

next remedy is appeal to a court of appropriate jurisdiction.

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[FR Doc. 05-15299 Filed 8-2-05; 8:45 am]

BILLING CODE 3710-08-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R10-OAR-2005-OR-0005; FRL-7944-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Oregon; Correcting Amendments

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** In this action, EPA is proposing to correct an error in the notice which approved the removal of Oregon's control technology guidelines for perchloroethylene (perc) dry cleaning systems and related definitions and provisions, published on December 1, 2004. Perc is a solvent commonly used in dry cleaning, maskant operations, and degreasing operations. In the notice published on December 1, 2004 (69 FR 69823), EPA inadvertently listed an incorrect State effective date in the incorporation by reference section which listed revised provisions of the Oregon Administrative Rules. This proposed action would correct the erroneous date so that the appropriate version of the Oregon Administrative Rules is incorporated by reference.

**DATES:** Comments must be received on or before September 2, 2005.

**ADDRESSES:** Submit your comments, identified by Docket ID No. R10-OAR-2005-OR-0005, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- **Agency Web Site:** <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- **Mail:** Colleen Huck, Office of Air, Waste and Toxics, AWT-107, EPA, Region 10, 1200 Sixth Ave., Seattle, Washington 98101.

- **Hand Delivery:** Colleen Huck, Office of Air, Waste and Toxics, AWT-107, 9th Floor, EPA, Region 10, 1200 Sixth Ave., Seattle, Washington 98101. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

#### FOR FURTHER INFORMATION CONTACT:

Colleen Huck at telephone number: (206) 553-1770, e-mail address: [Huck.Colleen@epa.gov](mailto:Huck.Colleen@epa.gov), fax number: (206) 553-0110, or the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:** For further information, please see the direct final action, of the same title, which is located in the Rules and Regulations section of this **Federal Register**. EPA is publishing this action without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comments. A detailed rationale for the correction is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule.

If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: July 18, 2005.

**Julie M. Hagensen,**

*Acting Regional Administrator, Region 10.*

[FR Doc. 05-15337 Filed 8-2-05; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1 and 73

[MB Docket No. 05-210; FCC 05-120]

#### Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Commission adopted a Notice of

Proposed Rulemaking (NPRM), seeking comment on a number of procedures designed to streamline the process of allocating new FM channels and modifying the communities of license of existing radio stations, and to reduce current backlogs in proceedings to amend the FM Table of Allotments. In the NPRM, the Commission also announced a freeze on all new petitions to amend the FM Table of Allotments, and announced its intention to open a 90-day window during which parties to pending proceedings to amend the FM Table of Allotments, in which Notices of Proposed Rulemaking have been released and comment and reply comment deadlines have passed, may universally settle all conflicts between their proposals and/or counterproposals, without limitation as to reimbursement.

**DATES:** Comments may be filed no later than October 3, 2005, and reply comments may be filed no later than November 1, 2005. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before October 3, 2005.

**ADDRESSES:** You may submit comments, identified by MB Docket No. 05-210, by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **Federal Communications Commission's Web Site:** <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

- **E-mail:** [ecfs@fcc.gov](mailto:ecfs@fcc.gov). Include the docket number in the subject line of the message. See the **SUPPLEMENTARY INFORMATION** section of this document for detailed information on how to submit comments by e-mail.

- **Mail:** 445 12th Street, SW., Washington, DC 20554.

- **People with Disabilities:** Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

#### FOR FURTHER INFORMATION CONTACT:

Peter Doyle, Chief, Media Bureau, Audio Division, (202) 418-2700; Thomas Nessinger, Attorney-Advisor, Media Bureau, Audio Division, (202) 418-2700.

For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams at 202-418-2918, or via the Internet at [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), FCC 05-120, adopted June 9, 2005, and released June 14, 2005.

