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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.	)	
(Owen, Wisconsin)	)	MB Docket No. 02-120
	)	RM-10442
	)	
(Hartington, Nebraska)	)	MB Docket No. 02-121
	)	RM-10443
	)	
(Lone Pine, California)	)	MB Docket No. 02-122
	)	RM-10444
	)	
(Terrebonne, Oregon)	)	MB Docket No. 02-123
	)	RM-10445
	)	
(Amboy, California)	)	MB Docket No. 02-124
	)	RM-10446
	)	
(Sutton, Nebraska)	)	MB Docket No. 02-125
	)	RM-10447
	)	
(Wynnewood, Oklahoma)	)	MB Docket No. 02-126
	)	RM-10448
	)	
(Roundup, Montana)	)	MB Docket No. 02-127
	)	RM-10449
	)	
(Centerville, Texas)	)	MB Docket No. 02-128
	)	RM-10450

NOTICE OF PROPOSED RULE MAKING

Adopted: **May 15, 2002** **Released:** **May 24, 2002**

Comment Date: July 15, 2002
Reply Date: July 30, 2002

By the Assistant Chief, Audio Division:

1. Before the Commission for consideration is a *Notice of Proposed Rule Making* setting forth twelve proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. The petitioners have stated that they will apply for the requested channels, if allotted. We believe that the proposals warrant consideration because they comply with our technical requirements and would serve the public interest. We request comments and/or counterproposals to the following proposals:

A. MB Docket No. 02-120; RM-10442

Petitioner: Starboard Broadcasting, Inc.
Steven Gajdosik, Vice President and Director
2470 Crooks Avenue
Kaukauna, Wisconsin 54130

Proposal: Allot Channel 242C3 at Owen, Wisconsin as the community's first local broadcast service.

Community	Present	Proposed
Owen, Wisconsin	---	242C3

Coordinates: 45-03-08 NL and 90-29-21 WL

Additional Information: The proposed allotment of Channel 242C3 at Owen requires a site restriction of 12.9 km (8.0 miles) northeast of Owen at the coordinates indicated above.

Petitioner states that Owen is a city with a population of 936 persons according to the 2000 US Census Statistics.

In compliance with §1.52 of the Commission's rules, petitioner is requested to include with its comments verification that the statements contained in the petition are accurate to the best of the affiant's knowledge. [1]

[1] Although the petitioner's request was signed, it failed to include an affidavit verifying that the statements contained in the petition were accurate to the best of the affiant's knowledge. Section 1.52 of the Commission's Rules require that the original of any document filed with the Commission by a party not represented by counsel be signed and verified by the party and his/her address stated. In the absence of such verification, the petition may be dismissed. Section 1.401(b) of the Commission's Rules concerning rule making proceedings places petitioners on notice that their proposal must conform with the requirements of Section 1.52 regarding subscription and verification. *See also Amendment of Sections 1.420 and 73.3584 of the Commission's Rules Concerning Abuses of the Commission's Processes*, 5 FCC Rcd 3911, 3919, n.41 (1990). The petitioner is requested to rectify this omission in its comments.

FCC Contact: Deborah A. Dupont (202) 418-7072

B. MB Docket No. 02-121; RM-10443

Petitioner: Jeff Barth
4937 Heathmoore Court
Louisville, Kentucky 40241

Proposal: Allot Channel 232A at Hartington, Nebraska as the community's first local broadcast service.

Community	Present	Proposed
Hartington, Nebraska	---	232A

Coordinates: 42-37-21 NL and 97-15-51 WL

Additional Information: Channel 232A can be allotted to Hartington without site restrictions at center city coordinates indicated above.

Petitioner states that Hartington is a city with a population in excess of 1,600 persons.

