either withdraws its high bid or is found unqualified to be the permittee.

11. In the NPRM, the Commission proposed to supplement the policy announced in *Columbus, Nebraska,* which limited to two the number of proposals for involuntary channel substitution changes to the Table of Allotments. The Commission specifically proposed to limit the number of changes to the Table that a party might propose or counter-propose to five, absent waiver based on a showing of significant public interest benefits. It was noted that parties sometimes file proposals (frequently, counterproposals) involving large numbers of changes to facilities, which frequently consumed large amounts of staff resources, and the Commission tentatively concluded that the staff could more efficiently dispose of these proceedings if proponents were required to break them apart into several discrete components. After reviewing comments and upon further consideration, the Commission has determined that it should defer acting on this proposal while it determines the effects on the efficiency of our allocations procedures of the other proposals adopted in the R&O. However, due to concern about the effects of complex proposals and counterproposals on the staff's ability efficiently to process changes to the Table of Allotments, the Commission instructs the staff carefully to review all proposals of five or more changes to the Table of Allotments, including those that may contain fewer than five proposals per party but that are interrelated, such that one party's proposal is dependent on others. The staff may, in its discretion, break such proceedings into smaller ones, return those proposals or counterproposals that do not require changes to vacant allotments and may be filed as minor modification applications, or in extreme cases return proposals or counterproposals in their entirety. The Commission reserves the right to revisit this proposal if deemed necessary in the public interest and to preserve the integrity of the FM allotment and assignment plan.

12. In the NPRM, the Commission proposed to eliminate the existing prohibition against electronic filing of petitions filed in broadcast allotment proceedings, set forth in 47 CFR 1.401(b). Electronic filing has brought substantial benefits in other application contexts, specifically by streamlining processes and enhancing the accuracy and reliability of Commission databases, and those benefits should be extended to the allocations process. Therefore, the Commission adopts the proposal to eliminate from 47 CFR 1.401(b) the prohibition against electronic submission of petitions for rule making in broadcast allocations proceedings. The Media Bureau and Consumer and Governmental Affairs Bureau will announce, by public notice, such procedures as they will devise for submission of broadcast allocations petitions and other documents. It should be noted that, as these are restricted proceedings, such procedures must provide for service on all interested parties, as defined in the Commission's Rules (*see* 47 CFR 1.1202(d)), by electronic or other appropriate means.

13. In the NPRM, the Commission sought comment on First Broadcasting Investment Partners, LLC's (''First Broadcasting'') proposal to abandon the Commission's existing policy against removing the sole local transmission service at a community in order to allow it to become the first local transmission service at another community. First Broadcasting contended that this policy undermines the goal of spectrum efficiency which, in its opinion, should favor provision of first local transmission service to the greatest population. First Broadcasting proposed a presumption that it is in the public interest to permit a station providing a community's sole local service to move to another community provided that (a) at least two other stations provide principal community service to the entirety of the current community, (b) the station would be the first local transmission service in the proposed community, (c) the station moving would provide 70 dBμ service to a larger population in the proposed community of license, and (d) the move would not cause any short spacing and/or would fully or partially resolve existing short spacing. First Broadcasting stated that its proposal would enable the staff to consider multiple public interest benefits of such proposed community of license changes, rather than ending its analysis at preservation of local service, and would ensure that the staff's Section 307(b) analysis will be conducted in an objective manner. After careful consideration and review of comments, the Commission declines to adopt this proposal. The Commission rejects the suggestion that objectivity in decision making can only be achieved by application of a defined multi-part test. Moreover, the Commission's experience shows that the reasons given by applicants for wanting to move the sole local service at a community are varied, and are better suited to a case-by-case waiver analysis than to a ''one size fits all'' test. Thus, the Commission retains its policy disfavoring removal of the sole local transmission service at a community, subject to waiver upon a detailed showing that retention of local service at a station's current community is contrary to the public interest, convenience, and necessity. For example, a showing that circumstances have changed to the extent that the current community of license is no longer a licensable community (due, perhaps, to a precipitous decline in population or significant loss of industry), or is no longer independent of a larger urban area, in the appropriate case might support a waiver to allow move of the station to serve a larger or more independent community. An AM licensee that has lost its transmitter site, and due to terrain or lack of available land cannot find a substitute site that would provide adequate community coverage, might also be able to present a compelling case for waiver. The foregoing examples are offered by way of illustration only, and are neither meant to be exhaustive nor are they meant to imply that a bare allegation of any of these circumstances will result in automatic waiver. All waiver requests are reviewed with an eye toward the particular facts as well as the context in which those facts are presented. Applicants are reminded that the waiver standard requires a detailed recitation of facts and circumstances, including documentary or testimonial (affidavit) evidence where appropriate, demonstrating special circumstances that warrant deviation from the policy, and showing that such deviation serves the public interest. *See Northeast Cellular Telephone Co.* v. *F.C.C.*, 897 F.2d 1164, 1166 (D.C. Cir. 1990), citing *WAIT Radio* v. *F.C.C.*, 418 F.2d 1153, 1157–59 (D.C. Cir. 1969). For example, the bare assertion that a station has lost its site, absent evidence showing an exhaustive but fruitless search for sites from which a sole local transmission service could comply with our technical rules, would not suffice to justify grant of a waiver to allow the station to move

