

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

In the Matter of )
)
Amendment of Section 73.202(b) ) MB Docket No. 26-113
Table of Allotments, )
FM Broadcast Stations. )
(Selmer, Tennessee) )

NOTICE OF PROPOSED RULEMAKING

Adopted: June 8, 2026

Released: June 9, 2026

Comment Date: July 24, 2026
Reply Comment Date: August 10, 2026

By the Assistant Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. The Audio Division, on its own motion, proposes to amend the Table of FM Allotments, section 73.202(b) of the Commission’s rules,1 by deleting vacant Channel 288A at Selmer, Tennessee. The vacant FM channel does not comply with the minimum distance separation requirements of section 73.207 of the Commission’s rules (Rules).2 In this Notice of Proposed Rule Making, we seek comment on the proposed deletion.

II. BACKGROUND

2. Channel 288A at Selmer, Tennessee is considered a vacant FM channel resulting from the cancellation of the license for FM station DWXOQ.3 A recent staff engineering analysis determines that vacant Channel 288A at Selmer is short-spaced to Station WVNA-FM by nine kilometers.4 The minimum distance spacing requirement is 115 kilometers.5 The staff engineering analysis indicates that there are no alternate channels available at Selmer that would alleviate the existing spacing conflict with WVNA-FM.

III. DISCUSSION

3. Accordingly, we proposed the deletion of vacant Channel 288A at Selmer, Tennessee since there are no alternate channels available that would comply with section 73.207 of the Rules.6 The proposed Selmer deletion is consistent with the Commission’s policy that we will not retain a vacant FM

1 47 CFR § 73.202(b).

2 47 CFR § 73.207.

3 See Application File No. 0000189408; see also Actions, Report No. PN-2-220419-01, Public Notice, published April 19, 2022.

4 Station WVNA-FM is licensed on Channel 288A, Muscle Shoals, Alabama. See Application File No. 0000245194 (granted May 28, 2024).

5 Id. note 2.

6 See Pacific Junction, Iowa, Report and Order, 25 FCC Rcd 16253 (MB 2010) (deleting the call sign KGGG(FM), Channel 299C2 at Pacific Junction, and all associated authorizations because there were no viable allotments at the community). See also 47 CFR § 73.207.

channel that would not comply with the Commission's spacing requirements.<sup>7</sup> We determine that the proposed deletion of vacant Channel 288A at Selmer, Tennessee serves the public interest under Priority (4),<sup>8</sup> because it resolves the existing spacing conflict with licensed Station WVNA-FM.<sup>9</sup>

4. Accordingly, we seek comment on the proposed amendment to the Table of FM Allotments, section 73.202(b) of the Commission's rules,<sup>10</sup> as follows:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Selmer, Tennessee	288A	-----

#### IV. PROCEDURAL MATTERS

5. *Showings Required.* Comments are invited on the proposal discussed in this Notice of Proposed Rulemaking (*NPRM*). Any party that expresses interest in the vacant FM channel will be expected to answer whatever questions are presented in initial comments. Any party filing a comment expressing an interest in retaining service at Selmer, Tennessee, will be required to provide evidence, demonstrating that a properly spaced site is technically feasible. Additionally, any expressions of interest specifying sites conforming with section 73.207 of the Rules will be required to submit specific showings pursuant to section 73.315 of the Rules.<sup>11</sup> Although site certification is generally not required at this stage, we believe the facts in this case warrant a departure from that policy. Any interested party will be required to provide information demonstrating that it has reasonable assurance of transmitter site availability. Any requests by a proponent for withdrawal or dismissal of an allotment request must be filed with the Commission in accordance with section 1.420(j) of the Rules.<sup>12</sup>

6. *Cut-off Protection.* 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.<sup>13</sup>

7. *Comments and Reply Comments.* Pursuant to sections 1.415, 1.419, and 1.420 of the Rules,<sup>14</sup> interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).<sup>15</sup>

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/filings/standard>. Parties that choose to file

<sup>7</sup> See *San Clemente, California*, Report and Order, 10 FCC Rcd 8291 (MMB 1995) (deleting Channel 285A at San Clemente, CA because it violates 47 CFR § 73.207, finding that its retention no longer serves the public interest since it may never be properly utilized).

