

levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 28, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not

be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 17, 2004.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

■ Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart K—Florida**

■ 2. Section 52.520 (e), is amended by revising the entry for "Revision to Maintenance Plan for the Tampa, Florida Area" to read as follows:

**§ 52.520 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

**EPA—APPROVED FLORIDA NON-REGULATORY PROVISIONS**

Provision	State EPA date	EPA approval date	Federal Register notice	Explanation
* * * * *				
Revision to Maintenance Plan for the Tampa, Florida Area.	12/20/02	3/29/04	[Insert citation of publication] .....	10 year update.
* * * * *				

[FR Doc. 04-6824 Filed 3-26-04; 8:45 am]  
BILLING CODE 6560-50-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 04-550, MB Docket No. 02-92, RM-10363]

**Digital Television Broadcast Service; Albany, NY**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Clear Channel Broadcasting

Licenses, Inc., substitutes DTV channel 7 for DTV channel 4 at Albany, New York. *See* 67 FR 31169, May 9, 2002.

DTV channel 7 can be allotted to Albany, New York, in compliance with the principle community coverage requirements of § 73.625(a) at reference coordinates 42-37-31 N. and 74-00-38 W. with a power of 10, HAAT of 434 meters and with a DTV service population of 1442 thousand. Since the community of Albany is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government was obtained for this allotment. With this action, this proceeding is terminated.

**DATES:** Effective April 26, 2004.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 02-92, adopted February 26, 2004, and released March 10, 2004. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., CY-B402, Washington, DC, 20554, telephone 202-863-2893,

facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

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

Digital television broadcasting, Television.

■ Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

#### PART 73—[AMENDED]

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

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

#### § 73.622 [Amended]

■ 2. Section 73.622(b), the Table of Digital Television Allotments under New York, is amended by removing DTV channel 4 and adding DTV channel 7 at Albany.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Division, Media Bureau.*

[FR Doc. 04-6942 Filed 3-26-04; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

#### 49 CFR Part 1002

[STB Ex Parte No. 542 (Sub-No. 4)]

#### Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services—2002 New Fees

**AGENCY:** Surface Transportation Board, Transportation.

**ACTION:** Final rules.

**SUMMARY:** The Board adopts final rules establishing 19 fees for services for which no fee currently is assessed; raising the below-cost fee that currently applies to six fee items; updating fees for nine existing fee items; and amending, renumbering and deleting certain rules to conform to existing and adopted fee collection policies and processes. The Board adopts these rules under the Independent Offices Appropriations Act and OMB Circular A-25, User Fees.

**DATES:** These rules are effective April 28, 2004.

**FOR FURTHER INFORMATION CONTACT:** Anne K. Quinlan (202) 565-1727 or David T. Groves (202) 565-1551. [Federal Information Relay Service (FIRS) for the hearing impaired: 1-(800) 877-8339.]

**SUPPLEMENTARY INFORMATION:** Under the Independent Offices Appropriations

Act, 31 U.S.C. 9701 (IOAA), federal agencies are obliged to establish fees for specific services provided to identifiable beneficiaries. Office of Management and Budget Circular A-25 contains guidelines for agencies to apply in assessing and collecting those fees.

Pursuant to the IOAA and Circular A-25, the Board, on August 29, 2002, served and on September 11, 2002, published in the **Federal Register** (67 FR 57554) a notice of proposed rulemaking (NPR) to amend its regulations to accomplish the following: (1) Establish 22 new fees to cover services and activities not previously included in the Board's user fee regulations, including a catch-all "basic" fee for STB adjudicatory services not already covered by a specific fee; (2) raise the below-cost fee assessment applied to six fee items; (3) update fees for nine existing fee items; and (4) amend, renumber and delete certain rules to clarify the applicability and scope of certain fee items and to reflect current and proposed fee and billing practices and tariff requirements.

The Board received comments from the Association of American Railroads, The Burlington Northern and Santa Fe Railway Company, the National Industrial Transportation League, the North Dakota Grain Dealers Association and the United Transportation Union—General Committee of Adjustment. Some comments challenged the validity of several proposed fees; others challenged the levels of several proposed fees.

The Board found that it is appropriate to charge the proposed fees because, while the public in general will always benefit, either directly or indirectly, from the services the Board provides, the services provide special benefits to those requesting the services beyond those received by the general public.

The Board, after considering comments, lowered the level of several proposed fees and left others at the level proposed. The Board also declined, at this time, to adopt fees in connection with motions to compel discovery and appeals of discovery rulings because the agency recently adopted rules that may have the desired effect of reducing the incidence of frivolous, costly and ineffective discovery requests. Also, note that the Board amended several fee regulations to accomplish the following: (1) Reflect current business practices with respect to fee processing; (2) permit use of the billing account system to collect fees for documents filed for recording under 49 U.S.C. 11301; and (3) change the process for handling fee waiver requests. The final rules are set forth in the Appendix.

Pursuant to 5 U.S.C. 605(b) the Board certifies that the final rules will not have a significant economic impact on a substantial number of small entities. The economic impact of the proposed fees will not be significant because the Board fees represent only a small portion of the overall cost of the related endeavors. Moreover, few small entities avail themselves of the services to which the proposed fees apply. Finally, the Board's regulations provide for waiver of filing fees for those entities that can make the required showing of financial hardship.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Additional information is contained in the Board's decision. To obtain a free copy of the full decision, visit the Board's Web site at <http://www.stb.dot.gov>; call the Board's Information Officer at (202) 565-1500; or pick up in person at Suite 100, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. To purchase a copy of the decision, write to, call, email, or pick up in person from ASAP Document Solutions, 9332 Annapolis Road, Suite 103, Lanham, Maryland 20706, (301) 577-2600, [asapmd@verison.net](mailto:asapmd@verison.net). [Assistance for the hearing impaired is available through Federal Information Relay Services (FIRS): (800) 877-8339.]

#### List of Subjects in 49 CFR Part 1002

Administrative practice and procedure, Common carriers, Freedom of information, User fees.

Decided: March 23, 2004.

By the Board, Chairman Nober.

**Vernon A. Williams,**  
*Secretary.*

■ For the reasons set forth in the decision, the Surface Transportation Board amends 49 CFR part 1002 as follows:

#### PART 1002—FEES

■ 1. The authority citation for part 1002 is revised to read as follows:

**Authority:** 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701; and 49 U.S.C. 721. Section 1002.1(g)(11) also issued under 5 U.S.C. 5514 and 31 U.S.C. 3717.

■ 2. Amend §1002.1 as follows:

■ a. Redesignate paragraphs (e) through (h) as paragraphs (f) through (i);

■ b. Remove newly redesignated paragraph (f)(2) and designate newly redesignated paragraph (f)(3) as paragraph (f)(2);