to another community. The standard for waiver of a Commission policy is high for a reason. The Commission's rules and policies impose ongoing community service obligations on broadcasters. Moreover, the Commission has concluded that Section 307(b) policies must take into account the public's legitimate expectation that existing broadcast services will be maintained. These considerations will necessarily limit the ability of licensees to move to larger or more lucrative markets. Thus, a broadcaster that sought to locate in a community is expected to serve that community, as is a broadcaster that purchased the sole local transmission service in a particular community. In the latter case, no broadcaster should invest in a station with the expectation that the Commission will routinely approve a request to move to a different community. However, in the rare but appropriate case, Commission policy permits the sole local broadcaster in a community to show that the public interest supports a move to a new community.

14. In the NPRM, the Commission announced a freeze on the filing of new petitions to amend the Table of Allotments, to enable it to complete this proceeding without adding new rule making proceedings that might better be filed under new procedures, and to help eliminate allocations backlogs. The freeze on filing new petitions to amend the Table of Allotments will be lifted on the effective date of this R&O. Because the procedural changes in this R&O will not become effective until 30 days after publication in the **Federal Register**, at that time applicants may file minor modification applications for changes to community of license of full-power FM, noncommercial educational FM, and standard-band AM stations. Similarly, applicants wishing to file coordinated, contingent minor change applications and petitions for rule making as discussed herein must wait until the new community of license application procedures become effective before filing either minor change applications or rule making petitions.

15. Final Regulatory Flexibility Analysis. As required by the Regulatory Flexibility Act of 1980, as amended (''RFA'') [2] an Initial Regulatory Flexibility Analysis (''IRFA'') was incorporated in the Notice of Proposed Rule Making (''NPRM'') to this proceeding.[3] The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. The Commission received no comments on the IRFA. This present Final Regulatory Flexibility Analysis (''FRFA'') conforms to the RFA.[4]

16. Need for, and Objectives of, the Report and Order. This Report and Order (''R&O'') adopts rule changes and procedures to streamline the Commission's procedures for adding and modifying certain broadcast station allotments, and to streamline the Commission's FM commercial allotment procedures by allowing electronic filing of rule making petitions to change the FM Table of Allotments. In particular, the rules adopted by this R&O, as required by statute, will permit broadcast permittees and licensees of all full-service AM and FM broadcast stations (except for AM stations in the expanded band) to change their stations' communities of license by filing a minor modification application rather than through rule making proceedings. The new rules also will require parties seeking to add new allotments to the FM Table of Allotments simultaneously to file Form 301 for the new facilities at the time of filing a petition for rule making, rather than after auction. Finally, the new rules eliminate a rule-based prohibition against proponents of new channels in the FM Table of Allotments filing petitions for rule making electronically.

17. Summary of Significant Issues Raised by Public Comments in Response to the IRFA. There were no comments filed that specifically addressed the rules and policies proposed in the IRFA.

18. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply. 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 rules adopted herein.[5] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small government jurisdiction.'' [6] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[7] 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 Small Business Administration (SBA).[8]

19. The subject rules and policies potentially will apply to all AM and commercial FM radio broadcasting licensees and potential licensees. The SBA defines a radio broadcasting station that has $6.5 million or less in annual receipts as a small business.[9] A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.[10] Included in this industry are commercial, religious, educational, and other radio stations.[11] Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included.[12] However, radio stations that are separate establishments and are primarily engaged in producing radio program material are classified under another NAICS number.[13] According to Commission staff review of BIA Publications, Inc. Master Access Radio Analyzer Database on November 2, 2006, about 10,449 (95%) of 10,979 commercial radio stations have revenue of $6.5 million or less. First Broadcasting, which filed the Petition for Rule Making in this proceeding, is included in the definition of ''small business.'' We note, however, that many radio stations are affiliated with much larger corporations having much higher revenue. Our estimate, therefore, likely overstates the number of small entities that might be affected by any ultimate changes to the allocation rules.

20. Description of Projected Reporting, Record Keeping and other Compliance Requirements. As described, certain rules and procedures will change, but at most will only minimally increase the reporting requirements on existing and potential radio licensees and permittees, insofar as some of the proposed changes require the filing of application forms rather

[2] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA''), Pub. L. 104–121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract With America Advancement Act of 1996 (''CWAAA'').

[3] *NPRM,* 20 FCC Rcd 11169, 11190, 11192.