### Initial Paperwork Reduction Act of 1995 Analysis

This NPRM contains proposed information collection requirements. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13, 109 Stat 163 (1995). The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the proposed information collection requirements contained in this NPRM, as required by the PRA. Public and agency comments on the PRA proposed information collection requirements are due October 3, 2005. 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) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) 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. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, 116 Stat 729 (2002), *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees." The following existing information collection requirements would be modified if the proposed rules contained in the NPRM are adopted.

*OMB Control Number:* 3060-0027.

*Title:* Application for Construction Permit for Commercial Broadcast Station, FCC Form 301.

*Form Number:* FCC Form 301.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit entities; Not-for-profit institutions.

*Estimated Number of Respondents:* 3,318.

*Estimated Time Per Response:* 2 hours to 4 hours.

*Frequency of Response:* On occasion reporting requirement; Third party disclosure requirement.

*Estimated Total Annual Burden:* 8,593 hours.

*Estimated Total Annual Costs:* \$45,465,547.00.

*Privacy Impact Assessment:* No impact(s).

*Needs and Uses:* FCC Form 301 and the applicable exhibits/explanations are required to be filed when applying for consent for a new AM or non-reserved band FM broadcast station construction permit, or for a minor modification to an AM or non-reserved band FM broadcast station permit or license. Also, in the NPRM the Commission proposes to allow AM and non-reserved band FM permittees and licensees to request a change of a station's community of license by minor modification application on FCC Form 301, with the applicant being required to attach an exhibit demonstrating that the proposed community of license change comports with the fair, efficient, and equitable distribution of radio service pursuant to section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. 307(b)). Such community of license change applicants would also be required to provide local public notice. Additionally, the NPRM proposes to require parties filing a petition to amend the FM Table of Allotments (47 CFR 73.202) simultaneously to file FCC Form 301 for the proposed new facility, and proposes to add to FCC Form 301 a certification that the applicant intends to apply to participate in the auction for the new channel if allotted.

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street, SW, Washington, DC 20554, or via the Internet to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov), and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC 20503, or via the Internet to [Kristy.L.LaLonde@omb.eop.gov](mailto:Kristy.L.LaLonde@omb.eop.gov), or via fax at 202-395-5167. If you would like to obtain or view a copy of this revised information collection, you may do so by visiting the FCC PRA web page at: <http://www.fcc.gov/omd/pra>.

### Summary of Notice of Proposed Rule Making

1. In the 42 years since the FM Table of Allotments was established in 1963,

the Commission's procedures for adding new allotments and modifying allotments listed in the Table have undergone few changes. It has become apparent that the current procedures can be inefficient and do not effectively limit participation to parties that are likely to seek new station construction permits through the FM auctions process. These difficulties were also noted by radio station licensee First Broadcasting Investment Partners, which filed a Petition for Rulemaking in March 2004. Based in large part on First Broadcasting's petition and comments filed in response to it, the Commission's Media Bureau presented a series of proposals to streamline and strengthen the Commission's procedures, consistent with the Commission's statutory obligation to promote the fair, efficient, and equitable distribution of radio services.

2. In the NPRM, first, the Commission seeks comment on a proposal to allow AM and non-reserved band FM licensees to change their communities of license by first come-first served minor modification applications. Currently FM licensees must file a rulemaking petition proposing a community of license change and then, if successful, must file a long-form (FCC Form 301) application implementing the change. AM licensees may only propose community of license changes during auction filing windows, and may only file long-form applications if they prevail under the Commission's auction procedures. The NPRM tentatively concludes that the Commission can eliminate the first step in these AM and FM procedures, by employing certain procedural safeguards and licensing standards. The NPRM proposes to limit such minor modification applications to proposals that are mutually exclusive with the applicant's existing facilities and that comply with spacing and other technical rules. An applicant would also be required to file an exhibit demonstrating that the proposed community change furthers the goals underlying section 307(b) of the Communications Act. The Commission seeks comment on these tentative proposals, particularly with regard to the effect on the fair, efficient, and equitable distribution of radio service under section 307(b) of the Communications Act. The Commission also seeks comment on other ways to ensure compliance with the goals of section 307(b) of the Communications Act. Is it reasonable for the Commission to shift to first come-first served filing procedures now that licensees have had over forty years to propose new or

