

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

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments,) MB Docket No. 11-147
FM Broadcast Stations.)
(Cove and Daisy, Arkansas; Alamo, Georgia;)
Grayville, Illinois; Clayton, Louisiana; Harrison,)
Michigan; Alton, Missouri; Ennis, Montana;)
Buffalo, Erick, Haworth, Leedey, Reydon, Taloga,)
Thomas, and Wright City, Oklahoma; Weinert,)
Texas; Boscobel, Owen, and Tigerton, Wisconsin))

NOTICE OF PROPOSED RULEMAKING

Adopted: September 8, 2011

Released: September 9, 2011

Comment Date: October 31, 2011

Reply Comment Date: November 15, 2011

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division, on its own motion, proposes the deletion of twenty vacant allotments in various communities in Arkansas, Georgia, Illinois, Louisiana, Michigan, Missouri, Montana, Oklahoma, Texas, and Wisconsin. These vacant allotments have been auctioned through our competitive bidding process and are considered unsold permits that were included in Auction 91. Interested parties should file comments expressing an interest in the vacant allotments to prevent their removal. Moreover, interested parties must provide an explanation as to why they did not participate in our competitive bidding process.

2. We tentatively conclude that it is in the public interest to delete twenty FCC-held permits, as listed in paragraph 4 below, that have been offered in two or more FM auctions and were considered unsold permits in FM Auction 91 because no bids were entered for these allotments. Deletion of these allotments may create other opportunities in nearby communities for new FM allotments or upgrades of existing stations. Therefore, we believe that the proposed deletion of these vacant allotments may promote a more effective and efficient use of the FM broadcast spectrum.

4. Accordingly, we seek comments on the proposed amendments of the FM Table of Allotments, Section 73.202(b) of the Commission’s Rules, with respect to the communities listed below, as follows:

<u>Construction Permit No.</u>	<u>Community</u>	<u>Present</u>	<u>Proposed</u>
MM-FM628-A	Cove, Arkansas	232A	-----
MM-FM629-C3	Daisy, Arkansas	293C3	-----
MM-FM651-C3	Alamo, Georgia	287C3	-----

MM-FM656-A	Grayville, Illinois	229A	-----
MM-FM657-A	Clayton, Louisiana	266A	-----
MM-FM664-A	Harrison, Michigan	280A	-----
MM-FM668-A	Alton, Missouri	290A	-----
MM-FM411-C2	Ennis, Montana	254C2	-----
MM-FM680-C2	Buffalo, Oklahoma	224C2	-----
MM-FM682-C2	Erick, Oklahoma	259C2	-----
MM-FM684-A	Haworth, Oklahoma	294A	-----
MM-FM687-A	Leedey, Oklahoma	297A	-----
MM-FM691-C2	Reydon, Oklahoma	264C2	-----
MM-FM693-A	Taloga, Oklahoma	226A	-----
MM-FM694-A	Thomas, Oklahoma	288A	-----
MM-FM698-A	Wright City, Oklahoma	226A	-----
MM-FM731-C3	Weinert, Texas	266C3	-----
MM-FM740-C3	Boscobel, Wisconsin	244C3	-----
MM-FM741-C3	Owen, Wisconsin	242C3	-----
MM-FM742-A	Tigerton, Wisconsin	295A	-----

5. 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 in paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on October 31, 2011 or before, and reply comments on November 15, 2011 or before and are advised to read the *Appendix* for the proper procedures. Comments should be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, TW-A325, Washington, D.C. 20554.

7. Parties must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 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 or 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, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. **All filings must be addressed to Marlene H. Dortch, Secretary, Federal Communications Commission, Office of the Secretary. Any filing that is not addressed to the Office of the Secretary will be treated as filed on the day it is received in the Office of the Secretary. See 47 C.F.R. § 1.7. Accordingly, failure to follow the specified requirements may result in the treatment of a filing as untimely.**

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules.¹ 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).

9. For further information concerning a proceeding listed above, contact Rolanda F. Smith, Media Bureau (202) 418-2054. 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 in the applicable docket 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 any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in particular docket 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 the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Nazifa Sawez
Assistant Chief
Audio Division
Media Bureau

Attachment: Appendix

¹ See *Certification that Section 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 the Commission's Rules*. 46 FR 11549 (February 9, 1981).

APPENDIX

1. Pursuant to authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b), and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS PROPOSED TO AMEND the FM Table of Allotments, 47 C.F.R. Section 73.202(b), 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 protection. 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* 47 C.F.R. Section 1.420(d).)

(b) With respect to petitions for rule making which conflict with the proposals 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 47 C. F.R. Sections 1.415 and 1.420, 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* 47 C.F.R. Section 1.420(a), (b) and (c).) Comments should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., TW-A325, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of 47 C.F.R. Section 1.420, 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 Reference Information Center (Room CY-A257) at its headquarters, 445 12th Street, S.W, Washington, D.C.