[4] *See* 5 U.S.C. 604.

[5] 5 U.S.C. 603(b)(3).

[6] *Id.* Sec. 601(6).

[7] *Id.* Sec. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' 5 U.S.C. 601(3).

[8] 15 U.S.C. 632. Application of the statutory criteria of dominance in its field of operation and independence are sometimes difficult to apply in the context of broadcast television. Accordingly, the Commission's statistical account of television stations may be over-inclusive.

[9] *See* 13 CFR 121.201, NAICS Code 515112.

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *Id.*

than rule making petitions. However, the forms to be filed are existing FCC application forms with which broadcasters are already familiar, so any additional burdens are minimal. Applicants seeking to modify a station community of license will need to include, with their Form 301 applications, an exhibit detailing how the proposed community change comports with the policies underlying Section 307(b) of the Communications Act of 1934, as amended. However, current practice requires that rule making proponents demonstrate that the proposed new community of license represents a superior arrangement of allotments under Section 307(b), so any new burdens are minimal. The new rule will also require that applicants for a new community of license provide local public notice in local newspapers and on air. These will impose additional burdens upon applicants. These burdens are identical to those imposed upon applicants for new broadcast facilities and applicants seeking to assign or transfer broadcast licenses. As such, any new burdens are familiar to broadcast licensees, are already set forth in our rules, and are necessary to ensure that members of the public are notified of proposed changes and are afforded the opportunity to comment.

21. Additionally, parties seeking to add new allotments to the FM Table of Allotments must simultaneously file FCC Form 301 with their petitions to add new allotments, and pay the Form 301 filing fee at that time. This requires petitioners for new allotments to file Form 301 earlier in the process than is the case now. However, it is the same Form 301 as is currently filed by successful auction bidders. The only difference from Form 301 currently filed by applicants consists of a certification that the proponent of the new FM allotment will participate in the auction for the new channel if allotted. To the extent that the proponent/applicant is not the winning bidder for the new allotment, the applicant may apply for waiver and refund of the fee; however, the burden will be increased to the extent that such an unsuccessful bidder would not currently be required to file Form 301.

22. Steps Taken to Minimize Significant Impact of Small Entities, and Significant Alternatives Considered. 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.[14]

23. The procedural changes adopted in the R&O for adding FM channel allotments and changing stations' communities of license are designed to make the process faster and more efficient, reducing delays to broadcasters in implementing new radio service. The procedure for changing a station's community of license will move from the current two-step process to a one-step minor application process, thus saving applicants time and resources. The Commission will require that petitioners for new FM channel allotments simultaneously file Form 301, and pay the prescribed filing fee for Form 301. Although this requires payment of the filing fee earlier than is the case in current practice, to the extent that petitioners ultimately obtain construction permits for these allotments, it is a fee they would be required to pay in any event, therefore this requirement should impose a minimal burden on petitioners. The Commission also eliminates the current prohibition on electronic filing of petitions to amend the FM Table of Allotments and comments on such proposals. Electronic filing, when implemented, will reduce burdens on all broadcasters, including small entities, by reducing the time and effort spent in preparing and submitting such documents in hard copy, as is the current practice.

24. Report to Congress. The Commission will send a copy of the *R&O,* including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996.[15] In addition, the Commission will send a copy of the *R&O,* including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *R&O* and FRFA (or summaries thereof) will also be published in the **Federal Register**.[16]

Ordering Clauses

25. Accordingly, *it is ordered,* pursuant to the authority contained in Sections 1, 2, 4(i), 303(r), and 307 of the Communications Act of 1934, 47 U.S.C 151, 152, 154(i), 303(r), and 307, this *Report and Order* is hereby adopted and the Commission's Rules *are hereby amended* as set forth in the Rule Changes.

26. *It is further ordered* that the rule amendments set forth in the Rule Changes *will become effective* 30 days after publication in the **Federal Register**.

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

List of Subjects

47 CFR Part 1

Practice and procedure.

47 CFR Part 73

Radio broadcast services.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1 and 73 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309.

■ 2. Section 1.401 is amended by revising paragraph (b) and the last sentence of paragraph (d) to read as follows:

§ 1.401 Petitions for rulemaking.

* * * * *

(b) The petition for rule making shall conform to the requirements of §§ 1.49, 1.52, and 1.419(b) (or § 1.420(e), if applicable), and shall be submitted or addressed to the Secretary, Federal Communications Commission, Washington, DC 20554, or may be submitted electronically.

* * * * *

(d) * * * Petitions to amend the FM Table of Allotments must be accompanied by the appropriate construction permit application and payment of the appropriate application filing fee.

* * * * *

■ 3. Section 1.420 is amended by revising the section heading, revising

[14] 5 U.S.C. 603(c)(1)–(c)(4).

[15] *See id.* Sec. 801(a)(1)(A).

