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Federal Communications Commission DA 02-1159

**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. | ) | |
| (Presque Isle, Michigan) | ) | MB Docket No. 02-106 |
| | ) | RM-10416 |
| | ) | |
| (Alpena, Michigan) | ) | MB Docket No. 02-107 |
| | ) | RM-10417 |
| | ) | |
| (Harrisville, Michigan) | ) | MB Docket No. 02-108 |
| | ) | RM-10418 |
| | ) | |
| (Morgan, Georgia) | ) | MB Docket No. 02-109 |
| | ) | RM-10420 |

## NOTICE OF PROPOSED RULE MAKING

**Adopted: May 1, 2002;** **Released: May 17, 2002**

**Comment Date: July 8, 2002**
**Reply Comment Date: July 23, 2002**

By the Assistant Chief, Audio Division:

1. Before the Audio Division 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 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. MB Docket No. 02-106; RM-10416**

**Petitioner:** Northern Paul Bunyan Radio Company

c/o Robert J. Buenzle, Esq.
12110 Sunset Hills Road
Suite 450
Reston, Virginia 22090

**Proposal:** Allot Channel 227A at Presque Isle, Michigan, as the community's first local aural transmission service.[1]

| Community | Present | Proposed |
|---|---|---|
| Presque Isle, Michigan | --- | 227A |

**Coordinates:** 45-18-15 NL and 83-28-37 WL

**Additional Information:** This allotment is at city reference coordinates and requires no site restriction. Since Presque Isle is located within 320 kilometers (200 miles) of the U.S.–Canadian border, Canadian concurrence has been requested.

**FCC Contact:** Sharon P. McDonald (202) 418-2180

**B. MB Docket No. 02-107; RM- 10417**

**Petitioner:** Northern Paul Bunyan Radio Company

c/o Robert J. Buenzle, Esq.
12110 Sunset Hills Road
Suite 450
Reston, Virginia 22090

[1] In support of its proposal, petitioner states that Presque Isle is a independent community located in Presque Isle County (population 14,411) and has a 2000 U.S. Census population of 1,691 persons. Presque has its own local government consisting of a Town Board which includes the Town Supervisor, Clerk, Treasurer, and two additional Board members. The township has its own fire department, library,U.S. Post Office, zip code (49777), as well as its own base of local businesses, church chapel, motels, inns, tourist attractions, a marina and a museum.

**Proposal:** Allot Channel 289A at Alpena, Michigan, as the community's third local commercial FM transmission service.

| Community | Present | Proposed |
|---|---|---|
| Alpena, Michigan | 257C2, 299C1 | 257C2, 289A, 299C1 |

**Coordinates:** 45-05-30 NL and 83-21-48 WL

**Additional Information:** This allotment requires a site restriction of 6.4 kilometers (4.0 miles) northeast to avoid a short-spacing to the licensed site of Station WKHQ-FM, Channel 290C1, Charlevoit, Michigan. Since Alpena is located within 320 kilometers (200 miles) of the U.S. Canadian border, Canadian concurrence has been requested.

**Contact:** Sharon P. McDonald (202) 418-2180

**C. MB Docket No. 02-108; RM-10418**

**Petitioner:** Northern Paul Bunyan Radio Company

c/o Robert J. Buenzle, Esq.
12110 Sunset Hills Road
Suite 450
Reston, Virginia 22090

**Proposal:** Allot Channel 226A at Harrisville, Michigan, as the community's first local commercial FM transmission service.

| Community | Present | Proposed |
|---|---|---|
| Harrisville, Michigan | -- | 226A |

**Coordinates:** 44-39-22 NL and 83-17-41 WL

**Additional Information:** This allotment is at city reference coordinates and requires no site restriction.

**FCC Contact:** Sharon P. McDonald (202) 418-2180

**D. MB Docket No. 02-109; RM-10420**

**Petitioner:** Donald F. White and Jerry E. White, d/b/a Morgan Radio Company

c/o Jerry E. White, Managing Partner
Morgan Radio Company
2586 Old Pelham Road
Pelham, Georgia 31779

**Proposal:** Allot Channel 228A at Morgan, Georgia, as the community's first local aural transmission service.[2]

| Community | Present | Proposed |
|---|---|---|
| Morgan, Georgia | --- | 228A |

**Coordinates:** 31-32-15 NL and 84-35-58 WL

**Additional Information:** This allotment is at city reference coordinates and requires no site restriction.

**FCC Contact:** Sharon P. McDonald (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. Pursuant to Sections 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before **July 8 2002**, and reply comments on or before **July 23, 2002**, 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. 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

[2]Morgan is an incorporated city located in Calhoun County and has a 2000 U.S. Census population of 1,464 persons. Morgan has a post office and a zip code (31766).

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), 73.504 and 73.606(b) of the Commission's Rules. 46 FR 11549 (February 9, 1981).

6. Parties who choose to file by paper 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, Vistronix, 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.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Office of Broadcast License Policy
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, 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 12th Street, S.W, Washington, D.C.