In compliance with §1.52 of the Commission's rules, petitioner is requested to include with his comments verification that the statements contained in the petition are accurate to the best of his knowledge.[2]

FCC Contact: Deborah A. Dupont (202) 418-7072

C. MB Docket No. 02-122; RM-10444

Petitioner: Virgil Todd
640 South 2nd Street, Unit #4
Louisville, Kentucky 40202

Proposal: Allot Channel 249A at Lone Pine, California as the community's first local broadcast service.

[2] *See* n.1, *supra*.

Community	Present	Proposed
Lone Pine, California	---	249A

Coordinates: 36-36-22 NL and 118-03-43 WL

Additional Information: Channel 249A can be allotted to Lone Pine with no site restriction at the center city reference coordinates indicated above.

Petitioner states that Lone Pine is a city with a population in excess of 1,600 persons.

In compliance with §1.52 of the Commission's rules, petitioner is requested to include with his comments verification that the statements contained in the petition are accurate to the best of his knowledge.[3]

FCC Contact: Deborah A. Dupont (202) 418-7072

D. MB Docket No. 02-123; RM-10445

Petitioner: Hunt Broadcasting, Inc.

Scott C. Cinnamon, Counsel
Law Offices of Scott C. Cinnamon, PLLC
1090 Vermont Avenue, Suite 800
Washington, D.C. 20005

Proposal: Allot Channel 293C2 at Terrebonne, Oregon as the community's first local broadcast service.

Community	Present	Proposed
Terrebonne, Oregon	---	293C2

Coordinates: 44-14-50 NL and 120-58-39 WL

Additional Information: The proposed allotment of Channel 293C2 at Terrebonne requires a site restriction of 19.8 km (12.3 miles) southeast of Terrebonne at the coordinates indicated above.

Terrebonne is a Census Designated Place with a population of 1,469 persons. Petitioner states

[3] *See* n.1, *supra*.

that Terrebonne has its own post office, and that several businesses and churches are located in Terrebonne. Petitioner further states that Terrebonne is home to the Smith Rock State Park.

FCC Contact: Deborah A. Dupont (202) 418-7072

E. MB Docket No. 02-124; RM-10446

Petitioner: KHWY, Inc.

Marissa G. Repp, Counsel
F. William LeBeau, Counsel
Hogan & Hartson, L.L.P.
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109

Proposal: Allot Channel 237A at Amboy, California as the community's first local broadcast service.

Community	Present	Proposed
Amboy, California	----	237A

Coordinates: 34-36-00 NL and 115-40-52 WL

Additional Information: The proposed allotment of Channel 237A at Amboy requires a site restriction of 7.4 km (4.6 miles) northeast of Amboy at the reference coordinates indicated above. The proposed allotment will require concurrence by Mexico because it is located within 320 kilometers (199 miles) of the Mexican border.

Petitioner states that Amboy has a year-round population of 20 residents. Petitioner emphasizes, however, that Amboy is within a large "white" area, beyond the predicted service area of even a single radio station. Petitioner further represents that this white area includes several miles of heavily traveled Interstate 40, which carries an estimated 22,500 motorists per day through the Mojave Desert en route to Los Angeles, and an even longer stretch of Route 66. Petitioner states that neither residents of Amboy nor the many motorists who pass near Amboy have any means to learn of dangerous weather or traffic conditions or other area news.

Petitioner asserts that Amboy is one of the few surviving communities along a nearly 90-mile stretch of Route 66. Petitioner further states that Amboy has its own post office, motel, restaurant, and gas station, and is the site of a CalTrans railroad yard.

FCC Contact: Deborah A. Dupont (202) 418-7072

F. MB Docket No. 02-125; RM-10447

Petitioner: Sutton Radio Company

Alison J. Shapiro, Counsel
Frank R. Jazzo, Counsel
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street, 11th Floor
Arlington, Virginia 22209

Proposal: Allot Channel 278C2 at Sutton, Nebraska as the community's first local broadcast service.

Community	Present	Proposed
Sutton, Nebraska	---	278C2

Coordinates: 40-36-06 NL and 98-03-38 WL

Additional Information: The proposed allotment of Channel 278C2 at Sutton requires a site restriction of 17.1 km (10.6 miles) west of Sutton at the reference coordinates indicated above.