[16] *See id.* Sec. 604(b).

paragraph (g) and adding new Note to § 1.420 following paragraph (j); the revisions set forth below are to read as follows:

§ 1.420 Additional procedures in proceedings for amendment of the FM or TV Tables of Allotments, or for amendment of certain FM assignments.

* * * * *

(g) The Commission may modify the license or permit of a UHF TV station to a VHF channel in the same community in the course of the rule making proceeding to amend § 73.606(b), or it may modify the license or permit of an FM station to another class of channel through notice and comment procedures, if any of the following conditions are met:

(1) There is no other timely filed expression of interest, or

(2) If another interest in the proposed channel is timely filed, an additional equivalent class of channel is also allotted, assigned or available for application.

Note to Paragraph (g): In certain situations, a licensee or permittee may seek an adjacent, intermediate frequency or co-channel upgrade by application. See § 73.203(b) of this chapter.

* * * * *

Note to § 1.420: The reclassification of a Class C station in accordance with the procedure set forth in Note 4 to § 73.3573 may be initiated through the filing of an original petition for amendment of the FM Table of Allotments. The Commission will notify the affected Class C station licensee of the proposed reclassification by issuing a notice of proposed rule making, except that where a triggering petition proposes an amendment or amendments to the FM Table of Allotments in addition to the proposed reclassification, the Commission will issue an order to show cause as set forth in Note 4 to § 73.3573, and a notice of proposed rule making will be issued only after the reclassification issue is resolved. Triggering petitions will be dismissed upon the filing, rather than the grant, of an acceptable construction permit application to increase antenna height to at least 451 meters HAAT by a subject Class C station.

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334, 336.

■ 5. Section 73.202 is amended by revising paragraph (a) introductory text, paragraph (a)(2) and paragraph (b), the Note following paragraph (a)(2) remains unchanged, the following revisions are to read as follows:

§ 73.202 Table of Allotments.

(a) *General.* The following Table of Allotments contains the channels (other than noncommercial educational Channels 201–220) designated for use in communities in the United States, its territories, and possessions, and not currently assigned to a licensee or permittee or subject to a pending application for construction permit or license. All listed channels are for Class B stations in Zones I and I–A and for Class C stations in Zone II unless otherwise specifically designated. Channels to which licensed, permitted, and ''reserved'' facilities have been assigned are reflected in the Media Bureau's publicly available Consolidated Data Base System.

* * * * *

(2) Each channel listed in the Table of Allotments reflects the class of station that is authorized to use it based on the minimum and maximum facility requirements for each class contained in § 73.211.

* * * * *

(b) *Table of FM Allotments.*

	Channel No.
ALABAMA	
Anniston	*261C3
Boligee	297A
Coosada	226A
Frisco City	278A
Livingston	242A
Maplesville	292A
New Hope	278A
Pine Level	248A
Rockford	286A
Saint Florian	274A
ALASKA	
Palmer	238C1
ARIZONA	
Aguila	297C3
Ajo	295A
Ash Fork	267A
Bagdad	269C3
Chino Valley	223A
Ehrenberg	286C2
First Mesa	247C
Fredonia	278C1
Grand Canyon Village	273C1
Heber	288C2
Huachuca City	232A
Leupp	255C2
Overgaard	232C3
Parker	247C3
Patagonia	251A
Paulden	263C3
Peach Springs	285C3
Pima	*296A
Pinetop	294C1
Quartzsite	275C3, 290C2
Rio Rico	300A
Sells	285A
Snowflake	258C2
Somerton	*260C3
Taylor	278C3
Wickenburg	229C3
Willcox	*223C3
ARKANSAS	
Altheimer	251C3
Arkadelphia	228A
Bearden	224A
Clarendon	281A
Cove	232A
Daisy	293C3
Gassville	224A
Greenwood	268A
Hermitage	300A
Paragould	257A
Rison	255A
Sparkman	259A
Strong	296C3
CALIFORNIA	
Alturas	268C1, 277C
Amboy	237A
Barstow	267A
Big Sur	240A
Blythe	239B
Burney	225A
Buttonwillow	265A
Cambria	287A, 293A
Cedarville	260A
Cloverdale	274A
Coachella	278A
Covelo	245A
Desert Center	288A
Essex	280B
Greenfield	254A
Hemet	273A
Kerman	224A
Kernville	289A
King City	275A
Lake Isabella	239A
Lamont	247A
McKinleyville	236C3, 277C3
Mecca	274A
Mojave	255A
Murrieta	281A
Nevada City	297A
Portola	269A
Randsburg	271A
Ridgecrest	229A, 252A
San Joaquin	299A
Susanville	262A
Sutter Creek	*298A
Tecopa	291A
Trona	247A
Twentynine Palms	270A
Wasco	224A
Waterford	294A
Westley	*238A
Willow Creek	253A
COLORADO	
Arriba	240A
Aspen	228A
Cheyenne Wells	224C1
Crawford	274C3
Crested Butte	246C3
De Beque	275C3
Durango	287A
Flagler	283C3
Fruita	255C3