modified allotments under the current rulemaking procedures? Both the allotment priorities and numerous policies developed in allocations rulemaking proceedings are designed to limit the clustering of stations in urbanized areas and to ensure adequate levels of remaining aural service when stations seek to change their communities of license. Also, spectrum congestion limits or precludes move-in opportunities in many markets. The Commission seeks comment on whether these well-developed policies are sufficient to limit the relocation of radio stations from rural areas to communities in or adjacent to Urbanized Areas. Should the Commission also limit community of license changes to situations in which the new community has fewer transmission services than the applicant's current community of license? Should additional conditions be placed on such applications to prevent such a shift in radio service, for example, should such changes be limited to communities with fewer transmission services than the applicant's current community of license? Should the proposed minor change filing procedure be limited to situations in which the applicant's current community of license satisfies a specific transmission or reception service floor? Should there be additional public notice requirements for such applicants, for example, should they be required to publish notice of the application in local newspapers and/or make on-air announcements disclosing the application and soliciting public comment? In the case of FM stations, should such applications be limited to those in which only the applicant's allotment would be changed, or should simultaneous applications to modify different stations pursuant to the contingent application rule (47 CFR 73.3517) be allowed? If the latter, should the contingent application rule be modified in order to allow more contingent applications to be filed simultaneously (47 CFR 73.3517(c) and (e))? Are there other procedures that should be implemented to ensure that section 307(b) of the Communications Act or any other concerns pertaining to applications to change a station's community of license will receive full consideration? Additionally, to avoid any issues arising under the Administrative Procedures Act, and because it may be that rulemaking proceedings are no longer necessary to modify FM stations' licensed communities due to the maturity of the FM service, the Commission seeks comment on whether the FM Table of

Allotments should be removed from the Commission's rules, and henceforth existing FM stations would be allocated among communities solely through adjudicatory proceedings. Under this approach, the Table would continue to function as the Commission's basic plan for allotting new FM channels, and would be revised to reflect changes to FM station authorizations under the Commission's one-step and proposed new community of license change procedures. It is anticipated that the Commission would publish the FM Table of allotments by some means, for example, as a continually updated list of FM allotments in the Media Bureau's publicly accessible Consolidated Data Base System. Furthermore, under this approach new allotments would be added to the FM Table of Allotments using procedures similar to those currently set forth in § 1.420 of the Commission's rules (47 CFR 1.420), and the Commission would continue to apply the same substantive policies of section 307(b) of the Communications Act when comparing competing allotment proposals. Specifically, the Commission would adopt in part 73 procedures analogous to those contained in § 1.420 of the Commission's rules, to permit the filing of petitions to amend the FM Table of Allotments. In the case of new allotments, these procedures efficiently populate FM auction inventories, in turn enabling more frequent FM auctions (compared to auctions in the non-tabled AM service). Moreover, these procedures are needed to comply with the principles of section 307(b) of the Communications Act, which control notwithstanding that the Table may no longer be contained in the Commission's rules. The Commission seeks comment on this approach and the related rule changes it would require.

3. The next proposal in the NPRM requires a petitioner for a new FM channel allotment simultaneously to file Form 301 for the proposed facility with its petition, and to pay the Form 301 filing fee at that time. Current procedures provide an effective means of adding new FM allotments, which are then offered in broadcast auctions. However, in recent years it has become apparent that a disproportionate number of new FM allotments are being added by a relative handful of petitioners. While these petitioners are currently required to, and do, express their interest in applying for the allotments they propose, we have found that such petitioners rarely participate in broadcast auctions. By requiring Form

301 filing earlier in the process, the Commission intends to provide an incentive for only *bona fide* auction applicants to seek to add new FM allotments. To further ensure the *bona fides* of proponents for new FM allotments, the Commission requests comment on a proposal to add to Form 301 a certification, applicable only to those applicants simultaneously filing a petition or counterproposal for a new FM allotment, that the applicant intends to apply to participate in the auction for the new channel if allotted. The Commission specifically seeks comment on whether this proposal would create undue burdens and delays in processing or awarding new construction permits, and in particular invite comment on the likely effect of the proposal on the conduct of broadcast auctions and processing of auction applications. Comment is also sought on whether this proposal would impact small businesses, which include some owned by minorities and women. The Commission invites commenters to submit other proposals designed to address the problem of non-*bona fide* allotment petitioners, and any other comments on the most effective means to ensure that those seeking to add those allotments are also those willing to bid for and construct facilities at those communities.