Petitioner states that Sutton is a city with a population of 1,447 persons. Petitioner further states that Sutton has its own city government, police department, fire department, utility department, and other city services, a public school system consisting of an elementary and high school, and over 50 businesses.

FCC Contact: Deborah A. Dupont (202) 418-7072

G. MB Docket No. 02-126; RM-10448

Petitioner: David P. Garland
1110 Hackney Street
Houston, Texas 77023

Proposal: Allot Channel 266A at Wynnewood, Oklahoma as the community's second FM broadcast service.

Community	Present	Proposed
Wynnewood, Oklahoma	283A	266A, 283A

Coordinates: 34-38-23 NL and 97-05-38 WL

Additional Information: The proposed allotment of Channel 266A at Wynnewood requires a site restriction of 6.7 km (4.2 miles) east of Wynnewood at the reference coordinates indicated above.

Petitioner states that Wynnewood is an incorporated city with a population of nearly 3,000 persons.

FCC Contact: Deborah A. Dupont (202) 418-7072

H. MB Docket No. 02-127; RM-10449

Petitioner: William J. Edwards
706 Main
Roundup, Montana 59072

Proposal: Allot Channel 248A at Roundup, Montana as the community's first aural broadcast service.

Community	Present	Proposed
Roundup, Montana	---	248A

Coordinates: 46-26-58 NL and 108-31-44 WL

Additional Information: The proposed allotment of Channel 248A at Roundup requires a site restriction of 1.0 km (.6 miles) northeast of Roundup at the reference coordinates indicated above. The proposed allotment will require concurrence by Canada because it is located within 320 kilometers (199 miles) of the Canadian border.

Petitioner states that Roundup is a town of approximately 2,000 persons. Letters submitted in support of the proposed allotment aver that radio reception from stations in other communities is inadequate. Those letters also emphasize that a local radio station would facilitate dissemination of public alerts and emergency information as well as local news and announcements that are not currently available from stations located in nearby communities.

In compliance with §1.52 of the Commission's rules, petitioner is requested to include with his comments verification that the statements contained in the petition are accurate to the best of his knowledge.[4]

[4] *See* n.1, *supra*.

FCC Contact: Deborah A. Dupont (202) 418-7072

I. MB Docket No. 02-128; RM-10450

Petitioner: David P. Garland
1110 Hackney St.
Houston, Texas 77023

Proposal: Allot Channel 274A at Centerville, Texas as the community's third FM broadcast service.

Community	Present	Proposed
Centerville, Texas	290C3, 278A	274A, 290C3, 278A

Coordinates: 31-14-49 NL and 95-55-23 WL

Additional Information: The proposed allotment of Channel 274A at Centerville requires a site restriction of 5.4 km (3.3 miles) at the reference coordinates indicated above.

Petitioner states that Centerville has a population of 947 persons and is the county seat of Leon County.

FCC Contact: Deborah A. Dupont (202) 418-7072

2. Comments, reply comments, counterproposals and other pleadings filed in response to this *Notice of Proposed Rule Making* should reference the 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.

3. Interested parties may file comments on or before **July 15, 2002**, and reply comments on or before **July 30, 2002**, and are advised to read the Appendix for the proper procedures. Additionally, a copy of any filing should be served on the petitioner.

4. 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 Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed.Reg. 11549 (February 9, 1981).

5. For further information concerning this proceeding, contact Deborah A. Dupont, the designated FCC contact, at the telephone number indicated above. 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 the 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 this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Office of Broadcast License Policy
Media Bureau

APPENDIX

1. Pursuant to authority contained 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 (TV) Table of Allotments, Section 73.202(b) (73.606(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 discussed in the Notice of Proposed Rule Making to which this Appendix is attached. The proponent 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 Procedures. 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 proposal 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 Secretary, Federal Communications Commission, 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.