FCC MAIL SECTION

DOCKET FILE COPY ORIGINAL

MAY 24 3 39 PM '99

DISPATCHED BY

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.	)	
	)	
(Carmel Valley, California	)	MM Docket No. 99-171
	)	RM-9574
	)	
(Nanakuli, Hawaii)	)	MM Docket No. 99-172
	)	RM-9575
	)	
(Wahiawa, Hawaii)	)	MM Docket No. 99-173
	)	RM-9576
	)	
(Hanamaulu, Hawaii)	)	MM Docket No. 99-174
	)	RM-9577
	)	
(Hanapepe, Hawaii)	)	MM Docket No. 99-175
	)	RM-9578
	)	
(Holualoa, Hawaii)	)	MM Docket No. 99-176
	)	RM-9579
	)	
(Honokaa, Hawaii)	)	MM Docket No. 99-177
	)	RM-9580
	)	
(Kihei, Hawaii)	)	MM Docket No. 99-178
	)	RM-9581
	)	
(Kurtistown, Hawaii)	)	MM Docket No. 99-179
	)	RM-9582
	)	
(Cloverdale, California)	)	MM Docket No. 99-180
	)	RM-9583
	)	
(Easton, California)	)	MM Docket No. 99-181
	)	RM-9584
	)	

(Hamilton City, California)	)	MM Docket No. 99-182
	)	RM-9585
	)	
(Herlong, California)	)	MM Docket No. 99-183
	)	RM-9586
	)	
(Lost Hills, California)	)	MM Docket No. 99-184
	)	RM-9587
	)	
(Maricopa, California)	)	MM Docket No. 99-185
	)	RM-9588
	)	
(Mettler, California)	)	MM Docket No. 99-186
	)	RM-9589
	)	
(Summit City, California)	)	MM Docket No. 99-187
	)	RM-9590
	)	
(Bruneau, Idaho)	)	MM Docket No. 99-188
	)	RM-9591
	)	
(Golden Meadow, Louisiana)	)	MM Docket No. 99-189
	)	RM-9592

NOTICE OF PROPOSED RULE MAKING

Adopted: May 12, 1999 **Released:** May 21, 1999

Comment Date: July 12, 1999
Reply Comment Date: July 27, 1999

By the Chief, Allocations Branch:

1. Before the Commission for consideration is a multiple docket Notice of Proposed Rule Making setting forth separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. Each petitioner has stated that it will apply for its requested channel, if allotted. We believe that each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket Notice of Proposed Rule Making issued in response to a Commission Public Notice released October 2, 1998 (DA 98-1987). We are combining separate

FM allotment proposals into a single Notice of Proposed Rule Making. Each proposal has its own docket and rule making number and the Commission's Reference Information Center will maintain a separate file for each docket. As discussed in the Public Notice, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

(1) MM Docket No. 99-171, RM-9574

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 290A to Carmel Valley, a Census Designated Place ("CDP") as that community's first local FM transmission service.

Community	Present	Proposed
Carmel Valley, California	--	290A

Coordinates: 36-20-28 NL; 121-42-51 WL

Additional Information: The proposed allotment requires a site restriction 14.9 kilometers (9.2 miles) south of the community to avoid a short-spacing to Station KARA(FM), Channel 289B, Santa Clara, California, at coordinates 37-21-32 NL; 121-45-22 WL.

FCC Contact: Nancy Joyner, (202) 418-2180

(2) MM Docket No. 99-172, RM-9575

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 295A to Nanakuli, Hawaii, a CDP, as that community's first local aural transmission service.

Community	Present	Proposed
Nanakuli, Hawaii	--	295A

Coordinates: 21-23-30 NL; 158-08-30 WL

Additional Information: No site restriction is required for the proposed allotment.

FCC Contact: Nancy Joyner (202) 418-2180

(3) MM Docket No. 99-173, RM-9576

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 278A to Wahiawa, Hawaii, a CDP, as that community's first local aural transmission service.

Community	Present	Proposed
Wahiawa, Hawaii	--	278A

Coordinates: 21-30-00 NL; 158-02-00 WL

Additional Information: No site restriction is required for the proposed allotment.

FCC Contact: Nancy Joyner, (202) 418-2180

(4) MM Docket No. 99-174, RM-9577

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 266C1 to Hanamaulu, Hawaii, a CDP, as that community's first local aural transmission service.

