

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Mason, Texas)
MM Docket No. 01-133
RM-10143
RM-10150

NOTICE OF PROPOSED RULE MAKING

Adopted: June 13, 2001

Released: June 22, 2001

Comment Date: August 13, 2001

Reply Date: August 28, 2001

By the Chief, Allocations Branch

1. The Commission has before it for consideration two separate Petitions for Rule Making for the community of Mason, Texas. The first was filed by Charles Crawford ("Crawford"), requesting the allotment of Channel 249C3 to Mason, Texas, as the community's sixth local FM broadcast service while Katherine Pyeatt ("Pyeatt") has requested the allotment of Channel 269C3 at Mason. Crawford and Pyeatt have stated that they will file applications for Channel 249C3 and Channel 269C3 if the channels are allotted to Mason.

2. We believe the proposals warrants consideration because the proposed allotments could provide additional local service to the community of Mason, Texas. In support of the proposals, Crawford and Pyeatt stated that Mason is an incorporated community of over 2,100 people according to the January 1, 1998 Texas State Data Center. Crawford and Pyeatt point out that Mason is the county seat of Mason County, has its own school system, mayor, fire department, post office and numerous churches and credit the community with 220 business establishments. A staff engineering

1 In the Report and Order in MM Docket No. 99-357, 15 FCC Rcd 9179 (2000), the Commission substituted Channel 281C2 for vacant Channel 249C2 at Mason, Texas.

2 Section 1.52 of the Commission's Rules requires that all pleadings filed by parties not represented by legal counsel be signed and verified by the petitioner and provide the petitioner's mailing address. In this case, Crawford and Pyeatt have signed their respective petitions and provided mailing addresses. However, neither Crawford or Pyeatt submitted a statement attesting that the information included in their respective petitions is correct and true to the best of their knowledge. Therefore, Crawford and Pyeatt are requested to submit a subscription and verification statement in their responsive comments to this Notice.

analysis indicates that Channel 249C3 and Channel 269C3 can be allotted to Mason consistent with the minimum distance separation requirements of the Commission's Rules. The allotment of Channel 249C3 at Mason requires a site restriction 4.3 kilometers (2.7 miles) southeast of the community while there is a site restriction 5.7 kilometers (3.6 miles) east of the community for Channel 269C3.<sup>3</sup> Since Mason is located within 320 kilometers of the U.S.-Mexican Border, concurrence of the Mexican Government will be requested for these allotments.

3. In view of the fact that the proposed allotments could provide additional local service to Mason, the Commission believes it would serve the public interest to solicit comments on the proposals to allot Channels 249C3 and 269C3 to Mason, Texas. Therefore, we will seek comments on the proposed amendment to the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, with respect to Mason, Texas:

Community	Channel No.	
	Present	Proposed
Mason, Texas	224A, 239C2, 273C2, 281C2, 289C2	224A, 239C2 249C3, 269C3, 273C2, 281C2, 289C2

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before August 13, 2001, and reply comments on or before August 28, 2001, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D. C., 20554. Additionally, a copy of such comments should be served on the petitioners, as follows:

Charles Crawford	Katherine Pyeatt
4553 Bordeaux Avenue	6655 Aintree Circle
Dallas, Texas 75205	Dallas, Texas 75214

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of

<sup>3</sup> The coordinates for Channel 249C3 at Mason are 30-43-39 and 99-11-49. The coordinates for Channel 269C3 at Mason are 30-45-00 and 99-10-14.

the Commission's Rules, 46 FR 11549, February 9, 1981.

7. For further information concerning this proceeding contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

## APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204.(b) and 0.283 of the Commission's Rules, **IT IS PROPOSED TO AMEND** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off Procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties, must be made in written comments reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal communications Commission, Washington, D, C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 445 Twelfth Street, SW, Washington, D. C 20554.