	Channel No.
Genoa	291C3
Gunnison	265C2, 299C3
Hotchkiss	258C3
Hugo	222A
Lake City	247A
Olathe	*270C2, *293C
Orchard Mesa	249C3
Steamboat Springs	255A, 289A
Strasburg	249C3
Stratton	246C1
CONNECTICUT	
DELAWARE	
DISTRICT OF COLUMBIA	
FLORIDA	
Big Pine Key	*239A
Cedar Key	261A
Cross City	249C3
Daytona Beach Shores	258A
Eastpoint	283A
Horseshoe Beach	*234C3
Islamorada	283C2
Jasper	298A
Key Largo	237C3
Key West	244A
Lake Park	262A
Live Oak	*259A
Okeechobee	291A
Otter Creek	*240A
Palm Coast	254A
Perry	228A
Port St. Joe	270C3
Silver Springs Shore	259A
Sugarloaf Key	289A
GEORGIA	
Alamo	287C3
Americus	295A
Calhoun	233A
Crawfordville	234A
Cusseta	279A
Dexter	276A
Homerville	246A
Lincolnton	254A
Milner	290A
Morgan	228A
Patterson	296A
Pineview	226A
Plains	290A
Plainville	285A
Reynolds	*245A
St. Simons Island	229C3
Tallapoosa	255A
Tignall	244A
Ty Ty	249A
Wadley	227A
Woodbury	233A
Young Harris	236A
HAWAII	
Kailua-Kona	244A
Kihei	298C2
IDAHO	
McCall	228C3, 238C3, 275C3, 293C3
Weiser	*280C1
ILLINOIS	
Abingdon	252A
Altamont	288A
Augusta	253A
Canton	*277A
Cedarville	*258A
Clifton	*297A
Cuba	292A
Freeport	*295A
Grayville	229A
Pinckneyville	*282A
West Salem	266A
INDIANA	
Bloomfield	266A
Farmersburg	*242A
Fowler	291A
Madison	*265A
Terre Haute	298B
IOWA	
Asbury	*238A
Keosauqua	*271C3
Moville	*246A
North English	246A
Rudd	*268A
KANSAS	
Americus	240A
Atwood	292C0
Council Grove	*281C3
KENTUCKY	
Burgin	290A
Morgantown	256A
Science Hill	291A
Smith Mills	*233A
LOUISIANA	
Anacoco	276C3
Bordelonville	280A
Cameron	296C3
Clayton	266A
Colfax	267A
Dulac	242A
Florien	242A
Franklin	295C3
Golden Meadow	*289C2
Harrisonburg	232A
Haynesville	288A
Homer	*272A
Hornbeck	269A
Lake Providence	224A
Leesville	224A
New Llano	252C3
Oak Grove	289A
Oil City	285A
Opelousas	279A
Ringgold	*253C3
Rosepine	281A
St. Joseph	257C3
Wisner	300C3
MAINE	
Monticello	234A
MARYLAND	
MASSACHUSETTS	
Adams	255A
East Harwich	254A
Nantucket	249A
West Tisbury	*282A
MICHIGAN	
Alpena	289A
Crystal Falls	280C2
Custer	263A
Ferrysburg	226A
Fife Lake	240C2
Frederic	237A
Glen Arbor	227A
Harrison	280A
Hubbardston	*279A
Houghton	242C1
Ludington	242A
McBain	300A
Onaway	292C2
Paradise	234A
Pentwater	280A
Traverse City	283A
MINNESOTA	
Baudette	233C1
Grand Portage	224C, 245C0, 274C
Red Lake	231C1
MISSISSIPPI	
Calhoun City	272A
Greenwood	277A
Holly Springs	243A
Marietta	250A
Oxford	286A
Vaiden	271A
Vardaman	258A
Walnut Grove	244C2
MISSOURI	
Alton	290A
Bourbon	231A
Columbia	252C2
Doolittle	283A
Eminence	281A
Grandin	283A
Huntsville	*278C2
Laurie	*265C3
Lowry City	285A
Madison	247C3
Marceline	256A
Marquand	295A
Moberly	223A
MONTANA	
Bozeman	*240C3
Cut Bank	274C1
Lewistown	300C1
Montana City	293A
Outlook	289C
Roundup	248A
Whitehall	274A
NEBRASKA	
Arthur	300C1