Community	Present	Proposed
Hanamaulu, Hawaii	--	266C1

Coordinates: 21-59-51 NL; 159-21-26 WL.

Additional Information: No site restriction is required for the proposed allotment.

FCC Contact: Nancy Joyner, (202) 418-2180

(5) MM Docket No. 99-175, RM-9578

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 232C1 to Hanapepe, Hawaii, a CDP, as that community's first local aural transmission service.

Community	Present	Proposed
Hanapepe, Hawaii	--	232C1

Coordinates: 21-54-43 NL; 159-35-43 WL

Additional Information: No site restriction is required for the proposed allotment.

FCC Contact: Nancy Joyner, (202) 418-2180

(6) MM Docket No. 99-176, RM-9579

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
6807 Foxglove Drive
Cheyenne, WY 28009

Proposal: Allot Channel 221C2 to Holualoa, Hawaii, a CDP, as that community's first local aural transmission service.

Community	Present	Proposed
Holualoa, Hawaii	--	221C2

Coordinates: 19-37-06 NL; 155-57-00 WL

Additional Information: No site restriction is required for the proposed allotment.

FCC Contact: Nancy Joyner, (202) 418-2180

(7) MM Docket No. 99-177, RM-9580

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 275C2 to Honokaa, Hawaii, a CDP, as that community's first local aural transmission service.

Community	Present	Proposed
Honokaa, Hawaii	--	275C2

Coordinates: 20-04-54 NL; 155-28-00 WL

Additional Information: No site restriction is required for the proposed allotment.

FCC Contact: Nancy Joyner, (202) 418-2180

(8) MM Docket No. 99-178, RM-9581

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 298C2 to Kihei, Hawaii, a CDP, as that community's first local aural transmission service.

Community	Present	Proposed
Kihei, Hawaii	--	298C2

Cordinates: 20-47-00 NL; 156-27-48 WL

Additional Information: No site restriction is required for the proposed allotment.

FCC Contact: Nancy Joyner, (202) 418-2180

(9) MM Docket No. 99-179, RM-9582

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 271A to Kurtistown, Hawaii, a CDP, as that community's first local aural transmission service.

Community	Present	Proposed
Kurtistown, Hawaii	--	271A

Coordinates: 19-35-36 NL; 155-03-36 WL

Additional Information: No site restriction is required for the proposed allotment.

FCC Contact: Nancy Joyner, (202) 418-2180

(10) MM Docket No. 99-180, RM-9583

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasing
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 274A to Cloverdale, California, an incorporated community, as that locality's first local aural transmission service.

Community	Present	Proposed
Cloverdale, California	--	274A

Coordinates: 38-44-22 NL; 123-00-32 WL

Additional Information: The proposed allotment requires a site restriction 7.5 kilometers (4.7 miles) south to avoid short spacings to Station KUKI-FM, Channel 277B, Ukiah, California, at coordinates 39-19-36 NL; 123-16-12 WL, and to a cut-off application for Channel 272B1, Point Arena, California, at coordinates 38-53-44 NL; 123-32-34 WL.

FCC Contact: Nancy Joyner, (202) 418-2180

(11) MM Docket No. 99-181, RM-9584

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 300A to Easton, California, a CDP, as that locality's first local aural transmission service.

Community	Present	Proposed
Easton, California	--	300A

Coordinates: 36-45-28 NL; 119-51-55 WL

Additional Information: The proposed allotment requires a site restriction 13.8 kilometers (8.6 miles) northwest of the community to avoid aa short spacing to Station KUZZ-FM, Channel 300B, Bakersfield, California, at coordinates 35-26-20 NL; 118-44-24 WL.

FCC Contact: Nancy Joyner, (202) 418-2180

(12) MM Docket No. 99-182, RM-9585

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: A llot Channel 269A to Hamilton City, California, a CDP, as that community's first local aural transmission service.

Community	Present	Proposed
Hamilton City, California	--	269A

Coordinates: 39-49-52 NL; 122-02-31 WL

Additional Information: The proposed allotment requires a site restriction 10.1 kilometers (6.3 miles) north to avoid a short spacing to Station KMJE(FM), Channel 268A, Gridley, California, at coordinates 39-12-21 NL; 121-49-11 WL.