4. The Commission also seeks comment on a proposal to limit to five the number of technically related modifications to the FM Table of Allotments proposed by any one party. Often, parties file proposals and counter-proposals that involve numerous changes to the FM Table of Allotments. Such complex proposals consume large amounts of staff resources. The Commission, in 1986, announced a policy whereby "absent special factors involving significant public interest benefits, or an assurance of agreement among affected stations to the proposal in advance of filing the petition, the staff has been instructed not to entertain proposals for changes in the [Table] which involve more than two other substitutions of channels occupied by existing FM or TV stations." See *Columbus, Nebraska, et al.*, 59 R.R.2d 1184 (1986). Implementation of this "Columbus, Nebraska Policy" has dramatically reduced burdens on the staff, yet as discussed above, significant staff resources are still consumed by large proposals and counterproposals even when all or most parties are in agreement as to the changes to the Table that are proposed. Limiting proposals to no more than five changes will expedite

staff processing of requested changes. Thus, in addition to the prohibition on proposals involving more than two involuntary channel substitutions, the Commission tentatively concludes that the total number of allotment proposals that may be set forth by a party in a given petition to amend the Table should be limited to five, unless the proponent(s) or counter-proponent(s) can demonstrate special factors involving significant public interest benefits. Failure to make such a showing would result in the proposal (or offending counterproposal) being returned with instructions to file separate proposals that conform to the numerical limit of five or fewer allotment proposals. While this might lead to greater numbers of petitions or other amendment proposals filed, those filed would be considerably less complex, enabling the staff more efficiently to process them. The Commission seeks comment on this proposal, including comments as to whether the maximum number of channel changes or additions should be greater or smaller than that proposed. Comment is also sought on ways in which to deter coordinated counterproposals designed to circumvent the limit on proposals by a party.

5. The Commission further seeks comment on whether, and under what circumstances, it should allow relocation of a community's sole local transmission service to become another community's first local transmission service. Currently, the Commission strongly disfavors such moves, having found that the public has a legitimate expectation that existing radio service will continue. Accordingly, the Commission only rarely allows removal of a community's sole local transmission service. Some parties have suggested that such station relocations can, in some circumstances, better serve the public interest by, for example, serving larger communities and populations. The Commission seeks comment concerning whether its current policy strongly disfavoring such moves best comports with the requirements of section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. 151, *et seq.*) and, if not, when and under what circumstances the Commission should allow such station relocations. For example, based on the current application of the first local service preference, should the Commission require that the new community have a greater population than the community from which the station is to be relocated

before allowing such a station move? If so, should the new community's population exceed the current community's by a certain percentage or (as is now the policy when comparing competing proposals for new first local transmission service) should the move-in community simply have a larger population? Should the service floor at the community losing local service be two stations, or should it be higher? If so, what level of service should remain? Should the level of reception service at the new community of license be taken into account and, if so, how? For example, should such station moves be prohibited when the new community already receives abundant service? Is there a ratio of reception services between the new and old communities that should be employed in making this determination and, if so, what ratio of reception service would prohibit such a proposed move? By what percentage, if any, should the Commission require that the population receiving principal community service at the new community exceed that receiving such service at the station's current community? Alternately, is it sufficient that the station merely serve more people at its new location? Should there be increased local notice or publication requirements for such a proposal in addition to those that might be imposed with regard to all city of license modification proposals? Should the Commission impose a transitional requirement on any licensee seeking such a move to serve the needs of both the old and move-in communities for a certain period of time? What other factors, if any, should be taken into account in making such a determination?

