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Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

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

Television, Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 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 Kansas, is amended by adding DTV channel 31 and removing DTV channel 46 at Derby.

Federal Communications Commission.

**Clay C. Pendarvis,**

*Associate Chief, Video Division, Media Bureau.*

[FR Doc. E9-7055 Filed 3-27-09; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Part 260

[Docket No. FRA-2008-0061, Notice No. 2]

RIN 2130-AB91

#### Railroad Rehabilitation and Improvement Financing Program

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

**ACTION:** Notice of proposed rulemaking (NPRM); withdrawal.

**SUMMARY:** On June 9, 2008, FRA published an NPRM in the **Federal Register** proposing to amend the eligibility and application form and content criteria of the Railroad Rehabilitation and Improvement Finance (RRIF) Program. For the reasons stated below, FRA has decided to withdraw the NPRM.

**DATES:** The NPRM published on June 9, 2008 at 73 FR 32515 is withdrawn as of March 30, 2009.

**FOR FURTHER INFORMATION CONTACT:** Casey Symington, Attorney Advisor, Office of Chief Counsel, FRA, 1200 New Jersey Avenue, SE., RCC-20, Mail Stop 10, Washington, DC 20590 (telephone 202-493-6349).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The NPRM was developed in order to ensure the long-term sustainability of the Railroad Rehabilitation and Improvement Financing (RRIF) Program, promote the competitiveness of the railroad industry, and reduce the risk of default for applicants and the Federal government (government). The NPRM proposed to accomplish these goals by adding additional eligibility and application content requirements to the existing RRIF regulations. However, during and after the formal comment period on the NPRM, FRA received adverse comments on its provisions. After reviewing these comments, FRA has determined that it has insufficient information to ensure that the proposed

provisions would achieve the stated goals of the NPRM or to ensure that the proposed provisions would not cause unintended consequences on the utilization of the RRIF program. Accordingly, FRA is withdrawing the NPRM.

FRA received 21 written comments in response to the NPRM. All commenters opposed the NPRM. Nine commenters requested that it be withdrawn and three commenters requested that the NPRM be suspended or not implemented. The majority of comments raised concerns about the need and purpose of the rulemaking, the inability of the proposed rule to address the stated goals, the negative effect of the proposed rule on small entities and non-railroad entities, the increased costs and expense of complying with the proposed rule, the NPRM's effect of limiting the availability of the RRIF program and the possible resulting reduction in rail infrastructure investment, possible contradictions of legislative intent, and potentially unclear language in several of the NPRM provisions.

The comments thoughtfully addressed a number of issues raised through the NPRM, and FRA appreciates the time and effort put forth by those who commented.

##### II. Reason for Withdrawal

FRA has carefully reviewed the comments submitted pursuant to the NPRM. Based on our review of the comments, there is insufficient information at this time to assure a final rule with the proposed provisions would not have the unintended negative consequences anticipated by the commenters.

FRA remains dedicated to ensuring responsible lending through the RRIF program. As such, this withdrawal does not preclude the agency from issuing a separate rulemaking concerning the program. Should FRA decide to undertake such a rulemaking in the future, FRA will re-propose actions and provide new opportunities for comment.

##### III. The Withdrawal

In consideration of the foregoing, the NPRM for FRA Docket No. FRA-2008-0061, as published in the **Federal Register** on June 9, 2008 (73 FR 32515) is hereby withdrawn.

Issued in Washington, DC, on March 24, 2009.

**Jo Strang,**

*Acting Deputy Administrator.*

[FR Doc. E9-6940 Filed 3-27-09; 8:45 am]

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