	Channel No.
Firth	229A
Hartington	232C2
Hyannis	250C1
Pierce	248C2
NEVADA	
Battle Mountain	253A
Fallon Station	287C
Fernley	231C3
Pahrump	272C3
Silver Springs	273C
NEW HAMPSHIRE	
Enfield	282A
Groveton	268A
Pittsburg	246A
NEW JERSEY	
NEW MEXICO	
Alamo Community	*298A
Alamogordo	240C2
Carrizozo	261C2
Clayton	248C1
Grants	244C3
Las Vegas	283C2, 296A
Milan	270A
Roswell	237C0
Taos	228A, 288A
Taos Pueblo	292C3
NEW YORK	
Amherst	221A
Celoron	237A
Indian Lake	290A
Keeseville	231A
Montauk	235A
Morrisonville	231A
Rhinebeck	*273A
Rosendale	255A, 273A
NORTH CAROLINA	
Dillsboro	237A
Garysburg	276A
Ocracoke	224C1
NORTH DAKOTA	
Berthold	264C
Tioga	281C1
Williston	253C1
OHIO	
Ashtabula	241A
Cridersville	257A
McConnelsville	279A
North Madison	229A
OKLAHOMA	
Arnett	285C2
Boswell	282C3
Broken Bow	285A
Buffalo	224C2
Cheyenne	247C3
Clayton	241A
Coalgate	242A
Cordell	*229A
Covington	290A
Erick	259C2
Haileyville	290A
Haworth	294A
Holdenville	265A
Hollis	274C2
Kiowa	254A
Leedey	297A
Lone Wolf	224A
Mooreland	254A, 300C2
Muldrow	286A
Okeene	268C3
Pawhuska	233A
Pittsburg	232A
Red Oak	227A
Reydon	264C2
Ringwood	285A
Savanna	275A
Sayre	269C2
Stuart	228A
Taloga	226A
Thomas	288A
Tipton	233C3
Tishomingo	259C3
Valliant	234C3
Vici	249A
Wapanucka	298A
Waynoka	231C2
Weatherford	*286A
Wright City	226A
Wynnewood	*283A
OREGON	
Clatskanie	225C3
Dallas	*252C3
Diamond Lake	299A
Ione	258A
Keno	253A
Madras	*251C1
Merrill	289A
Monument	280C1
Powers	293C2
Prairie City	260C
Prineville	267C1
Terrebonne	293C2
The Dalles	*268C3
PENNSYLVANIA	
Erie	240A
Lawrence Park	224A
Liberty	*298A
Meyersdale	253A
Sheffield	286A
Susquehanna	227A
Sykesville	240A
RHODE ISLAND	
SOUTH CAROLINA	
Pendleton	240A
Quinby	237A
SOUTH DAKOTA	
Edgemont	289C1
Lead	232C
Rosebud	257C
Sisseton	258C2
Wall	299C
TENNESSEE	
Linden	267A
Lynchburg	296A
Oliver Springs	291A
Pigeon Forge	292A
TEXAS	
Annona	263A
Asherton	284A
Aspermont	226C2
Austwell	290A
Baird	243C3
Ballinger	238A
Balmorhea	283C
Bangs	250C3
Benavides	282A
Benjamin	237C3
Big Lake	246A, 296C2
Big Spring	265C3
Big Wells	271A
Blanket	284A
Blossom	224C2
Brackettville	234A
Bruni	293A
Buffalo Gap	227A
Burnet	*240A
Camp Wood	271A
Canadian	235C1
Carbon	238A
Carrizo Springs	295A
Centerville	274A
Channing	284C
Childress	281C2
Colorado City	257A
Comanche	280A
Cotulla	242A, 264A, 289A
Crosbyton	264C3
Crowell	293C3
Cuney	259A
Dalhart	261C
Denver City	*248C2
Detroit	282C2
Dickens	240A, 294A
Dilley	229A
Eagle Lake	237C3
El Indio	236A
Eldorado	258C1, 285A, 293A
Elkhart	265A
Encinal	259A, 273A, 286A
Encino	250A, 283A
Estelline	263C3
Floydada	255A
Fort Stockton	263C
Freer	288A
Garwood	247A
George West	250A, 292A
Goliad	282A
Goree	275A
Grapeland	232C3
Groom	223A
Guthrie	252A
Hamilton	299A
Hamlin	283C2
Hawley	269A
Hebbronville	232A, 254A
Hewitt	294A
Hico	285A
Hooks	231A
Idalou	299A
Iraan	269C2
Jacksonville	236A
Jayton	231C2
Junction	277C3, 284A, 292A, 297A

