

§ 681.37 What are the procedures for appealing the ALJ decision?

(a) Any defendant who submits a timely answer and is found liable for a civil penalty or assessment in an initial decision may appeal the decision.

(b) The defendant may file a notice of appeal with the authority head within 30 days following issuance of the initial decision, serving a copy of the notice of appeal on all parties and the ALJ. The authority head may extend this deadline for up to an additional 30 days if an extension request is filed within the initial 30-day period and shows good cause.

(c) The defendant's appeal will not be considered until all timely motions for reconsideration have been resolved.

(d) If a timely motion for reconsideration is denied, a notice of appeal may be filed within 30 days following such denial or issuance of a revised initial decision, whichever applies.

(e) A notice of appeal must be supported by a written brief specifying why the initial decision should be reversed or modified.

(f) The NSF representative may file a brief in opposition to the notice of appeal within 30 days of receiving the defendant's appeal and supporting brief.

(g) If a defendant timely files a notice of appeal, and the time for filing reconsideration motions has expired, the ALJ will forward the record of the proceeding to the authority head.

§ 681.38 What happens if an initial decision is appealed?

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the authority head.

(b) No administrative stay is available following a final decision of the authority head.

§ 681.39 Are there any limitations on the right to appeal to the authority head?

(a) A defendant has no right to appear personally, or through a representative, before the authority head.

(b) There is no right to appeal any interlocutory ruling.

(c) The authority head will not consider any objection or evidence that was not raised before the ALJ unless the defendant demonstrates that the failure to object was caused by extraordinary circumstances. If the defendant demonstrates to the satisfaction of the authority head that extraordinary circumstances prevented the presentation of evidence at the hearing, and that the additional evidence is material, the authority head may remand the matter to the ALJ for

consideration of the additional evidence.

§ 681.40 How does the authority head dispose of an appeal?

(a) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment imposed by the ALJ in the initial decision or reconsideration decision.

(b) The authority head will promptly serve each party to the appeal and the ALJ with a copy of his or her decision. This decision must contain a statement describing the right of any person, against whom a penalty or assessment has been made, to seek judicial review.

§ 681.41 What judicial review is available?

31 U.S.C. 3805 authorizes judicial review by the appropriate United States District Court of any final NSF decision imposing penalties or assessments, and specifies the procedures for such review. To obtain judicial review, a defendant must file a petition with the appropriate court in a timely manner.

§ 681.42 Can the administrative complaint be settled voluntarily?

(a) Parties may make offers of compromise or settlement at any time. Any compromise or settlement must be in writing.

(b) The reviewing official has the exclusive authority to compromise or settle the case from the date on which the reviewing official is permitted to issue a complaint until the ALJ issues an initial decision.

(c) The authority head has exclusive authority to compromise or settle the case from the date of the ALJ's initial decision until initiation of any judicial review or any action to collect the penalties and assessments.

(d) The Attorney General has exclusive authority to compromise or settle the case while any judicial review or any action to recover penalties and assessments is pending.

(e) The investigating official may recommend settlement terms to the reviewing official, the authority head, or the Attorney General, as appropriate.

§ 681.43 How are civil penalties and assessments collected?

Section 3806 and 3808(b) of title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

§ 681.44 Is there a right to administrative offset?

The amount of any penalty or assessment which has become final, or for which a judgment has been entered,

or any amount agreed upon in a compromise or settlement, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

§ 681.45 What happens to collections?

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

§ 681.46 What if the investigation indicates criminal misconduct?

(a) Any investigating official may:

(1) Refer allegations of criminal misconduct directly to the Department of Justice for prosecution or for suit under the False Claims Act or other civil proceeding;

(2) Defer or postpone a report or referral to the reviewing official to avoid interference with a criminal investigation or prosecution; or

(3) Issue subpoenas under any other statutory authority.

(b) Nothing in this part limits the requirement that NSF employees report suspected violations of criminal law to the NSF Office of Inspector General or to the Attorney General.

Dated: May 19, 2009.

Lawrence Rudolph,
General Counsel.

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[DA 09-1160; MB Docket No. 08-208; RM-11495]

Television Broadcasting Services; Fort Wayne, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed WISE-TV License, LLC, licensee of WISE-TV, analog channel 33, and WISE-DT, DTV channel 19, Fort Wayne, Indiana, to substitute DTV channel 18 for its assigned post-transition DTV channel 19 at Fort Wayne.

DATES: This rule is effective June 4, 2009.

FOR FURTHER INFORMATION CONTACT:

Adrienne Y. Denysyk, Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 08-208, adopted May 20, 2009, and released May 27, 2009. 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 <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 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 Indiana, is amended by adding DTV channel 18 and removing DTV channel 19 at Fort Wayne.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9-13047 Filed 6-3-09; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[DA 09-1162; MB Docket No. 08-140; RM-11470]

Television Broadcasting Services; Williston, ND

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed by Prairie Public Broadcasting, Inc., the licensee of noncommercial educational station KWSE-DT, to substitute DTV channel *11 for its assigned post-transition DTV channel *51 at Williston, North Dakota. **DATES:** This rule is effective June 4, 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. 08-140, adopted May 20, 2009, and released May 27, 2009. 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 <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 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 North Dakota, is amended by adding DTV channel *11 and removing DTV channel *51 at Williston.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9-13050 Filed 6-3-09; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[DA 09-1159; MB Docket No. 08-163; RM-11482]

Television Broadcasting Services; Yuma, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed by Pappas Arizona License, LLC, the permittee of station KSWT-DT, to substitute DTV channel 13 for its assigned post-