6. The Commission also proposes to eliminate a rule-based prohibition on electronic filing of documents in proceedings to amend the FM Table of Allotments (47 CFR 1.401(b)). Currently over 95 percent of broadcast applications are filed electronically, and these procedures have led to increased efficiency, transparency, and database integrity. As a first step toward extending those benefits to the FM allotment process, the Commission proposes removing the current prohibition against electronic filing of allocations documents. The Commission also seeks comment on whether and how best to enable electronic filing of proceedings to amend the FM Table of Allotments.

7. The Commission also announces a freeze on filing new petitions to amend the FM Table of Allotments. This will preserve the *status quo* and avoid increasing backlogs while the

Commission solicits comments and considers the procedural changes proposed in the NPRM. Finally, the Commission announces a one-time settlement window, to commence on a date to be announced in a subsequent Public Notice, in which parties to pending allocations proceedings may universally settle conflicting proposals without limitation as to reimbursement (47 CFR 73.3525(a)(3)). This one-time settlement window is designed to eliminate much of the current allocations backlog.

8. Comments and Reply Comments. Pursuant to §§ 1.415 and 1.419 of the Commission's rules (47 CFR 1.415, 1.419), interested parties must file comments on or before October 3, 2005, and must file reply comments on or before November 1, 2005. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS); (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.

9. Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cbg/ecfs>, or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web sites for submitting comments. For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

10. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. The Commission's

contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

11. Contact the FCC to request materials in accessible formats (braille, large print, electronic files, audio format, etc.) by e-mail at [FCC504@fcc.gov](mailto:FCC504@fcc.gov), or call the Consumer & Governmental Affairs Bureau at 202-418-0531 (voice), 202-418-7365 (TTY).

12. The full text of the Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW, Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY-B402, Washington, DC 20554. The full text may also be downloaded at: [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-05-120.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-120.pdf). Alternative formats are available to persons with disabilities by contacting Martha Contee at (202) 418-0260 or TTY (202) 418-2555.

13. *Ex Parte* Rules. This proceeding will be treated as a "permit-but-disclose" proceeding subject to the "permit-but-disclose" requirements under § 1.1206(b) of the Commission's rules (47 CFR 1.1206(b)). *Ex parte* presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required. Additional rules pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission's rules.

14. Initial Regulatory Flexibility Analysis. The Regulatory Flexibility Act

of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice and comment rule-making proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

15. As required by the Regulatory Flexibility Act of 1980, as amended (RFA) (5 U.S.C. 603), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided herein. The Commission will send a copy of this entire NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the NPRM and the IRFA (or summaries thereof) will be published in the **Federal Register**.

16. Need For, and Objectives of, the Proposed Rules. This rulemaking proceeding is initiated to obtain comments concerning the Commission's proposals to streamline the process of allotting and modifying FM broadcast channel allotments, and modifying AM broadcast station communities of license. The Commission believes these proposals will make the process of allotting and modifying such channel allotments and community of license assignments faster and more efficient. Additional proposals will discourage non-*bona fide* proponents of new FM channel allotments from filing petitions for rulemaking, thus providing more opportunity for *bona fide* proponents, including small businesses. Also, the Commission proposes eliminating a rule-based prohibition on filing allotment proposals electronically, the first step toward enabling electronic filing of such proposals, which will be less expensive and more convenient for applicants.

17. Legal Basis. The authority for this proposed rulemaking is contained in sections 1, 2, 4(i), 303, and 307, of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 303, and 307.

18. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules. The RFA generally defines the term "small entity" as encompassing the terms "small business," "small organization," and "small governmental entity." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

19. Radio Stations. The proposed rules and policies potentially will apply to all AM and commercial FM radio broadcasting licensees and potential licensees. The SBA defines a radio broadcasting station that has \$6 million or less in annual receipts as a small business. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial, religious, educational, and other radio stations. Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included. However, radio stations that are separate establishments and are primarily engaged in producing radio program material are classified under another SIC number. According to Commission staff review of BIA Publications, Inc. Master Access Radio Analyzer Database on March 31, 2005, about 10,840 (95%) of 11,410 commercial radio stations have revenue of \$6 million or less. First Broadcasting, which filed the Petition for Rulemaking in this proceeding, is included in the definition of "small business." We note, however, that many radio stations are affiliated with much larger corporations having much higher revenue. Our estimate, therefore, likely overstates the number of small entities that might be affected by any ultimate changes to the allocation rules.

20. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements. The proposed rule and procedural changes may impose some additional reporting requirements on existing and potential

radio licensees and permittees, insofar as some of the proposed changes would require the filing of application forms rather than rulemaking petitions. However, the forms to be filed would be existing FCC application forms with which broadcasters are already familiar, so any additional burdens would be minimal. Additionally, we propose imposing an additional rulemaking fee upon parties seeking to add new allotments to the FM Table of Allotments. We seek comment on the possible cost burden these requirements would place on small entities. Also, we seek comment on whether a special approach toward any possible compliance burdens on small entities might be appropriate.

21. Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. The Commission seeks comment on procedures to accomplish AM and FM community of license changes that will, in most instances, reduce the burdens on all broadcasters, including small entities, compared to current procedures. The Commission also seeks comment on whether certain aspects of its proposals would change or undermine current policies to limit the relocation of radio stations from small and/or rural communities to communities in or adjacent to urbanized areas. Proposed changes to Commission procedures for adding FM channel allotments to the FM Table of Allotments are designed to make the process faster and more efficient, reducing delays to broadcasters in implementing new radio service. The Commission also proposes requiring that petitioners for new FM channel allotments simultaneously file Form 301, and pay the prescribed filing fee for Form 301. While this requires payment of the filing fee earlier than is the case in current practice, to the extent that petitioners ultimately obtain construction permits for these allotments, it is a fee they would be

required to pay in any event, therefore this requirement should impose a minimal burden on petitioners. To the extent that a rule change proposed herein enables electronic filing of petitions to amend the FM Table of Allotments and comments on such proposals, the Commission believes that such change will reduce burdens on all broadcasters, including small entities, by reducing the time and effort spent in preparing and submitting such documents in hard copy, as is the current practice. The Commission also seeks specific comments on the burden our proposals may have on small broadcasters. There may be unique circumstances these entities may face and we will consider appropriate action for small broadcasters at the time when a Report and Order is considered.

22. Federal Rules Which Duplicate, Overlap, or Conflict With, the Commission's Proposals. None.

23. This document is available in alternative formats (computer diskette, large print, audio record, and Braille). Persons with disabilities who need documents in these formats may contact Brian Millin at (202) 418-7426 (voice), (202) 418-7365 (TTY), or via e-mail at [Brian.Millin@fcc.gov](mailto:Brian.Millin@fcc.gov).

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 05-15427 Filed 8-2-05; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 05-2006; MB Docket No. 05-228, RM-11255]

### Radio Broadcasting Services: Kiowa, KS

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Audio Division request comments on a petition for rule making filed by Charles Crawford proposing the allotment of Channel 233A at Kiowa, Kansas, as the community's second local FM transmission service. Channel 233A can be allotted to Kiowa in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.2 kilometers (8.9 miles) southeast to avoid short-spacings to the proposed allotment site for Channel 231C2 at Waynoka, Oklahoma, and to the licensed site for Station KCVW(FM), Channel 232C2, Kingman, Kansas. The

coordinates for Channel 233A at Kiowa are 36-54-50 North Latitude and 98-23-27 West Longitude.

**DATES:** Comments must be filed on or before August 29, 2005, reply comments on or before September 13, 2005.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Charles Crawford, 4553 Bordeaux Avenue, Dallas, Texas 75205 (Petitioner).

**FOR FURTHER INFORMATION CONTACT:** Sharon P. McDonald, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 05-228, adopted July 6, 2005, and released July 8, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20054, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed 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.

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

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications