responsible facility official must formally notify the registering entity. A copy of such formal notification must be kept on record by the responsible facility official for a period of five (5) years and is subject to paragraph (g) of this section.

(j) Definitions. As used in this section:

Facility means any individual or government agency, university, corporation, company, partnerhship, society, association, firm, or other legal entity located at a single geographical site that may transfer or receive through any means a select infectious agent subject to this part.

Registering entity means an organization or state agency authorized by the Secretary to register facilities as capable of handling select infectious agents at Biosafety Level 2, 3, or 4, depending on the agent, in accordance with the CDC/NIH publication ''Biosafety in Microbiological and Biomedical Laboratories.''

Requestor means any person who receives or seeks to receive through any means a select infectious agent subject to this part from any other person.

Responsible facility official means an official authorized to transfer and receive select infectious agents covered by this part on behalf of the transferor's and/or requestor's facility. This person should be either a biosafety officer, a senior management official of the facility, or both. The responsible facility official should not be an individual who actually transfers or receives an agent at the facility.

Secretary means the Secretary of the Department of Health and Human Services or her or his designee.

Select infectious agent means an agent, virus, bacteria, fungi, rickettsiae or toxin listed in Appendix A of this part. The term also includes genetically modified microorganisms or genetic elements that contain nucleic acid sequences associated with pathogenicity from organisms on Appendix A, and genetically modified microorganisms on Appendix A, and genetically modified microorganisms or genetic elements that contain nucleic acid sequences coding for any of the toxins in Appendix A, or their toxic subunits.

Transfer (a) means the conveyance or movement from a point of origination to a point of destination either

(1) From one state or territory to another or

(2) Entirely within one contiguous state or territory.

(b) The term does not include intra-facility conveyances within a facility located at a single geographical site provided, that the intended use of the agent remains consistent with that specified in the most current transfer form.

Transferor means any person who transfers or seeks to transfer through any means a select infectious agent subject to this part to any other person.

§ 72.7 Penalties.

Individuals in violation of this part are subject to a fine of no more than $250,000 or one year in jail, or both. Violations by organizations are subject to a fine of no more than $500,000 per event. A false, fictitious, or fraudulent statement or representation on the Government forms required in the part for registration of facilities or for transfers of select agents is subject to a fine or imprisonment for not more than five years, or both for an individual; and a fine for an organization.

Appendix A to Part 72—Select Infectious Agents

Viruses

1. Crimean-Congo haemorrhagic fever virus
2. Chikungunya virus
3. Ebola virus
4. Hantaviruses
5. Japanese encephalitis virsus
6. Lassa fever virus
7. Marburg virus
8. Rift Valley fever virus
9. Tick-borne encephalitis viruses
10. Variola major virus (Smallpox virus)
11. Yellow fever virus
12. South American Haemorrhagic fever viruses (Junin, Machupo, Sabia, Guanarito, and those yet to be decribed)
13. Encephalitis viruses (Venezuelan, Western, Eastern)
14. Kyasanur Forest Disease virus

Exemptions: Vaccine strains of these viral agents as described in the third edition of the CDC/NIH ''Biosafety in Microbiological and Biomedical Laboratories'' are exempt.

Bacteria*

1. Bacillus anthracis
2. Brucella abortus, B. melitensis, B. suis
3. Chlamydia psittaci
4. Clostridium botulinum
5. Francisella tularensis
6. Burkholderia (Pseudomonas) mallei
7. Burkholderia (Pseudomonas) pseudomallei
8. Yersinia pestis

Rickettsiae*

1. Coxiella burnetii
2. Rickettsia prowazekii
3. Rickettsia rickettsii

Fungi

1. Histoplasma capsulatum (incl. var duboisii)

Toxins

1. Abrin
2. Botulinum toxins
3. Clostridium perfringens toxin
4. Corynebacterium diphtheriae toxin
5. Cyanginosins
6. Staphylococcal enterotoxins
7. Shigella dysenteriae neurotoxin
8. Ricin
9. Saxitoxin
10. Shigatoxin
11. Tetanus toxin
12. Tetrodotoxin
13. Trichothecene mycotoxins
14. Verrucologen

Exemptions: Toxins for medical use, inactivated for use as vaccines, or toxin preparations for biomedical research use at an LD_{50} for vertebrates of more than 100 nanograms per kilogram body weight (e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, and Shigella dysenteriae neurotoxin) are exempt.

Recombinant organisms/molecules

1. Genetically modified microorganisms or genetic elements that contain nucleic acid sequences associated with pathogenicity from organisms on restricted list.
2. Genetically modified microorganisms or genetic elements tht contain nucleic acid sequences coding for any of the toxins on the restricted list, or their toxic subunits.