<sup>8</sup> Selmer will continue to receive local service from AM station WDTM and FM stations WXKV and WWGM.

<sup>9</sup> See *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1982). The FM allotment priorities are: (1) First fulltime aural service, (2) Second fulltime aural service, (3) First local service and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3).

<sup>10</sup> 47 CFR § 73.202(b).

<sup>11</sup> 47 CFR §§ 73.207 and 73.315.

<sup>12</sup> 47 CFR § 1.420(j).

<sup>13</sup> 47 CFR § 1.420(d).

<sup>14</sup> 47 CFR §§ 1.415, 1.419, and 1.420.

<sup>15</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998); *recon. granted*, 13 FCC Rcd 21517 (1998).

electronically only need to submit one copy of each filing so long as the submission conforms to all procedural and filing requirements. Online filing is optional.

- Paper Filers: Parties who choose to file by paper must file an original and one copy 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 mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington DC 20554.
  - Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

8. *Service.* Pursuant section 1.420 of the Rules,<sup>16</sup> 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. The person filing the comments shall serve comments on the petitioners. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. A certificate of service shall accompany such comments and reply comments.<sup>17</sup>

9. *Ex Parte Notices– Restricted.* The proceeding this *NPRM* initiates shall be treated as a “restricted” proceeding in accordance with the Commission's *ex parte* rules.<sup>18</sup> For purposes of this restricted notice and comment rulemaking proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a notice of proposed rulemaking 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.<sup>19</sup> 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.<sup>20</sup> 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 a particular docket unless the Commission specifically waives this service requirement.<sup>21</sup> Any comment that 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

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<sup>16</sup> 47 CFR § 1.420.

<sup>17</sup> See 47 CFR § 1.420(a), (b) and (c).

<sup>18</sup> 47 CFR §§ 1.1200 *et seq.*

<sup>19</sup> 47 CFR § 1.1208.

<sup>20</sup> 47 CFR § 1.1204(a)(10).

<sup>21</sup> 47 CFR § 1.1204(a)(10)(ii). In addition, an oral presentation in a restricted proceeding not designated for hearing requesting action by a particular date or giving reasons that a proceeding should be expedited other than the need to avoid administrative delay is permitted. A detailed summary of the presentation must be filed in the record and served by the person making the presentation on the other parties to the proceeding, who may respond in support or opposition to the request for expedition, including by oral *ex parte* presentation, subject to the same service requirement. 47 CFR § 1.1204(a)(11).

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.

10. *Providing Accountability Through Transparency Act.* The Providing Accountability Through Transparency Act requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule. Accordingly, the Commission will publish the required summary of this NPRM on <https://www.fcc.gov/proposed-rulemakings>.

11. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection via ECFS (<https://www.fcc.gov/ecfs/search/search-filings>). Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

12. *Paperwork Reduction and Regulatory Flexibility.* The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980, as amended,<sup>22</sup> do not apply to a rulemaking proceeding to amend the Table of FM Allotments, section 73.202(b) of the Rules.<sup>23</sup> This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995.<sup>24</sup> 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.<sup>25</sup>

13. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice).

14. *Additional Information.* For further information concerning this proceeding, contact Rolanda F. Smith, Audio Division, Media Bureau, at (202) 418-2054, [Rolanda-Faye.Smith@fcc.gov](mailto:Rolanda-Faye.Smith@fcc.gov).

FEDERAL COMMUNICATIONS COMMISSION

Nazifa Sawez  
Assistant Chief, Audio Division  
Media Bureau

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<sup>22</sup> See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et seq.*, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

<sup>23</sup> 47 CFR § 73.202(b).

<sup>24</sup> See 44 U.S.C. §§ 3501-3520.

<sup>25</sup> See 44 U.S.C. § 3506(c)(4).