	Channel No.
Kermit	229A
Knox City	291A
La Pryor	278A
Leakey	257A, 275A, 299A
Llano	293C3
Lockney	271C3
Lometa	253A
Longview	300C2
Lovelady	288A
Marathon	278C
Mason	269C3, 281C2
Matador	221C2, 227C3
Matagorda	252A
McCamey	233C3
McLean	267C3
Memphis	283A, 292A
Menard	242A, 265C2, 287C3
Mertzon	278C2
Meyersville	261A
Moody	256A
Mount Enterprise	231A
Muleshoe	227C1
Mullin	224C3
Munday	270C1
Newcastle	263A
O'Brien	261A
Ozona	275C3, 289C1
Paducah	234C3
Paint Rock	296C3
Palacios	264A
Pampa	277C2
Panhandle	291C3
Pearsall	227A
Pineland	256A
Port Isabel	288A
Premont	287A
Presidio	292C1
Quanah	255C3
Rankin	229C3
Richland Springs	235A, 299A
Rising Star	290C3
Roaring Springs	276C3
Robert Lee	289A
Roby	249A
Rocksprings	235C3
Rotan	290A
Rule	239C2, 253A
Sabinal	296A
San Diego	273A
San Isidro	247A
Sanderson	274C1, 286C2
Santa Anna	282A
Savoy	297A
Shamrock	271A
Sheffield	224C2
Silverton	252A
Smiley	280A
Snyder	235C3
Sonora	237C3, 272A
Spur	254A, 260C3
Stamford	233A
Sweetwater	221C3
Teague	237C3
Turkey	244C2, 269A
Van Alstyne	*260A
Weinert	266C3
Wellington	248A
Wells	254A
Westbrook	272A
Wheeler	280C2
Zapata	292A

	Channel No.
UTAH	
Beaver	259A
Fountain Green	*260A
Manila	228A
Mona	225A
Parowan	300C2
Salina	233C
Toquerville	280C
VERMONT	
Albany	233A
Canaan	231C3
Poultney	223A
VIRGINIA	
Alberta	299A
Belle Haven	252A
Iron Gate	270A
Lynchburg	229A
Shawsville	273A
Shenandoah	*296A
WASHINGTON	
Chewelah	*274C3
Coupeville	266A
Goldendale	240A
Oak Harbor	*233A, 277A
Port Angeles	229A
Sedro-Woolley	289A
Sequim	237A
Union Gap	285A
Waitsburg	272A
WEST VIRGINIA	
Glenville	299A
Marlinton	292A
St Marys	*287A
White Sulphur Springs	227A
WISCONSIN	
Ashland	*275A
Augusta	*268C3
Boscobel	244C3
Crandon	276C3
Ephraim	295A
Hayward	*232C2
Laona	272C3
New Holstein	225A
Owen	242C3
Rhinelander	243C3
Rosholt	263A
Tigerton	295A
Tomahawk	265C3
Two Rivers	255A
Washburn	*284A
WYOMING	
Bairoil	235A
Centennial	248A
Meeteetse	273C
Pine Bluffs	238C3
Reliance	254C3
Sinclair	267C

	Channel No.
AMERICAN SAMOA	
CENTRAL MARIANAS	
GARAPAN	
GUAM	
PUERTO RICO	
Santa Isabel	251A
VIRGIN ISLANDS	
Charlotte Amalie	257A
Frederiksted	258A

■ 6. Section 73.203 is revised to read as follows:

§ 73.203 Availability of channels.

(a) Except as provided for in paragraph (b) of this section and § 1.401(d) of this chapter and 73.3573(a)(1), applications may be filed to construct new FM broadcast stations only at the communities and on the channels contained in the Table of Allotments (§ 73.202(b)).

(b) Applications filed on a first come, first served basis for the minor modification of an existing FM broadcast station may propose any change in channel and/or class and/or community not defined as major in § 73.3573(a). Applications for a change in community of license must comply with the requirements set forth in § 73.3573(g).

Note to § 73.203: This section is limited to non-reserved band changes in channel and/or class and/or community. Applications requesting such changes must meet either the minimum spacing requirements of § 73.207 at the site specified in the application, without resort to the provisions of the Commission's rules permitting short spaced stations as set forth in §§ 73.213 through 73.215, or demonstrate by a separate exhibit attached to the application the existence of a suitable allotment site that fully complies with §§ 73.207 and 73.315 without resort to §§ 73.213 through 73.215.

■ 7. Section 73.1690 is amended by adding paragraph (b)(9) to read as follows:

§ 73.1690 Modification of transmission systems.

* * * * *

(b) * * *

(9) Any change in the community of license, where the proposed new facilities are the same as, or would be mutually exclusive with, the licensee's or permittee's present assignment.

* * * * *

■ 8. Section 73.3571 is amended by revising paragraph (a)(1), and adding new paragraph (j) to read as follows:

§ 73.3571 Processing of AM broadcast station applications.

(a) * * *

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations. A major change for an AM station authorized under this part is any change in frequency, except frequency changes to non-expanded band first, second or third adjacent channels. A major change in ownership is a situation where the original party or parties to the application do not retain more than 50% ownership interest in the application as originally filed. A major change in community of license is one in which the applicant's daytime facilities at the proposed community are not mutually exclusive, as defined in § 73.37, with the applicant's current daytime facilities, or any change in community of license of an AM station in the 1605–1705 kHz band. All other changes will be considered minor.

