

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 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, Television broadcasting.

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

#### PART 73—RADIO BROADCAST SERVICES

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

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

##### § 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Nebraska, is amended by adding DTV channel 38 and removing DTV channel 15 at Omaha.

Federal Communications Commission.

**Clay C. Pendarvis,**

*Associate Chief, Video Division, Media Bureau.*

[FR Doc. E8-31006 Filed 12-29-08; 8:45 am]

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#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 73

[DA 08-2718; MB Docket No. 08-194; RM-11488]

##### Television Broadcasting Services; Huntsville, AL

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission grants a petition for rulemaking filed by Local TV Alabama License, LLC ("Local TV"), the licensee of station WHNT-DT, to substitute DTV channel 46 for its assigned post-transition DTV channel 19 at Huntsville, Alabama.

**DATES:** This rule is effective January 29, 2009.

**FOR FURTHER INFORMATION CONTACT:** David J. Brown, Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 08-194, adopted December 15, 2008, and released December 17, 2008. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC 20554. This document 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.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via e-mail [www.BCPIWEB.com](http://www.BCPIWEB.com). 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). 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 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 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, Television broadcasting.

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

#### PART 73—RADIO BROADCAST SERVICES

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

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

##### § 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Alabama, is amended by adding DTV channel 46 and removing DTV channel 19 at Huntsville.

Federal Communications Commission.

**Clay C. Pendarvis,**

*Associate Chief, Video Division, Media Bureau.*

[FR Doc. E8-31034 Filed 12-29-08; 8:45 am]

**BILLING CODE 6712-01-P**

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 73

[DA 08-2720; MB Docket No. 08-209; RM-11496]

##### Television Broadcasting Services; Superior, NE

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission grants a petition for rulemaking filed by Colins Broadcasting Corporation, the permittee of station KSNB-DT, to substitute DTV channel 4 for its assigned post-transition DTV channel 34 at Superior, Nebraska.

**DATES:** This rule is effective January 29, 2009.

**FOR FURTHER INFORMATION CONTACT:** Joyce L. Bernstein, Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 08-209, adopted December 16, 2008, and released December 17, 2008. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC, 20554. This document 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.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via e-mail at [www.BCPIWEB.com](http://www.BCPIWEB.com). 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). 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 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 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, Television broadcasting.

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

#### PART 73—RADIO BROADCAST SERVICES

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

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

##### § 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Nebraska, is amended by adding DTV channel 4 and removing DTV channel 34 at Superior.

Federal Communications Commission.

**Clay C. Pendarvis,**

*Associate Chief, Video Division, Media Bureau.*

[FR Doc. E8–31030 Filed 12–29–08; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**49 CFR Parts 209, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 238, 239, 240, 241, and 244**

[Docket No. FRA–2004–17529; Notice No. 6]

**RIN 2130–AB94**

#### Adjustments to the Minimum and Maximum Civil Monetary Penalties for Violations of Federal Railroad Safety Laws or Federal Railroad Administration Safety Regulations

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** To comply with the Federal Civil Penalties Inflation Adjustment Act

of 1990, FRA is adjusting the minimum civil monetary penalty that it will apply when it assesses a civil penalty for a violation of a railroad safety statute or regulation under its authority. FRA is also adjusting its ordinary maximum and aggravated maximum penalties to incorporate the new maximum civil penalty amounts authorized by the Rail Safety Improvement Act of 2008. In particular, FRA is increasing the minimum civil penalty per violation from \$550 to \$650, while the ordinary maximum civil penalty per violation will be increased from \$16,000 to \$25,000 and the aggravated maximum civil penalty per violation where a grossly negligent violation or pattern of repeated violations has created an imminent hazard of death or injury (“grossly negligent violation”) will be increased from \$27,000 to \$100,000.

**DATES:** This final rule is effective March 2, 2009.

#### FOR FURTHER INFORMATION CONTACT:

Stephen N. Gordon, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue, SE., Mail Stop 10, Washington, DC 20590 (telephone 202–493–6001), [stephen.n.gordon@dot.gov](mailto:stephen.n.gordon@dot.gov).

**SUPPLEMENTARY INFORMATION:** The Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Act) requires that an agency adjust by regulation each maximum civil monetary penalty (CMP), or range of minimum and maximum CMPs, within that agency’s jurisdiction by October 23, 1996, and adjust those penalty amounts once every four years thereafter to reflect inflation. Public Law 101–410, 104 Stat. 890, 28 U.S.C. 2461, note, as amended by Section 31001(s)(1) of the Debt Collection Improvement Act of 1996, Public Law 104–134, 110 Stat. 1321–373, April 26, 1996. Congress recognized the important role that CMPs play in deterring violations of Federal laws and regulations and realized that inflation has diminished the impact of these penalties. In the Inflation Act, Congress found a way to counter the effect that inflation has had on the CMPs by having the agencies charged with enforcement responsibility administratively adjust the CMPs.

In 2008, Congress determined that additional measures were necessary to deter violations of Federal laws and regulations that contribute to railroad fatalities, injuries, and hazardous materials releases. See H.R. Rep. No. 110–336, at 1 (2008). As a result, it passed the Rail Safety Improvement Act of 2008, which was signed into law by the President on October 16, 2008. See Public Law 110–432, Division A, 122 Stat. 4848. The Rail Safety Improvement

Act of 2008 authorizes, among other initiatives, increased maximum penalty amounts by revising the language in 49 U.S.C. 21301(a)(2), 21302(a)(2), and 21303(a)(2) to allow for civil penalty assessments up to \$25,000 per violation with penalty assessments up to \$100,000 in instances where grossly negligent violations occur. *Id.* at sec. 302.

FRA is authorized as the delegate of the Secretary of Transportation to enforce the Federal railroad safety statutes and regulations, including the civil penalty provisions at 49 U.S.C. ch. 213. 49 CFR 1.49; 49 U.S.C. ch. 201–213. FRA currently has 29 regulations that contain provisions referencing its authority to impose civil penalties if a person violates any requirement in the pertinent portion of a statute or the Code of Federal Regulations. In this final rule, FRA is amending each of those separate regulatory provisions and the corresponding footnotes in each Schedule of Civil Penalties to raise the minimum CMP to \$650, the ordinary maximum CMP to \$25,000, and the aggravated maximum CMP to \$100,000. Where applicable, FRA is amending the corresponding appendices to those regulatory provisions, which outline FRA enforcement policy. FRA also is amending part 224 by removing the footnote attached to § 224.111 and adding the removed text, as amended, as a footnote to part 224, appendix A.

#### Calculation of the Inflation Adjustment

Under the Inflation Act, the inflation adjustment is to be calculated by increasing the maximum CMP, or the range of minimum and maximum CMPs, by the percentage that the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment (here, June 2007) exceeds the CPI for the month of June of the last calendar year in which the amount of such penalty was last set or adjusted (here, June 2004 for the minimum CMP of \$550). See 72 FR 51196 (Sept. 6, 2007); 69 FR 62818 (Oct. 28, 2004); 69 FR 30592 (May 28, 2004). The Inflation Act also specifies that the amount of the adjustment must be rounded to the nearest multiple of \$100 for a penalty between \$100 and \$1,000, or to the nearest multiple of \$5,000 for a penalty of more than \$10,000 and less than or equal to \$100,000. The first CMP adjustment may not exceed an increase of ten percent. FRA utilizes Bureau of Labor Statistics data to calculate inflation adjusted CMP amounts.

With the exception of the penalties relating to the hours of service laws (49 U.S.C. ch. 211), the ordinary maximum CMP for a violation of the rail safety