FCC Contact: Nancy Joyner, (202) 418-2180

(13) MM Docket No. 99-183, RM-9586

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 281C2 to Herlong, California, as a first local aural transmission service at that locality.

Community	Present	Proposed
Herlong, California	--	281C2

Coordinates: 40-14-05 NL; 120-09-31 WL

Additional Information: The proposed allotment requires a site restriction 10.3 kilometers (6.4 miles) north to avoid a short spacing to Station KDOT(FM), Channel 283C, Reno, Nevada, at coordinates 39-18-48 NL; 119-52-59 WL. Additionally, as Herlong is not incorporated nor listed in the U.S. Census, the proponent must demonstrate its community status for allotment purposes. This may be proven by the testimony of local residents or by objective or subjective evidence indicating the existence of a community. See Beacon Broadcasting, 2 FCC Rcd 3469 (1987); aff'd. 2 FCC Rcd 7562 (1987). Some examples of objective indications of community status include the existence of political, social, economic, commercial, cultural, or religious organizations and services in the community. See Kenansville, Florida, 5 FCC Rcd 2663 (Policy and Rules Div. 1990), aff'd. 10 FCC Rcd 9831 (1995). Petitioner is requested to provide additional information regarding the attributes of Herlong, California, consistent with the above guidelines.

FCC Contact: Nancy Joyner, (202) 418-2180

(14) MM Docket No. 99-184, RM-9587

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 289A to Lost Hills, California, a CDP, as that community's first local aural transmission service.

Community	Present	Proposed
Lost Hills, California	--	289A

Coordinates: 35-38-19 NL; 119-48-26 WL

Additional Information: The proposed allotment requires a site restriction 11 kilometers (6.9 miles) west to avoid a short spacing to Station KKDJ(FM), Channel 287B, Delano, California, at coordinates 35-30-53 NL; 119-03-41 WL.

FCC Contact: Nancy Joyner, (202) 418-2180

(15) MM Docket No. 99-185, RM-9588

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 235A to Maricopa, California, an incorporated community, as a first local aural transmission service.

Community	Present	Proposed
Maricopa, California	--	235A

Coordinates: 35-05-01 NL; 119-26-00 WL

Additional Information: The proposed allotment requires a site restriction 3.7 kilometers (2.3 miles) northwest to avoid a short spacing to Station KBBY-FM, Channel 236B, Ventura, California, at coordinates 34-06-47 NL; 119-03-34 WL.

FCC Contact: Nancy Joyner, (202) 418-2180

(16) MM Docket No. 99-186, RM-9589

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 255A to Mettler, California, as that locality's first local aural transmission service.

Community	Present	Proposed
Mettler, California	--	255A

Coordinates: 35-02-00 NL; 118-57-26 WL

Additional Information: The proposed allotment requires a site restriction 3.6 kilometers (2.2. miles) south to avoid short spacings to Station KSOF(FM), Channel 255B, Dinuba, California, at coordinates 36-38-15 NL; 118-56-35 WL; Station KXFM(FM), Channel 256B, Santa Maria, California, at coordinates 34-54-37 NL; 120-11-08 WL; and Station KKBB(FM), Channel 257B1, Bakersfield, California, at coordinates 35-26-17 NL; 118-44-22 WL. Additionally, as Mettler is not incorporated nor listed in the U.S. Census, the proponent must demonstrate its community status. This may be proven by the testimony of local residents or by objective or subjective evidence indicating the existence of a community. See Beacon Broadcasting, 2 FCC Rcd 3469 (1987); aff'd. 2 FCC Rcd 7562 (1987). Some examples of objective indications of community status include the existence of political, social, economic, commercial, cultural, or religious organizations and services in the community. See Kenansville, Florida, 5 FCC Rcd 2663 (Policy and Rules Div. 1990), aff'd. 10 FCC Rcd 9831 (1995). Petitioner is requested to provide additional information regarding the attributes of Mettler, California, consistent with the above guidelines.

FCC Contact: Nancy Joyner, (202) 418-2180

(17) MM Docket No. 99-187, RM-9590

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 221A to Summit City, California, as that locality's first local aural transmission service.