* * * * *

(j) Applications proposing to change the community of license of an AM station, except for an AM station in the 1605–1705 kHz band, are considered to be minor modifications under paragraphs (a)(2) and (f) of this section, and are subject to the following requirements:

(1) The applicant must attach an exhibit to its application containing information demonstrating that the proposed community of license change constitutes a preferential arrangement of assignments under Section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. 307(b));

(2) The daytime facilities specified by the applicant at the proposed community of license must be mutually exclusive, as defined in § 73.37, with the applicant's current daytime facilities; and

(3) Notwithstanding the provisions of § 73.3580(a), the applicant must comply with the local public notice provisions of §§ 73.3580(c)(3), 73.3580(d)(3), and 73.3580(f). The exception contained in § 73.3580(e) shall not apply to an application proposing to change the community of license of an AM station.

■ 9. Section 73.3573 is amended by revising paragraph (a)(1), adding new paragraph (g), and revising Note 1 to § 73.3573 (Notes 2, 3, and 4 to § 73.3573 remain unchanged), the revisions are to read as follows:

§ 73.3573 Processing of FM broadcast station applications.

(a) * * *

(1) In the first group are applications for new stations or for major changes of authorized stations. A major change in ownership is any change where the original party or parties to the application do not retain more than 50 percent ownership interest in the application as originally filed. In the case of a Class D or an NCE FM reserved band channel station, a major facility change is any change in antenna location which would not continue to provide a 1 mV/m service to some portion of its previously authorized 1 mV/m service area. In the case of a Class D station, a major facility change is any change in community of license or any change in frequency other than to a first-, second-, or third-adjacent channel. A major facility change for a commercial or a noncommercial educational full service FM station, a winning auction bidder, or a tentative selectee authorized or determined under this part is any change in frequency or community of license which is not in accord with its current assignment, except for the following:

(i) A change in community of license which complies with the requirements of paragraph (g) of this section;

(ii) A change to a higher or lower class co-channel, first-, second-, or third-adjacent channel, or intermediate frequency;

(iii) A change to a same-class first-, second-, or third-adjacent channel, or intermediate frequency;

(iv) A channel substitution, subject to the provisions of Section 316 of the Communications Act for involuntary channel substitutions.

* * * * *

(g) Applications proposing to change the community of license of an FM station or assignment are considered to be minor modifications under paragraphs (a)(2), (e)(1), and (f)(1) of this section, and are subject to the following requirements:

(1) The applicant must attach an exhibit to its application containing information demonstrating that the proposed community of license change constitutes a preferential arrangement of allotments or assignments under Section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. 307(b));

(2) The facilities specified by the applicant at the proposed community of license must be mutually exclusive, as defined in § 73.207 or 73.509, with the applicant's current facilities or its current assignment, in the case of a winning auction bidder or tentative selectee; and

(3) Notwithstanding the provisions of § 73.3580(a), the applicant must comply with the local public notice provisions of §§ 73.3580(c)(3), 73.3580(d)(3), and 73.3580(f). The exception contained in § 73.3580(e) shall not apply to an application proposing to change the community of license of an FM station.

(4) Non-reserved band applications must demonstrate the existence of a suitable assignment or allotment site that fully complies with §§ 73.207 and 73.315 without resort to § 73.213 or 73.215.

Note 1 to § 73.3573: Applications to modify the channel and/or class to an adjacent channel, intermediate frequency (IF) channel, or co-channel may utilize the provisions of the Commission's Rules permitting short spaced stations as set forth in § 73.215 as long as the applicant shows by separate exhibit attached to the application the existence of an allotment reference site which meets the allotment standards, the minimum spacing requirements of § 73.207 and the city grade coverage requirements of § 73.315. This exhibit must include a site map or, in the alternative, a statement that the transmitter will be located on an existing tower. Examples of unsuitable allotment reference sites include those which are offshore, in a national or state park in which tower construction is prohibited, on an airport, or otherwise in an area which would necessarily present a hazard to air navigation.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[EB Docket No. 04–296, FCC 05–191]

Review of the Emergency Alert System

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Commission adopted rules that expanded the reach of the Emergency Alert System (EAS), as currently constituted, to cover digital communications technologies that are increasingly being used by the American public to receive news and entertainment. This document announces the effective date of these published rules.

DATES: The amendments to §§ 11.15, 11.21, 11.35, 11.51, 11.52, 11.55, and 11.61 published at 70 FR 71023, November 25, 2005 became effective on February 21, 2006.

FOR FURTHER INFORMATION CONTACT: Jean Ann Collins, Public Safety and Homeland Security Bureau, (202) 418–2792.

SUPPLEMENTARY INFORMATION: On Feburary 21, 2006, the Office of