

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

2003 JUN 22 P 4: 44

In the Matter of)
)
 Amendment of Section 73.202(b),)
 Table of Allotments,)
 FM Broadcast Stations.)
 (Batesville, Texas))
)
 (Benjamin, Texas))
)
 (Junction, Texas))
)

MM Docket No. 01-130 ✓
 RM-10147
 MM Docket No. 01-131
 RM-10148
 MM Docket No. 01-132
 RM-10149

RECEIVED

NOTICE OF PROPOSED RULE MAKING

Adopted: June 13, 2001;

Released: June 22, 2001

Comment Date: August 13, 2001

Reply Comment Date: August 28, 2001

By the Chief, Allocations Branch:

1. Before the Allocations Branch 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. Charles Crawford, the petitioner for each proposal, has stated that he will apply for each 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 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:

A. MM Docket No. 01-130; RM-10147**Petitioner:** Charles Crawford¹4553 Bordeaux Ave.
Dallas, Texas 75205**Proposal:** Allot Channel 250A at Batesville, Texas as that community's first local aural transmission service.²

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Batesville, Texas	-----	250A

Coordinates: 29-01-34 NL and 99-30-59 WL**Additional Information:** This allotment requires a site restriction of 12.9 kilometers (8.0 miles) northeast of Batesville in order to avoid a short-spacing with a Mexican allotment for Channel 250A at Piedras, Mexico.**FCC Contact:** R. Barthen Gorman (202) 418-2180

¹ 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 all three cases included in this Notice of Proposed rule Making, the petitioner signed the petition and provided his address. However, he did not submit a statement attesting that the information included in the petition is correct and true to the best of its knowledge. Therefore, the petitioner is requested to submit a signed verification statement in its comment for each docket contained in this Notice of Proposed Rule Making.

² Batesville is a Census Designated Place. The 1990 U.S. Census lists Batesville's population at 1,313 persons.

B. MM Docket No. 01-131; RM-10148**Petitioner:** Charles Crawford4553 Bordeaux Ave.
Dallas, Texas 75205**Proposal:** Allot Channel 257C2 at Benjamin, Texas as that community's first local aural transmission service.³

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Benjamin, Texas	-----	257C2

Coordinates: 33-36-04 NL and 99-50-04 WL**Additional Information:** This allotment requires a site restriction of 4.4 kilometers (2.7 miles) northwest of Benjamin in order to avoid a short-spacing with a rulemaking proposal to add Channel 257C1 at Brownwood, Texas and an FM allotment for Channel 254A at Seymour, Texas.**FCC Contact:** R. Barthen Gorman (202) 418-2180

³ Benjamin is an incorporated city and is the county seat of Knox County. The 1990 U.S. Census lists Benjamin's population at 225 persons.

C. MM Docket No. 01-132; RM-10149**Petitioner:** Charles Crawford4553 Bordeaux Ave.
Dallas, Texas 75205**Proposal:** Allot Channel 297A to Junction, Texas, as the community's second local FM transmission service.⁴

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Junction, Texas	228C2	228C2, 297A

Coordinates: 30-27-37 NL and 99-45-22 WL.**Additional Information:** This allotment requires a site restriction of 3.5 kilometers (2.2 miles) southeast of Junction in order to avoid interference to Station KSJT-FM, Channel 298C1, at San Angel, Texas.**FCC Contact:** R. Barthen Gorman (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 **August 13, 2001**, and reply comments on or before **August 28, 2001**, 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

⁴ Junction is already served by Station KOOK-FM, Channel 228C2 and Station KMBL(AM) at 1450 kHz. Junction is an incorporated community and serves as the county seat of Kimble County. The 1990 U.S. Census lists the population of Junction at 2,654 persons.

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), 73.504 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 a 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

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, SW; 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.