* The deliberate transfer of a drug resistance trait to microorganisms on this list that are not know to acquire the trait naturally is prohibited by HIH ''Guidelines for Research Involving Recombinant DNA Molecules,'' if such acquisition could compromise the use of the drug to control these disease agents in humans or veterinary medicine.

[FR Doc. 96–14707 Filed 6–7–96; 8:45 am]

BILLING CODE 4160–18–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 95–178; FCC 96–197]

Definition of Markets for Purposes of the Cable Television Must-Carry Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comment on transitional mechanisms to facilitate the switch from a local market definition based on Arbitron's ''Areas of Dominant Influence'' (''ADIs'') to one using Nielsen's ''Designated Market Areas'' (''DMAs'') for purposes of the cable television broadcast signal carriage rules. The Commission amended its rules to continue to use Arbitron 1991–1992 ADIs to define local markets for the triennial must-carry/retransmission consent election that must take place by October 1, 1996, and to switch to Nielsen's DMAs beginning with the 1999 election in a *Report and Order* adopted concurrently with the *Further Notice of Proposed Rulemaking* (''*Further NPRM*'') and summarized elsewhere in this issue of the Federal Register. The Commission previously anticipated that updated market lists

would be available coincident with the triennial must-carry/retransmission consent election cycle. However, Arbitron ceased publication of its market lists. The Commission is concerned that a change in market designation procedures will affect a greater number of stations, cable systems, and cable subscribers than would have been affected by simply using a newer ADI market list, as had been contemplated. Thus, the Further NPRM provides an opportunity for the Commission and affected parties to further consider issues related to the transition to a revised definition of local markets. The Further NPRM also requests comment on procedures to refine the Section 614(h) *ad hoc* market modification process in light of the new statutory requirement that the Commission act on such requests within 120 days.

DATES: Comments are due on or before October 31, 1996, and reply comments are due on or before November 15, 1996. Written comments by the public on the proposed and/or modified information collections are due October 31, 1996.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, NW., Washington, DC 20554, or via the Internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Marcia Glauberman or John Adams, Cable Services Bureau, (202) 418–7200. For additional information concerning the information collections contained in this FNPRM contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Further Notice of Proposed Rulemaking*, CS Docket No. 95–178, FCC 96–197 adopted April 25, 1996, and released May 24, 1996. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW, Washington, DC. 20554.

Paperwork Reduction Act

This Report and Order and Further Notice of Proposed Rulemaking may contain either proposed or modified information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collections contained in this Order/FNPRM, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. Public and agency comments are due at the same time as other comments on this FNPRM. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) ways to enhance the quality, utility, and clarity of the information collected; and (c) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Synopsis of the Further Notice of Proposed Rulemaking

1. The *Further NPRM* solicits additional information and provides parties an opportunity to further consider issues relating to the transition to market designations based on Nielsen's ''Designated Market Areas'' (''DMAs''). It also seeks comment on procedures for refining the section 614(h) *ad hoc* market modification process which allows the Commission to modify the market areas of individual stations and cable systems.

2. Under the signal carriage provisions added to the Communications Act (''Act'') by the Cable Television Consumer Protection and Competition Act of 1992 (''1992 Cable Act''), commercial broadcast television stations are permitted to elect once every three years whether they will be carried by cable systems in their local markets pursuant to the must-carry or retransmission consent rules. Section 614 of the Act, 47 U.S.C. 534, provides that a station electing must-carry status is entitled to insist on carriage of its signal. A station electing retransmission consent as set forth in section 325 of the Act, 47 U.S.C. 325 negotiates a carriage agreement with each cable operator and may be compensated for its station's carriage.

3. For purposes of these carriage rights, a station is considered local on all cable systems located in the same television market as the station. As enacted in 1992, section 614(h)(1)(C) of the Act required, through a cross-reference to a Commission rule dealing with broadcast ownership issues, that a station's market shall be determined using the Arbitron Ratings Company's ''areas of dominant influence'' or ''ADI.'' The rules adopted in 1993 to implement these signal carriage provisions established a mechanism for determining a station's local market for each must-carry/retransmission consent cycle based on ADI market lists. For the initial election in 1993, Arbitron's *1991–1992 Television ADI Market Guide* was used to define local markets and for each subsequent election cycle an updated ADI market list was to be used.

4. However, since we established these procedures, Arbitron left the television research business and the market list specified in the rules for this year's election is unavailable. Congress also recognized that Arbitron no longer publishes television market lists and the Telecommunications Act of 1996 (''1996 Act''), Pub. L. 104–104, 110 Stat. 56 (1996), amended the definition of local market that referenced ADIs. Specifically, Section 614(h)(1)(C) of the Act was amended by Section 301 of the 1996 Act to provide that for purposes of applying the mandatory carriage provisions, a broadcasting station's market shall be determined ''by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns * * *.''

5. In addition, section 614(h) of the Act requires the Commission to consider petitions for market modifications to add communities to or exclude communities from a station's local market based on historical carriage, signal coverage, local service, and viewing patterns. The 1996 Act modified this provision to require the Commission to act on all petitions for market modifications within 120 days.

6. Prior to the 1996 Act, but consistent with its amended definition of local market, we issued the *Notice of Proposed Rulemaking* (''NPRM'') in this proceeding, summarized at 61 FR 1888 (January 24, 1996), seeking comment on three proposals for revising the mechanism for determining local markets. First, the Commission could substitute Nielsen Media Research's ''designated market areas'' or ''DMAs'' for Arbitron's ADIs. While similar in many ways, the differences between DMA and ADI market areas could result in a change in the area in which a station can insist on carriage rights and a change in the stations that a cable system is required to carry. The second option would be to continue to use Arbitron's *1991–1992 Television ADI Market Guide* to define market areas, subject to individual review and refinement through the section 614(h) process. Under this option, the local market definition would remain unchanged, subject only to future individual market modifications. A third proposal would be to retain the existing market definitions for the 1996

election period and switch to a Nielsen based standard for subsequent elections.

7. In this *Further Notice of Proposed Rulemaking,* we seek comment on mechanisms for facilitating the transition from a market definition system based on ADIs to one based on DMAs. We believe it will be useful to consider various means of easing the difficulties that may be associated with what, as the comments indicate, will be changes in the carriage requirements applicable to many cable operators and broadcasters. These changes potentially affect mandatory carriage rights, channel positioning obligations, retransmission consent negotiations, copyright payments, the expectations of cable subscribers, programming contracts, and even the physical layout and construction of cable plant and operations. Thus, by this *Further NPRM,* we seek specific suggestions that would assist in this transition process. In particular, we ask commenters to consider whether special provisions should be made for particular types of stations or systems to minimize the disruptions that could occur due to a switch to DMAs.

8. The *Further NPRM* also requests comment on the consequences of a shift in definitions on the more particularized market boundary redefinition process contained in section 614(h) of the statute, the decisions that have been made under that section, and the proceedings under it that would result from shifting market definitions. We seek specific comment on what changes in the modification process might be warranted given that administrative resources available to process section 614(h) requests are limited and the 1996 Act establishes a 120-day time period for action on these petitions. Under the existing process, a party is free to make its case using whatever evidence it deems appropriate. One means of expediting the modification process might be to establish specific evidentiary requirements in order to support market modification petitions under section 614(h) of the Act and § 76.59 of the rules. Therefore, in the *Further NPRM,* we propose several specific information submission requirements and seek comment on these and other alternatives that parties believe will assist the Commission in its review of individual requests.

9. A second potential means of increasing the efficiency of the decision making process with respect to market modification petitions would be to alter to some extent the burden of producing the relevant evidence. In particular, we seek comment on whether the process could be expedited by permitting the party seeking the modification to establish a *prima facie* case based on historical carriage, technical signal coverage of the area in question, and off-air viewing, which could then trigger an obligation on the part of any objecting entity to complete the factual record by presenting conflicting evidence as to the actual economic market involved.

Initial Regulatory Flexibility Analysis

10. Pursuant to section 603 of the Regulatory Flexibility Act, the Commission has prepared the following initial regulatory flexibility analysis (''IRFA'') of the expected impact of these proposed policies and rules on small entities. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Further NPRM,* but they must have a separate and distinct heading designating them as responses to the IRFA. The Secretary shall cause a copy of the *Further NPRM,* including the IRFA, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Objectives. The objective of the *Further NPRM* is to solicit comments on ways to ease the transition to a revised market definition of local television markets based on Nielsen's DMAs for must-carry/retransmission consent elections beginning in 1999. We request information that will permit us to develop transitional mechanisms to minimize problems that could result from changing market designations on broadcasters' must-carry rights, cable operators' signal carriage obligations, and the availability of local television service to cable subscribers. The *Further NPRM* also seeks comment on requirements intended to make the Section 614(h) market modification process more efficient.

Legal Basis. Authority for this proposed rulemaking is contained in sections 4(i), 4(j) and 614 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) and 534, and in section 301 of the Telecommunications Act of 1996, Pub. L. 104–104 (1996).

Description, Potential Impact and Number of Small Entities Affected. Changing from a market definition based on ADIs to one based on DMAs could affect the area in which certain small commercial broadcast television stations are entitled to elect must-carry/retransmission consent rights and change the signal carriage obligations of certain small cable systems. The further NPRM requests proposals to minimize the impact on such small entities as well as other stations and cable systems.

Reporting, Recordkeeping and Other Compliance Requirements. None.

Federal Rules which Overlap, Duplicate or Conflict with these Rules. None.

Any Significant Alternatives Minimizing Impact on Small Entities and Consistent with Stated Objectives. None.