Community	Present	Proposed
Summit City, California	--	221A

Coordinates: 40-39-19 NL; 122-24-10 WL

Additional Information: The proposed allotment requires a site restriction 3.4 kilometers (2.1 miles) south to avoid a short spacing to an application for Channel 220A, McCloud, California, (File No. BPED-960503MG), at coordinates 41-17-30 NL; 122-14-21 WL. Additionally, as Summit City is not incorporated nor listed in the U.S. Census, the proponent must demonstrate its community status. This may be proven by the testimony of local residents or by objective or subjective evidence indicating the existence of a community. See Beacon Broadcasting, 2 FCC Rcd 3469 (1987); aff'd. 2 FCC Rcd 7562 (1987). Some examples of objective indications of community status include the existence of political, social, economic, commercial, cultural, or religious organizations and services in the community. See Kenansville, Florida, 5 FCC Rcd 2663 (Policy and Rules Div. 1990), aff'd. 10 FCC Rcd 9831 (1995). Petitioner is requested to provide additional information regarding the attributes of Summit City, California, consistent with the above guidelines.

FCC Contact: Nancy Joyner, (202) 418-2180

(18) MM Docket No. 99-188, RM-9591

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 273C1 to Bruneau, Idaho, as that locality's first local aural transmission service.

Community	Present	Proposed
Bruneau, Idaho	--	273C1

Coordinates: 42-49-57 NL; 115-48-57 WL

Additional Information: The proposed allotment requires a site restriction 5.7 kilometers (3.5 miles) south to avoid short spacings to Station KJHY(FM), Channel 270C, Emmett, Idaho, at coordinates 43-45-18 NL; 116-05-52 WL; and to Station KMGI(FM), Channel 273C, Pocatello, Idaho, at coordinates 42-51-57 NL; 112-30-46 WL. Additionally, as Bruneau is not incorporated nor listed in the U.S. Census, the proponent must demonstrate its community status for allotment purposes. This may be proven by the testimony of local residents or by objective or subjective evidence indicating the existence of a community. See Beacon Broadcasting, 2 FCC Rcd 3469 (1987); aff'd. 2 FCC Rcd 7562 (1987). Some examples of objective indications of community status include the existence of political, social, economic, commercial, cultural, or religious organizations and services in the community. See Kenansville, Florida, 5 FCC Rcd 2663 (Policy and Rules Div. 1990), aff'd. 10 FCC Rcd 9831 (1995). Petitioner is requested to provide additional information regarding the attributes of Bruneau, Idaho, consistent with the above guidelines.

FCC Contact: Nancy Joyner, (202) 418-2180

(19) MM Docket No. 99-189, RM-9592

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 289C2 to Golden Meadow, Louisiana, an incorporated community, as that locality's first local FM transmission service.

Community	Present	Proposed
Golden Meadow, Louisiana	--	289C2

Coordinates: 29-14-00 NL; 90-15-00 WL

Additional Information: The proposed allotment requires a site restriction to avoid short spacings to Station WLTS-FM, Channel 287C1, Kenner, Louisiana, at coordinates 29-58-57 NL; 89-57-09 WL; Station WAKH(FM), Channel 289C1, McComb, Mississippi, at coordinates 31-15-31 NL; 90-14-03 WL (construction permit), and at coordinates 31-16-50 NL; 90-27-05 WL (licensed site); as well as to Station KHOM(FM), Channel 290A, Berwick, Louisiana, at coordinates 29-45-27 NL; 91-10-25 WL.

FCC Contact: Nancy Joyner, (202) 418-2180

3. Comments, reply comments, counterproposals and other pleadings filed in response to this multiple docket Notice of Proposed Rule Making should reference **only** the specific docket to which the filing pertains. 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.

4. Interested parties may file comments on or before July 12, 1999, and reply comments on or before July 27, 1999, and are advised to read the Appendix for the proper procedure. Additionally, a copy of any filing should be served on the petitioner listed for the particular docket.

5. 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. See Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b) and 73.606(b) of the Commission's Rules. 46 FR 11549 (February 9, 1981).

6. For further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. 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

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

Attachment: Appendix

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 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 Section 1.420(d) of the Commission's Rules).

(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 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 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 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 Reference Information Center (Room CY-A257) at its headquarters, 445 Twelfth Street, SW., Washington, D.C.