Ex Parte

11. *Ex parte Rules*—Non-Restricted Proceeding. This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. *See generally,* 47 CFR 1.1202, 1.1203, and 1.1206(a).

Comment Dates

12. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before October 31, 1996, and reply comments on or before November 15, 1996. To file formally in this proceeding, you must file an original plus six copies of all comments, reply comments, and supporting comments. If you would like each Commissioner to receive a personal copy of your comments and reply comments, you must file an original plus 11 copies. You should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, Federal Communications Commission, 1919 M Street NW., Washington DC 20554.

Ordering Clauses

13. Authority for this proposed rulemaking is contained in sections 4(i), 4(j) and 614 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) and 534, and section 301 of the Telecommunications Act of 1996, Pub. L. 104–104 (1996), part 76.

14. It is ordered that, the Secretary shall send a copy of the *Further Notice of Proposed Rulemaking,* including the Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. §§ 601 et seq. (1981).

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–14567 Filed 6–7–96; 8:45 am]

BILLING CODE 6712–01–P

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47 CFR Part 76

[CS Docket No. 96–119; DA 96–833]

Cable Television Service; List of Major Television Markets

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission, through this action, invites comments on its proposal to amend its rules regarding the listing of major television markets, to change the designation of the Cedar Rapids-Waterloo television market to include the community of Dubuque, Iowa. This action is taken at the request of Cedar Rapids Television Company (''CRTV''), licensee of television station KCRG–TV, Channel 9, Cedar Rapids, Iowa and it is taken to test the proposal for market hyphenation through the record established based on comments filed by interested parties.

DATES: Comments are due on or before July 22, 1996 and reply comments are due on or before August 12, 1996.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Vanessa Stallings, Cable Services Bureau, (202) 418–7200.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rulemaking,* CS Docket 96–119, adopted May 20, 1996 and released May 30, 1996. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1919 M Street, NW, Washington, DC 20554.

Synopsis of the Notice of Proposed Rulemaking

1. The Commission, in response to a Petition for Rulemaking filed by the petitioner, proposed to amend § 76.51 of the rules to add the community of Dubuque to the Cedar Rapids-Waterloo television market.

2. In evaluating past requests for hyphenation of a market, the Commission has considered the following factors as relevant to its examination: (1) The distance between the existing designated communities and the community proposed to be added to the designation; (2) whether cable carriage, if afforded to the subject station, would extend to areas beyond its Grade B signal coverage area; (3) the presence of a clear showing of a particularized need by the station requesting the change of market designation; and (4) an indication of benefit to the public from the proposed change. Each of these factors helps the Commission to evaluate individual market conditions consistent ''with the underlying competitive purpose of the market hyphenation rule to delineate areas where stations can and do, both actually and logically, compete.''

3. Based on the facts presented, the Commission believes that a sufficient case for redesignation of the subject market has been set forth so that this proposal should be tested through the rulemaking process, including the comments of interested parties. It appears from the information before the Commission that the television stations licensed to Cedar Rapids, Waterloo and Dubuque, Iowa do compete throughout much of the proposed combined market area. Moreover, the petitioner's proposal appears to be consistent with the Commission's policies regarding redesignation of a hyphenated television market. Nevertheless, because the facts before us indicate that KCRG–TV and the stations licensed to Cedar Rapids, Waterloo and Dubuque may, in fact, be competitive, we believe that the initiation of a rulemaking proceeding is warranted. Proponents of amendments to § 76.51 of our rules, however, should be aware that the standard of proof to change the rules is higher than the standard to simply initiate a rulemaking proceeding. Under these circumstances, then, it may be helpful to receive additional comment on the general nature of any competition between KCRG–TV and other stations in the subject market for viewers, programming and advertising revenues. Accordingly, comment is requested in particular on what consequences, if any, result to the proposal from the addition of Dubuque to the Cedar Rapids-Waterloo, Iowa television market.

Initial Regulatory Flexibility Analysis

4. The Commission certifies that the Regulatory Flexibility Act of 1980 does not apply to this rulemaking proceeding because if the proposed rule amendment is promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by section 601(3) of the Regulatory Flexibility Act. A few cable television system operators will be affected by the proposed rule amendment. The Secretary shall send a copy of this *Notice of Proposed Rulemaking,* including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. section 601 *et seq.* (1981).

Ex Parte

5. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, provided they are disclosed as provided in the Commission's Rules. *See generally* 47 CFR 1.1202, 1.1203 and 1.1206(a).

Comment Dates

6. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before July 22, 1996 and reply comments on or before August 12, 1996. All relevant and timely comments will be considered before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

7. This action is taken pursuant to authority delegated by § 0.321 of the Commission's rules.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

William H. Johnson,

Deputy Chief, Cable Services Bureau.

[FR Doc. 96–14568 Filed 6–7–96; 8:45 am]

BILLING CODE 6712–01–P